

Title 1 WAC

GENERAL PROVISIONS

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Chapter 1-04 WAC GENERAL PROVISIONS

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- 1-04-010 State Environmental Policy Act.

WAC 1-04-010 State Environmental Policy Act. Pursuant to RCW 43.21C.120 and the SEPA Guidelines, chapter 197-10 WAC, the office of the Code Reviser has reviewed its authorized activities and has found them all to be exempt under the provisions of chapter 197-10 WAC. [Order 11, § 1-04-010, filed 9/14/76.]

Chapter 1-06 WAC

PUBLIC RECORDS RULES AND REGULATIONS FOR THE STATUTE LAW COMMITTEE/OFFICE OF THE CODE REVISER

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WAC 1-06-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Statute Law Committee and the Office of the Code Reviser with the provisions of chapter 42.17 RCW (Initiative 276), and in particular with sections 25 through 32 of that act,

dealing with public records. [Order 8, § 1-06-010, filed 9/25/74, effective 10/25/74.]

WAC 1-06-020 Definitions. (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by this agency regardless of physical form or characteristics, except (a) those records of the bill drafting functions of the code reviser deemed confidential pursuant to RCW 1.08.027 and (b) computer programs, products, and data bases deemed exempt pursuant to RCW 42.17.310.

Public record as relates to this agency does not include computer programs, products, and data bases prepared, owned, used, or retained by this agency for the benefit of another state agency. Applications for the disclosure of such records should be addressed to the agency in interest.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

(3) "Committee" means the Statute Law Committee created pursuant to chapter 1.08 RCW (chapter 157, Laws of 1951).

(4) "Reviser" means the code reviser employed by the committee pursuant to RCW 1.08.011, and where appropriate the term also refers to the staff and employees of the reviser's office.

(5) "Agency" means the committee, the code reviser, and the staff and employees thereof, unless the context clearly indicates otherwise.

(6) "Records of the bill drafting functions" means any file or writing in the reviser's office created in connection with a request for preparation of legislation or research thereon, and the confidentiality of such records may be waived only by the person who requested the services of the reviser's office. [Order 8, § 1-06-020, filed 9/25/74, effective 10/25/74.]

WAC 1-06-030 Description of central and field organization. (1) The office of the Code Reviser is located on the ground floor of the Legislative Building, Olympia, Washington, 98504.

(2) The Committee consists of twelve attorneys. Five are appointed by the Washington State Bar Association, two each by the Senate and House Judiciary Committees, and one each by the Governor, the Chief Justice of the Supreme Court, and the Speaker of the House. The

Committee employs a Code Reviser, who serves as its secretary.

(3) Among the primary responsibilities of the Committee and the Code Reviser is the duty to periodically codify, index, and publish the Revised Code of Washington and to revise, correct, and harmonize the statutes by means of administrative or suggested legislative action as may be appropriate. The agency is also the official bill drafting arm of the Legislature and its various committees, and prepares for the Legislature all bills, memorials, resolutions, amendments, and conference reports which activities are pursued on a nonpartisan, professional, lawyer-client, confidential basis pursuant to RCW 1.08.027, and the reviser's office pursuant to RCW 1.08.028 is proscribed from rendering written opinions concerning the constitutionality of any proposal. Immediately following each session of the Legislature, the Committee indexes and publishes the temporary edition of the session laws and subsequently publishes the permanent edition; it also responds to citizen's requests for copies of recently enacted laws. The Committee administers the Administrative Procedure Act and the State Higher Education Administrative Procedure Act, serving as official repository for the rules and regulations of the various state agencies and the institutions of higher learning, and creating and publishing the Washington Administrative Code. Through its Legislative Information System, the Committee supplies data processing services to the legislative branch including special reports to legislative members and to the legislative leadership, as well as creating and publishing the legislative digest and history of bills and the daily status report. The Legislative Information System also supplies all branches of government with automated legal research services. [Order 8, § 1-06-030, filed 9/25/74, effective 10/25/74.]

WAC 1-06-040 Operations and procedures. (1) Practice and procedure in and before the agency are governed by the Uniform Procedure Rules, Chapter 1-08 WAC.

(2) The operations of the agency, including meetings, selection of officers, filling of vacancies, and fiscal matters, are conducted according to the provisions of chapter 1.08 RCW. [Order 8, § 1-06-040, filed 9/25/74, effective 10/25/74.]

WAC 1-06-050 Public records available. All public records of the agency, as defined in WAC 1-06-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310 and WAC 1-06-100. [Order 8, § 1-06-050, filed 9/25/74, effective 10/25/74.]

WAC 1-06-060 Public records officer. The agency's public records shall be in charge of the public records officer designated by the Code Reviser. The public records officer shall be responsible for the following: The implementation of the agency's rules and regulations regarding release of public records, coordinating the staff of the agency in this regard, and generally insuring

compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW. [Order 8, § 1-06-060, filed 9/25/74, effective 10/25/74.]

WAC 1-06-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the agency. For the purposes of this chapter, the customary office hours shall be from 8 a.m. to noon and from 1 p.m. to 5 p.m., Monday through Friday, excluding legal holidays. [Order 8, § 1-06-070, filed 9/25/74, effective 10/25/74.]

WAC 1-06-080 Requests for public records. In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the agency which shall be available at its office. The form shall be presented to the public records officer; or to any member of the agency's staff, if the public records officer is not available, at the office of the agency during customary office hours. The request shall include the following information:

(a) The name, address, and organization represented, if any, of the person requesting the record;

(b) The time of day and calendar date on which the request was made;

(c) The nature of the request;

(d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to the agency's current index, an appropriate description of the record requested;

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested. [Order 8, § 1-06-080, filed 9/25/74, effective 10/25/74.]

WAC 1-06-090 Copying. No fee shall be charged for the inspection of public records. The agency shall charge a fee of ten cents per page of copy for providing copies of public records and for use of the agency's copy equipment. This charge is the amount necessary to reimburse the agency for its actual costs incident to such copying. [Order 8, § 1-06-090, filed 9/25/74, effective 10/25/74.]

WAC 1-06-100 Exemptions. (1) The agency reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 1-06-080 is exempt under the provisions of RCW 1.08.027 or 42.17.310.

(2) In addition, pursuant to RCW 42.17.260(1), the agency reserves the right to delete identifying details when it makes available or publishes any public record, in any cases where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the records withheld. [Order 8, § 1-06-100, filed 9/25/74, effective 10/25/74.]

WAC 1-06-110 Review of denials of public records request. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the code reviser, who shall immediately consider the matter and either affirm or reverse such denial. The request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the agency has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first. [Order 8, § 1-06-110, filed 9/25/74, effective 10/25/74.]

WAC 1-06-120 Protection of public records. (1) No person shall knowingly alter, deface, or destroy public records of the agency.

(2) Original copies of public records of the agency shall not be removed from the offices of the agency.

(3) Care and safekeeping of public records of the agency, furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requestor.

(4) Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organization as when furnished.

(5) Boisterous or otherwise disruptive conduct by those requesting public records of the agency shall not be permitted. [Order 8, § 1-06-120, filed 9/25/74, effective 10/25/74.]

WAC 1-06-130 Records index. (1) A chronological index is maintained providing identifying information as to all governmental records issued, adopted, or promulgated after June 30, 1972, which are deemed by the agency to fall within the purview of RCW 42.17.260 and which are not exempted under the provisions of RCW 1.08.027 [cf. RCW 40.14.180], RCW 42.17.310, or WAC 1-06-020.

(2) The current index promulgated by the agency shall be available to all persons under the same rules and on the same rules and on the same conditions as are applied to public records available for inspection. [Order 8, § 1-06-130, filed 9/25/74, effective 10/25/74.]

WAC 1-06-140 Communications with the agency. All communications with the agency including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 42.17 RCW and these rules; requests for copies of the agency's rules and other matters, shall be addressed as follows: Office of the Code Reviser, c/o Public Records Officer, Legislative Building, Olympia, Washington 98504. [Order 8, § 1-06-140, filed 9/25/74, effective 10/25/74.]

WAC 1-06-150 Adoption of form. The agency hereby adopts for use by all persons requesting inspection and/or copying or copies of its records, the form attached hereto as Appendix A, entitled "Request for Public Records". [Order 8, § 1-06-150, filed 9/25/74, effective 10/25/74.]

WAC 1-06-900 Appendix A—Request for public records.

REQUEST FOR PUBLIC RECORDS

TO: STATUTE LAW COMMITTEE/OFFICE OF THE CODE REVISER

1. -----
 (Requestor's Name - Print) (Requestor's Signature)
2. -----
 (Requestor's Organization - if applicable)
3. -----
 (Requestor's Mailing Address)
4. -----
 (Date of Request) (Phone No.) (Time of Day)
5. Nature of Request -----

6. Document(s) Reference Identification from Public Records Index -----

7. Description of Document(s) Requested if Not Identifiable by Reference to Statute Law Committee/Code Reviser Public Records Index -----

8. If the requested documents are or include a list of individuals or companies state the purpose for which list is intended and sign the following acknowledgement: I promise that the list of individuals or firms furnished hereunder will not be used for

commercial purposes.

Purpose: -----

(Signature)

(Signature required on reverse side prior to release of requested information.)

Public records of the agency are provided for inspection and copying subject to the following regulations:

- (1) No person shall knowingly alter, deface, or destroy public records of the agency.
- (2) Original copies of public records of the agency shall not be removed from the offices of the agency.
- (3) Care and safekeeping of public records of the agency, to a request for inspection or copying, shall be the sole responsibility of the requestor.
- (4) Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organization as when furnished.
- (5) Boisterous or otherwise disruptive conduct by those requesting public records of the agency shall not be permitted.
- (6) The charge for providing electrostatic copies of public records is ten cents (10¢) per 8 1/2 x 11 inch page.

I have read, understand, and will comply with the above-stated regulations.

(Signature and date)

[Order 8, Appendix A (codified as 1-06-900), filed 9/25/74, effective 10/25/74.]

**Chapter 1-08 WAC
UNIFORM PROCEDURE RULES**

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WAC 1-08-005 Application and scope of chapter 1-08 WAC. Chapter 1-08 WAC has been added to the Washington Administrative Code by the code reviser pursuant to the mandate of section 12, chapter 237, Laws of 1967 ex.s (RCW 34.04.022) which provides as follows:

"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. [1967 c 237 § 12.] [Order 1, § 1-08-005, effective 7/1/67.]

WAC 1-08-007 "Agency" defined. As used in this chapter "agency" means any agency as defined in RCW 34.04.010 to which the provisions of RCW 34.04.022 and WAC 1-08-005 are applicable. [Order 1, § 1-08-007, effective 7/1/67.]

WAC 1-08-010 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, partner, or full time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership, or corporation. [Order 1, § 1-08-010, effective 7/1/67.]

WAC 1-08-030 Appearance and practice before agency—Solicitation of business unethical. It shall be

unethical for persons acting in a representative capacity before the agency to solicit business by circulars, advertisement or by personal communication or interviews not warranted by personal relations, provided that such representatives may publish or circulate business cards. It is equally unethical to procure business indirectly by solicitors of any kind. [Order 1, § 1-08-030, effective 7/1/67.]

WAC 1-08-040 Appearance and practice before agency—Standards of ethical conduct. All persons appearing in proceedings before the agency in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to such standards, the agency involved may decline to permit such person to appear in a representative capacity in any proceeding before the agency. [Order 1, § 1-08-040, effective 7/1/67.]

WAC 1-08-050 Appearance and practice before agency—Appearance by former employee of agency or former member of attorney general's staff. No former employee of the agency or member of the attorney general's staff may at any time after severing his employment with the agency or the attorney general appear in a representative capacity on behalf of other parties in a formal proceeding wherein he previously took an active part as a representative of the agency as provided by RCW 42.22.040. [Order 1, § 1-08-050, effective 7/1/67.]

WAC 1-08-060 Appearance and practice before agency—Former employee as expert witness. No former employee of the agency shall at any time after severing his employment with the state of Washington appear, except with the written permission of the agency, as an expert witness on behalf of other parties in a formal proceeding wherein he previously took an active part in the investigation as a representative of the agency. [Order 1, § 1-08-060, effective 7/1/67.]

WAC 1-08-070 Computation of time. In computing any period of time prescribed or allowed by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. 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. [Order 1, § 1-08-070, effective 7/1/67.]

WAC 1-08-080 Notice and opportunity for hearing in contested cases. In any contested case all parties shall be served with a notice within the statutory time as required by statute governing the respective agency or proceeding involved, and in the absence of a statutory requirement, then not less than twenty days before the date set for hearing. The notice shall state the time,

place, and issues involved, as required by RCW 34.04-.090. [Order 1, § 1-08-080, effective 7/1/67.]

WAC 1-08-090 Service of process—By whom served. The agency 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. [Order 1, § 1-08-090, effective 7/1/67.]

WAC 1-08-100 Service of process—Upon whom served. All papers served by either the agency or any party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance subsequent to the initiation of the proceeding shall notify all other counsel then of record and all parties not represented by counsel of such fact. [Order 1, § 1-08-100, effective 7/1/67.]

WAC 1-08-110 Service of process—Service upon parties. The final order, and any other paper required to be served by the agency upon a party, shall be served upon such party or upon the agent designated by him or by law to receive service of such papers, and a copy shall be furnished to counsel of record. [Order 1, § 1-08-110, effective 7/1/67.]

WAC 1-08-120 Service of process—Method of service. Service of papers shall be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail; or by telegraph. [Order 1, § 1-08-120, effective 7/1/67.]

WAC 1-08-130 Service of process—When service complete. Service upon parties shall be regarded as complete: By mail, upon deposit in the United States mail properly stamped and addressed; by telegraph, when deposited with a telegraph company properly addressed and with charges prepaid. [Order 1, § 1-08-130, effective 7/1/67.]

WAC 1-08-140 Service of process—Filing with agency. Papers required to be filed with the agency shall be deemed filed upon actual receipt by the agency at the place specified in its rules accompanied by proof of service upon parties required to be served. [Order 1, § 1-08-140, effective 7/1/67.]

WAC 1-08-150 Subpoenas—Where provided by law—Form. Every subpoena shall state the name of the agency and the title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under his control at a specified time and place. [Order 1, § 1-08-150, effective 7/1/67.]

WAC 1-08-160 Subpoenas—Issuance to parties. Upon application of counsel or other representative authorized to practice before the agency for any party to a

contested case, there shall be issued to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The director may issue subpoenas to parties not so represented upon request or upon a showing of general relevance and reasonable scope of the testimony or evidence sought. [Order 1, § 1-08-160, effective 7/1/67.]

WAC 1-08-170 Subpoenas—Service. Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person and by tendering him on demand the fees for one day's attendance and the mileage allowed by law. [Order 1, § 1-08-170, effective 7/1/67.]

WAC 1-08-180 Subpoenas—Fees. Witnesses summoned before the agency shall be paid by the party at whose instance they appear the same fees and mileage that are paid to witnesses in the superior courts of the state of Washington. [Order 1, § 1-08-180, effective 7/1/67.]

WAC 1-08-190 Subpoenas—Proof of service. The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgement of service with the agency or the officer before whom the witness is required to testify or produce evidence. If service is made by a person other than an officer of the agency and such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service. [Order 1, § 1-08-190, effective 7/1/67.]

WAC 1-08-200 Subpoenas—Quashing. Upon motion made promptly, and in any event at or before the time specified in the subpoena for compliance, by the person to whom the subpoena is directed and upon notice to the party to whom the subpoena was issued, the agency or its authorized member or officer may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion upon just and reasonable conditions. [Order 1, § 1-08-200, effective 7/1/67.]

WAC 1-08-210 Subpoenas—Enforcement. Upon application and for good cause shown the agency will seek judicial enforcement of subpoenas issued to parties and which have not been quashed. [Order 1, § 1-08-210, effective 7/1/67.]

WAC 1-08-220 Subpoenas—Geographical scope. Such attendance of witnesses and such production of evidence may be required from any place in the state of Washington, at any designated place of hearing. [Order 1, § 1-08-220, effective 7/1/67.]

WAC 1-08-230 Depositions and interrogatories in contested cases—Right to take. Except as may be otherwise provided, any party may take the testimony of

any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding, except that leave must be obtained if notice of the taking is served by a proponent within twenty days after the filing of a complaint, application, or petition. The attendance of witnesses may be compelled by the use of a subpoena. Depositions shall be taken only in accordance with this rule and the rule on subpoenas. [Order 1, § 1-08-230, effective 7/1/67.]

WAC 1-08-240 Depositions and interrogatories in contested cases—Scope. Unless otherwise ordered, the deponent may be examined regarding any matter not privileged, which is relevant to the subject matter involved in the proceeding. [Order 1, § 1-08-240, effective 7/1/67.]

WAC 1-08-250 Depositions and interrogatories in contested cases—Officer before whom taken. Within the United States or within a territory or insular possession subject to the dominion of the United States depositions shall be taken before an officer authorized to administer oaths by the laws of the state of Washington or of the place where the examination is held; within a foreign country, depositions shall be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or a person designated by the agency or agreed upon by the parties by stipulation in writing filed with the agency. Except by stipulation, no deposition shall be taken before a person who is a party or the privy of a party, or a privy of any counsel of a party, or who is financially interested in the proceeding. [Order 1, § 1-08-250, effective 7/1/67.]

WAC 1-08-260 Depositions and interrogatories in contested cases—Authorization. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than three days in writing to the agency and all parties. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. On motion of a party upon whom the notice is served, the hearing officer may for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions. [Order 1, § 1-08-260, effective 7/1/67.]

WAC 1-08-270 Depositions and interrogatories in contested cases—Protection of parties and deponents. After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the agency or its designated hearing officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or

that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed, the deposition shall be opened only by order of the agency or that business secrets or secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents, or information enclosed in sealed envelopes to be opened as directed by the agency or the agency may make any other order which justice requires to protect the party or witness from annoyance, embarrassment or oppression. At any time during the taking of the deposition, on motion of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the agency, or its designated hearing officer may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as above provided. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the agency. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. [Order 1, § 1-08-270, effective 7/1/67.]

WAC 1-08-280 Depositions and interrogatories in contested cases—Oral examination and cross-examination. Examination and cross-examination shall proceed as at an oral hearing. In lieu of participating in the oral examination, any party served with notice of taking a deposition may transmit written cross interrogatories to the officer who, without first disclosing them to any person, and after the direct testimony is complete, shall propound them seriatim to the deponent and record or cause the answers to be recorded verbatim. [Order 1, § 1-08-280, effective 7/1/67.]

WAC 1-08-290 Depositions and interrogatories in contested cases—Recordation. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under his direction and in his presence, record the testimony by typewriter directly or by transcription from stenographic notes, wire or record recorders, which record shall separately and consecutively number each interrogatory. Objections to the notice, qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented or to the conduct of the officer, or of any party, shall be noted by the officer upon the deposition. All objections by any party not so made are waived. [Order 1, § 1-08-290, effective 7/1/67.]

WAC 1-08-300 Depositions and interrogatories in contested cases—Signing attestation and return. (1) When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and

reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress, the agency holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(2) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope indorsed with the title of proceeding and marked "Deposition of (here-insert name of witness)" and shall promptly send it by registered or certified mail to the agency, or its designated hearing officer, for filing. The party taking the deposition shall give prompt notice of its filing to all other parties. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent. [Order 1, § 1-08-300, effective 7/1/67.]

WAC 1-08-310 Depositions and interrogatories in contested cases—Use and effect. Subject to rulings by the hearing officer upon objections a deposition taken and filed as provided in this rule will not become a part of the record in the proceeding until received in evidence by the hearing officer upon his own motion or the motion of any party. Except by agreement of the parties or ruling of the hearing officer, a deposition will be received only in its entirety. A party does not make a party, or the privy of a party, or any hostile witness his witness by taking his deposition. Any party may rebut any relevant evidence contained in a deposition whether introduced by him or any other party. [Order 1, § 1-08-310, effective 7/1/67.]

WAC 1-08-320 Depositions and interrogatories in contested cases—Fees of officers and deponents. Deponents whose depositions are taken and the officers taking the same shall be entitled to the same fees as are paid for like services in the superior courts of the state of Washington, which fees shall be paid by the party at whose instance the depositions are taken. [Order 1, § 1-08-320, effective 7/1/67.]

WAC 1-08-330 Depositions upon interrogatories—Submission of interrogatories. Where the deposition is taken upon written interrogatories, the party offering the testimony shall separately and consecutively number each interrogatory and file and serve them with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom they are to be taken.

Within ten days thereafter a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within five days thereafter, the latter may serve redirect interrogatories upon the party who served cross-interrogatories. [Order 1, § 1-08-330, effective 7/1/67.]

WAC 1-08-340 Depositions upon interrogatories—Interrogation. Where the interrogatories are forwarded to an officer authorized to administer oaths as provided in WAC 1-08-250 the officer taking the same after duly swearing the deponent, shall read to him seriatim, one interrogatory at a time and cause the same and the answer thereto to be recorded before the succeeding interrogatory is asked. No one except the deponent, the officer and the court reporter or stenographer recording and transcribing it shall be present during the interrogation. [Order 1, § 1-08-340, effective 7/1/67.]

WAC 1-08-350 Depositions upon interrogatories—Attestation and return. The officer before whom interrogatories are verified or answered shall (1) certify under his official signature and seal that the deponent was duly sworn by him, that the interrogatories and answers are a true record of the deponent's testimony, that no one except deponent, the officer and the stenographer were present during the taking, and that neither he nor the stenographer, to his knowledge, is a party, privy to a party, or interested in the event of the proceedings, and (2) promptly send by registered or certified mail the original copy of the deposition and exhibits with his attestation to the agency, or its designated hearing officer, one copy to the counsel who submitted the interrogatories and another copy to the deponent. [Order 1, § 1-08-350, effective 7/1/67.]

WAC 1-08-360 Depositions upon interrogatories—Provisions of deposition rule. In all other respects, depositions upon interrogatories shall be governed by the previous deposition rule. [Order 1, § 1-08-360, effective 7/1/67.]

WAC 1-08-370 Official notice—Matters of law. The hearing officer, upon request made before or during a hearing, will officially notice:

(1) **Federal law.** The constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the Federal Register;

(2) **State law.** The constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions of administrative agencies of the state of Washington, executive orders and proclamations by the governor; and all rules, orders and notices filed with the code reviser.

(3) **Governmental organization.** Organization, territorial limitations, officers, departments, and general administration of the government of the state of Washington, the United States, the several states and foreign nations;

(4) **Agency organization.** The department, commission or board organization, administration, officers, personnel, official publications, and practitioners before its bar. [Order 1, § 1-08-370, effective 7/1/67.]

WAC 1-08-380 Official notice—Material facts. In the absence of controverting evidence, the agency and its hearing officers, upon request made before or during a hearing, may officially notice:

(1) **Agency proceedings.** The pendency of, the issues and position of the parties therein, and the disposition of any proceeding then pending before or theretofore concluded by the agency.

(2) **Business customs.** General customs and practices followed in the transaction of business;

(3) **Notorious facts.** Facts so generally and widely known to all well-informed persons as not to be subject to reasonable dispute, or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal or state officer, department, or agency;

(4) **Technical knowledge.** Matters within the technical knowledge of the agency as a body of experts, within the scope or pertaining to the subject matter of its statutory duties, responsibilities or jurisdiction;

(5) **Request or suggestion.** Any party may request, or the hearing officer or the agency may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any prehearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memorandum, or brief served upon all parties, at any time prior to a final decision;

(6) **Statement.** Where an initial or final decision of the agency rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of material facts, the hearing officer of the agency may consult any source of pertinent information, whether or not furnished as it may be, by any party and whether or not admissible under the rules of evidence;

(7) **Controversion.** Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official notice of a material fact which the parties have not had a prior opportunity to controvert, any party may controvert such fact by appropriate exceptions if such notice be taken in an initial or intermediate decision or by a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or nonexistence of the material fact assumed or denied in the decision;

(8) **Evaluation of evidence.** Nothing herein shall be construed to preclude the agency involved or its authorized agents from utilizing their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them. [Order 1, § 1-08-380, effective 7/1/67.]

WAC 1-08-390 Presumptions. Upon proof of the predicate facts specified in the following six subdivisions hereof without substantial dispute and by direct, clear, and convincing evidence, the agency, with or without prior request or notice, may make the following presumptions, where consistent with all surrounding facts and circumstances:

(1) **Continuity.** That a fact of a continuous nature, proved to exist at a particular time, continues to exist as of the date of the presumption, if the fact is one which usually exists for at least that period of time;

(2) **Identity.** That persons and objects of the same name and description are identical;

(3) **Delivery.** Except in a proceeding where the liability of the carrier for nondelivery is involved, that mail matter, communications, express or freight, properly addressed, marked, billed and delivered respectively to the post office, telegraph, cable or radio company, or authorized common carrier of property with all postage, tolls and charges properly prepaid, is or has been delivered to the addressee or consignee in the ordinary course of business;

(4) **Ordinary course.** That a fact exists or does not exist, upon proof of the existence or nonexistence of another fact which in the ordinary and usual course of affairs, usually and regularly coexists with the fact presumed;

(5) **Acceptance of benefit.** That a person for whom an act is done or to whom a transfer is made has, does or will accept same where it is clearly in his own self-interest so to do;

(6) **Interference with remedy.** That evidence, with respect to a material fact which in bad faith is destroyed, eluded suppressed or withheld by a party in control thereof, would if produced, corroborate the evidence of the adversary party with respect to such fact. [Order 1, § 1-08-390, effective 7/1/67.]

WAC 1-08-400 Stipulations and admissions of record. 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, provided:

(1) **Upon whom binding.** Such a stipulation or admission is binding upon the parties by whom it is made, their privies and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or nonexistence of the material fact so admitted or stipulated, upon the making thereof, if made on the record at a prehearing conference, oral hearing, oral argument or by a writing filed and served upon all parties within five days after a copy of such stipulation or admission has been served upon them;

(2) **Withdrawal.** Any party bound by a stipulation or admission of record at any time prior to final decision may be permitted to withdraw the same in whole or in part by showing to the satisfaction of the hearing officer of the agency that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding. [Order 1, § 1-08-400, effective 7/1/67.]

WAC 1-08-410 Form and content of agency decisions in contested cases. Every decision and order, whether proposed, initial, or final, shall:

- (1) Be correctly captioned as to name of agency and name of proceeding;
- (2) Designate all parties and counsel to the proceeding;
- (3) Include a concise statement of the nature and background of the proceeding;
- (4) Be accompanied by appropriate numbered findings of fact and conclusions of law;
- (5) Whenever practical, the conclusions of law shall include the reason or reasons for the particular order or remedy afforded;
- (6) Wherever practical, the conclusions and/or order shall be referenced to specific provisions of the law and/or regulations appropriate thereto, together with reasons and precedents relied upon to support the same. [Order 1, § 1-08-410, effective 7/1/67.]

WAC 1-08-420 Definition of issues before hearing. In all proceedings the issues to be adjudicated shall be made initially as precise as possible, in order that hearing officers may proceed promptly to conduct the hearing on relevant and material matter only. [Order 1, § 1-08-420, effective 7/1/67.]

WAC 1-08-430 Prehearing conference rule—Authorized. In any proceeding the agency involved or its designated hearing officer upon its or his own motion, or upon the motion of one of the parties or their qualified representatives, may in its or his discretion direct the parties or their qualified representatives to appear at a specified time and place for a conference to consider:

- (1) The simplification of issues;
- (2) The necessity of amendments to the pleading;
- (3) The possibility of obtaining stipulations, admissions of facts and of documents;
- (4) The limitation of the number of expert witnesses;
- (5) Such other matters as may aid in the disposition of the proceeding. [Order 1, § 1-08-430, effective 7/1/67.]

WAC 1-08-440 Prehearing conference rule—Record of conference action. The agency or its designated hearing officer shall make an order or statement which recites the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits

the issues for hearing to those not disposed of by admissions or agreements; and such order or statement shall control the subsequent course of the proceeding unless modified for good cause by subsequent order. [Order 1, § 1-08-440, effective 7/1/67.]

WAC 1-08-450 Submission of documentary evidence in advance. Where practicable the agency or its designated hearing officer may require:

- (1) That all documentary evidence which is to be offered during the taking of evidence be submitted to the hearing examiner and to the other parties to the proceeding sufficiently in advance of such taking of evidence to permit study and preparation of cross-examination and rebuttal evidence;
- (2) That documentary evidence not submitted in advance, as may be required by subsection (1), be not received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the evidence sooner;
- (3) 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. [Order 1, § 1-08-450, effective 7/1/67.]

WAC 1-08-460 Excerpts from documentary evidence. When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered, to the hearing examiner and to the other parties. Only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document shall be made available for examination and for use by all parties to the proceeding. [Order 1, § 1-08-460, effective 7/1/67.]

WAC 1-08-470 Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses. That the hearing examiner or other appropriate officer in all classes of cases where practicable make an effort to have the interested parties agree upon the witness or witnesses who are to give expert or opinion testimony, either by selecting one or more to speak for all parties or by limiting the number for each party; and, if the interested parties cannot agree, require them to submit to him and to the other parties written statements containing the names, addresses and qualifications of their respective opinion or expert witnesses, by a date determined by him and fixed sufficiently in advance of the hearing to permit the other interested parties to investigate such qualifications. [Order 1, § 1-08-470, effective 7/1/67.]

WAC 1-08-480 Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements. That the hearing examiner or

other appropriate officer, in all classes of cases in which it is practicable and permissible, require, and when not so permissible, make every effort to bring about by voluntary submission, that all direct opinion or expert testimony and all direct testimony based on economic or statistical data be reduced to written sworn statements, and, together with the exhibits upon which based, be submitted to him and to the other parties to the proceeding by a date determined by the hearing officer and fixed a reasonable time in advance of the hearing; and that such sworn statements be acceptable as evidence upon formal offer at the hearing, subject to objection on any ground except that such sworn statements shall not be subject to challenge because the testimony is not presented orally, and provided that witnesses making such statements shall not be subject to cross-examination unless a request is made sufficiently in advance of the hearing to insure the presence of the witnesses. [Order 1, § 1-08-480, effective 7/1/67.]

WAC 1-08-490 Expert or opinion testimony and testimony based on economic and statistical data—Supporting data. That the hearing examiner or other appropriate officer, in his discretion but consistent with the rights of the parties shall cause the parties to make available for inspection in advance of the hearing, and for purposes of cross-examination at the hearing, the data underlying statements and exhibits submitted in accordance with WAC 1-08-480, but, wherever practicable that he restrict to a minimum the placing of such data in the record. [Order 1, § 1-08-490, effective 7/1/67.]

WAC 1-08-500 Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance with WAC 1-08-470 or 1-08-480. Whenever the manner of introduction of opinion or expert testimony or testimony based on economic or statistical data is governed by requirements fixed under the provisions of WAC 1-08-470 or 1-08-480, such testimony not submitted in accordance with the relevant requirements shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to conform to such requirements. [Order 1, § 1-08-500, effective 7/1/67.]

WAC 1-08-510 Continuances. Any party who desires a continuance shall, immediately upon receipt of notice of a hearing, or as soon thereafter as facts requiring such continuance come to his knowledge, notify the agency or its designated hearing officer of said desire, stating in detail the reasons why such continuance is necessary. The agency or its designated hearing officer, in passing upon a request for continuance, shall consider whether such request was promptly and timely made. For good cause shown, the agency or its designated hearing officer may grant such a continuance and may at any time order a continuance upon its or his own motion. During a hearing, if it appears in the public interest or in the interest of justice that further testimony or argument should be received, the examiner or other officer conducting the hearing may in his discretion continue

the hearing and fix the date for introduction of additional evidence or presentation of argument. Such oral notice shall constitute final notice of such continued hearing. [Order 1, § 1-08-510, effective 7/1/67.]

WAC 1-08-520 Rules of evidence—Admissibility criteria. Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the officer conducting the hearing, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the officer conducting the hearing shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior court of the state of Washington. [Order 1, § 1-08-520, effective 7/1/67.]

WAC 1-08-530 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections. When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The officer conducting the hearing may, in his discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered. [Order 1, § 1-08-530, effective 7/1/67.]

WAC 1-08-540 Petitions for rule making, amendment or repeal—Who may petition. Any interested person may petition the agency involved requesting the promulgation, amendment, or repeal of any rule. [Order 1, § 1-08-540, effective 7/1/67.]

WAC 1-08-550 Petitions for rule making, amendment or repeal—Requisites. Where the petition requests the promulgation of a rule, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule together with briefs of any applicable law. Where the petition requests the amendment or repeal of a rule presently in effect, the rule or portion of the rule in question must be set out as well as a suggested amended form, if any. The petition must include all reasons for the requested amendment or repeal of the rule. [Order 1, § 1-08-550, effective 7/1/67.]

WAC 1-08-560 Petitions for rule making, amendment or repeal—Agency must consider. All petitions shall be considered by the agency and the agency may, in its discretion, order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal, or modification of any rule. [Order 1, § 1-08-560, effective 7/1/67.]

WAC 1-08-570 Petitions for rule making, amendment or repeal—Notice of disposition. The agency shall notify the petitioning party within a reasonable time of the disposition, if any, of the petition. [Order 1, § 1-08-570, effective 7/1/67.]

WAC 1-08-580 Declaratory rulings. As prescribed by RCW 34.04.080 any interested person may petition the agency for a declaratory ruling. The agency shall consider the petition and within a reasonable time the agency shall:

- (1) Issue a nonbinding declaratory ruling; or
- (2) Notify the person that no declaratory ruling is to be issued; or
- (3) Set a reasonable time and place for an oral hearing or the submission of written evidence upon the matter, and give reasonable notification to the person of the time and place for such hearing or submission and of the issues involved.

If a hearing as provided in subsection (3) is conducted, the agency shall within a reasonable time:

- (a) Issue a binding declaratory rule; or
- (b) Issue a nonbinding declaratory ruling; or
- (c) Notify the person that no declaratory ruling is to be issued. [Order 1, § 1-08-580, effective 7/1/67.]

WAC 1-08-590 Forms. Any interested person petitioning the agency for a declaratory ruling pursuant to RCW 34.04.080 shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "Before the (name of agency)." On the left side of page below the foregoing the following caption shall be set out: "In the Matter of the Petition of (name of petitioning party) for a Declaratory Ruling." Opposite the foregoing caption shall appear the word "Petition."

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

The original and two legible copies shall be filed with the agency. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13" in size.

Any interested person petitioning the agency requesting the promulgation, amendment or repeal of any rules shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "Before the (name of agency)." On the left side of the page below the foregoing the following caption shall be set out: "In the Matter of the Petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of Rule (or Rules)." Opposite the foregoing caption shall appear the word "Petition."

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or

amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the agency. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13" in size. [Order 1, § 1-08-590, effective 7/1/67.]

Chapter 1-12 WAC

REGULATIONS FOR THE DRAFTING AND FILING OF NOTICES AND RULES

WAC

1-12-005	Declaration of purpose.
1-12-010	Who must file rules under chapter 34.04 RCW.
1-12-020	What rules must be filed.
1-12-030	Notices of intention to adopt rules.
1-12-035	Time for filing material for inclusion in register.
1-12-040	Administrative order—How promulgated.
1-12-045	Administrative order—Duty to maintain order register.
1-12-050	Filing of Administrative order—Rules adopted.
1-12-060	Formulation of agency orders creating, amending, or repealing rules.
1-12-065	Rule purpose and implementation statement.
1-12-070	Washington Administrative Code—Basic organization.
1-12-080	Drafting instructions—Title number—Chapter and section names and numbers.
1-12-090	Drafting instructions—Division of chapters into sections.
1-12-100	Drafting instructions—Subsections, subdivisions, items, and subitems.
1-12-110	Drafting instructions—Citations and references.
1-12-120	Drafting instructions—Title and chapter digests—History notes.
1-12-125	Drafting instructions—Use of underlining.
1-12-130	Drafting instructions—Amendatory section.
1-12-140	Drafting instructions—Repealer sections.
1-12-150	Drafting instructions—Sequence and numbering of sections.
1-12-155	Drafting instructions—Identification of sections as new, amendatory, or repealed.
1-12-160	Drafting instructions—Redesignation of WAC numbers—Amendment or repeal of inconsistent rules.
1-12-170	Typing instructions—General.
1-12-180	Typing instructions—New chapters of WAC.
1-12-190	Emergency rules.
1-12-191	Emergency rules—Filing after office hours.
1-12-200	Exemption from these rules.
1-12-210	Official forms supplied upon request.
1-12-220	Order typing service (OTS).
1-12-910	Notice of intention to adopt, amend, or repeal rules (CR-1).
1-12-930	Form of order and transmittal by agency having single head (CR-7).
1-12-940	Form of order and transmittal by board, commission, or council (CR-8).

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 1-12-047 Completion of Form CR-2—Transmittal of rules adopted. [Order 12, § 1-12-047, filed 5/9/77, effective 6/9/77; Order 9, § 1-12-047, filed 9/25/74, effective 10/25/74.] Repealed by Order 15, § 1-12-047, filed 10/31/77, effective 12/1/77.
- 1-12-920 Transmittal of rules adopted (CR-2). [Order 9, Form CR-2, filed 9/25/74, effective 10/25/74; Order 5, Form CR-2, filed 10/4/71; Emergency Order 3, Form CR-2, filed 8/6/71; Order 2, Form CR-2, filed 12/18/67, effective 1/17/68.] Repealed by Order 15, filed 10/31/77, effective 12/1/77.
- Form CR-3 Underlay typing guide sheet. [Order 9, filed 9/25/74, effective 10/25/74; Order 2, filed 12/18/67, effective 1/17/68.] Repealed by Order 12, filed 5/9/77, effective 6/9/77.
- Suggested form of order by agency having single head. [Order 9, filed 9/25/74, effective 10/25/74; Order 2, filed 12/18/67, effective 1/17/68.] Repealed by Order 12, filed 5/9/77, effective 6/9/77.
- Sample form of order by board or commission. [Order 9, filed 9/25/74; Order 2, filed 12/18/67, effective 1/17/68.] Repealed by Order 12, filed 5/9/77, effective 6/9/77.

WAC 1-12-005 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 agencies by requiring (RCW 34.04.057 and 34.04.----- (1977 c 19 § 1)) 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.----- (1977 1st ex.s. c 240 § 2), 34.04.055, and 34.08.----- (1977 1st ex.s. c 240 § 4) 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. [Order 15, § 1-12-005, filed 10/31/77, effective 12/1/77; Order 12, § 1-12-005, filed 5/9/77, effective 6/9/77; Order 5, § 1-12-005, filed 10/4/71; Emergency Order 4, § 1-12-005, filed 9/3/71; Order 2, § 1-12-005, adopted 12/11/67, effective 1/17/68.]

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 (1971 ex.s. c 57) and chapter 1-13 WAC.

NOTES:

¹RCW 34.04.010(1) as amended by 1967 c 237 § 1 provides:

"For the purpose of this chapter:

(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 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 1971 ex.s. c 57 § 17 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 motor vehicles. 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."

[Order 12, § 1-12-010, filed 5/9/77, effective 6/9/77; Order 5, § 1-12-010, filed 10/4/71; Emergency Order 4, § 1-12-010, filed 9/3/71; Order 2, § 1-12-010, adopted 12/11/67, effective 1/17/68.]

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 amended by 1967 c 237 § 1 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 highway 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 amended by 1967 c 237 § 2 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."

[Order 15, § 1-12-020, filed 10/31/77, effective

[Title 1 WAC—p 14]

12/1/77; Order 5, § 1-12-020, filed 10/4/71; Emergency Order 4, § 1-12-020, filed 9/3/71; Order 2, § 1-12-020, adopted 12/11/67, effective 1/17/68.]

WAC 1-12-030 Notices of intention to adopt rules.

(1) Statutory notice requirements; see RCW 34.04.025¹ and 34.08.----- (1977 1st ex.s. c 240 § 3).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. On and after January 1, 1978, 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.

(4) Number of copies; Notice numbers. Agencies shall file in the code reviser's office an original and two copies of the notice 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.

(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) 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) Prior to January 1, 1978, the code reviser construes RCW 34.04.025(1)(a) as requiring the actual physical filing of the notice in the code reviser's office at least twenty days prior to the date of such first action; thus notices filed by mail must have been received at least twenty days prior to the date of such first action. The time from such date of receipt, to the time of such

first action, will be computed according to RCW 1.12-.040 which provides that:

"The time within which an act is to be done, as herein provided, shall be computed by excluding the first day, and including the last, unless the last day is a holiday or Sunday, and then it is also excluded."

As a rule of thumb consider the date of filing in the code reviser's office 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. *State ex rel. Earley v. Batchelor*, 15 Wn.2d 149.

(c) On and after January 1, 1978, the twenty day notice requirement will apply to the publication of the notice and text of the proposal in the state register and not to its filing with the code reviser. The twenty day count will begin 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)). 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.

(d) The distribution date of each monthly register shall be the third Wednesday of that month; the last day to file material in the code reviser's office for inclusion in that month's register will be established according to WAC 1-12-035.

(e) 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.

NOTES:

¹RCW 34.04.025 as amended by § 7, chapter 240, Laws of 1977 1st ex. sess. (effective January 1, 1978) 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.----- (1977 1st ex.s. c 240 § 3(1)) for publication in the state register, 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) 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, or by an association having not less than twenty-five members. The agency shall consider fully all written and oral submissions respecting the proposed rule. 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.

(2) No proceeding shall 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.

(3) No rule hereafter adopted is valid unless adopted in substantial compliance with this section, or, if an emergency rule designated as such, 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.----- (1977 1st ex.s. c 240 § 3(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.----- (1977 1st ex.s. c 240 § 3) provides: "There is hereby created a state publication to be called the Washington State Register, which shall be published on 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 shall 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; and

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

[Order 15, § 1-12-030, filed 10/31/77, effective 12/1/77; Order 12, § 1-12-030, filed 5/9/77, effective 6/9/77; Order 9, § 1-12-030, filed 9/25/74, effective 10/25/74; Order 5, § 1-12-030, filed 10/4/71; Emergency Order 4, § 1-12-030, filed 9/3/71; Emergency Order 3, § 1-12-030, filed 8/6/71; Order 2, § 1-12-030, adopted 12/11/67, effective 1/17/68.]

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.----- (1977 1st ex.s. c 240 § 3) in a particular monthly register 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 month'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 month'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 month'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 month's register. [Order 15, § 1-12-035, filed 10/31/77, effective 12/1/77.]

WAC 1-12-040 Administrative order—How promulgated. The promulgation of new rules and of rules amending or repealing existing rules shall be accomplished by an administrative order. Such order shall include, as a minimum, the substance of the items set forth in WAC 1-12-930 and 1-12-940 (Forms CR-7 and CR-8). If other items or findings are required by law to be included in an agency order, such material may be included within or appended to the order, and if certain terms or nomenclature in such forms are inappropriate for a particular agency or adoption, correct terminology may be substituted. Orders shall be numbered seriatim by the agency and a record thereof shall be maintained by the agency. (See WAC 1-12-045 for maintaining order register.)

Four copies of the administrative order are required for filing in the code reviser's office. The order shall be properly signed by an authorized agent of the agency.

Each order shall set forth an appropriate statement of state statutory authority as required by RCW 34.04.----- (1977 c 19 § 2). [Order 12, § 1-12-040, filed 5/9/77, effective 6/9/77; Order 9, § 1-12-040, filed 9/25/74, effective 10/25/74; Order 2, § 1-12-040, adopted 12/11/67, effective 1/17/68.]

WAC 1-12-045 Administrative order—Duty to maintain order register. An order register shall be maintained by the agency, in which shall be entered the number of each order together with a brief description or digest of the subject matter of the order, including in the case of orders amending or repealing prior orders a list of the WAC section numbers affected. [Order 12, § 1-12-045, filed 5/9/77, effective 6/9/77; Order 9, § 1-12-045, filed 9/25/74, effective 10/25/74.]

WAC 1-12-050 Filing of administrative order—Rules adopted. Each filing of rules, whether permanent or emergency, shall be assembled and presented to the code reviser's office in the following order:

(1) The administrative order adopting said rules, Form CR-7 or CR-8, as appropriate; four signed copies (See WAC 1-12-040);

(2) The rule purpose statement; one copy (see WAC 1-12-065);

(3) The text of rules adopted; one original and three identical copies.

The adoption of permanent and emergency rules shall be effected by separate administrative orders and transmittals thereof. [Order 15, § 1-12-050, filed 10/31/77, effective 12/1/77; Order 12, § 1-12-050, filed 5/9/77, effective 6/9/77; Order 9, § 1-12-050, filed 9/25/74, effective 10/25/74; Order 5, § 1-12-050, filed 10/4/71; Emergency Order 4, § 1-12-050, filed 9/3/71; Order 2, § 1-12-050, adopted 12/11/67, effective 1/17/68.]

WAC 1-12-060 Formulation of agency orders creating, amending, or repealing rules. Agency orders amending or repealing rules or creating new rules, shall be formulated in accordance with the style, format, and numbering system of the Washington Administrative Code. [Order 2, § 1-12-060, adopted 12/11/67, effective 1/17/68.]

WAC 1-12-065 Rule purpose and implementation statement. RCW 34.04.----- (1977 1st ex.s. c 84 § 1)¹ requires that when any adopted rule, whether permanent or emergency, 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. 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.

NOTE:

¹RCW 34.04.----- (1977 1st ex.s. c 84 § 1) provides:

(1) For the purpose of legislative review of agency rules filed pursuant to this chapter, any new or amendatory rule promulgated after September 21, 1977, 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 contain, but is not limited to, the following:

(a) A title, containing a description of the rule's purpose, the name of the agency, 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;

(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 names of the proponents and opponents of the rule, if any; and

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

(2) Upon filing the 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.

[Order 15, § 1-12-065, filed 10/31/77, effective 12/1/77.]

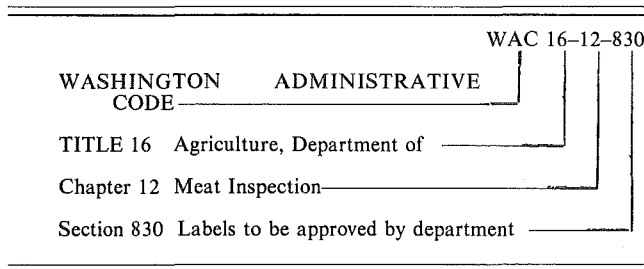
WAC 1-12-070 Washington Administrative Code—Basic organization. (1) The primary division is the *Title*. Each agency has been assigned a Title number which falls in alphabetical sequence according to the

name of the agency. Subsequent name changes by an agency shall not necessitate a change in title number. A list of titles assigned or reserved may be found in the prefatory material of Volume 1, WAC. Newly created agencies shall apply to the code reviser's office for assignment of a title number.

(2) Each title is divided into *chapters* which constitute the major breakdown by subject matter of the rules adopted by the agency.

(3) Each chapter is divided into *sections*.

(4) Each code number is a composite of these three factors e.g.



[Order 15, § 1-12-070, filed 10/31/77, effective 12/1/77; Order 5, § 1-12-070, filed 10/4/71; Emergency Order 4, § 1-12-070, filed 9/3/71; Order 2, § 1-12-070, adopted 12/11/67, effective 1/17/68.]

WAC 1-12-080 Drafting instructions—Title number—Chapter and section names and numbers. (1) The agency's title number has been assigned by the code reviser. Chapter names and numbers, and section captions and numbers within the chapter will be henceforth selected by the agency with the advice of the code reviser's office when such advice is requested. It is desirable to coordinate chapter and section numbers within the department to avoid discrepancies and inadvertent repeal of chapters and sections. Do not duplicate section captions within the same chapter.

(2) In selecting chapter and section names, choose a designation which expresses generally the subject matter of the material to be contained in the chapter or section. The names should be fairly concise and should be one having some meaning to the industry being regulated and/or to the general public.

(3) In selecting chapter numbers, consider the general outline of all subjects regulated or anticipated to be regulated by the agency and assign chapter numbers in accordance with this outline.

In order to provide for future expansion in an orderly sequence, a gap of four numbers should be left between chapters e.g. at the outset use chapter numbers -12, -16, -24, etc. leaving the intervening numbers to be used for later interpolation of subjects related to those which have already been assigned numbers. Chapter -08 of each title should be reserved for the adoption of comprehensive rules of practice and procedure before the agency (but note that under RCW 34.04.022 agencies no longer need to adopt their own practice and procedure rules but may utilize the uniform rules of practice

and procedure contained in chapter 1-08 WAC). [Order 12, § 1-12-080, filed 5/9/77, effective 6/9/77; Order 9, § 1-12-080, filed 9/25/74, effective 10/25/74; Order 5, § 1-12-080, filed 10/4/71; Order 4, § 1-12-080, filed 9/3/71; Order 2, § 1-12-080, adopted 12/11/67, effective 1/17/68.]

WAC 1-12-090 Drafting instructions—Division of chapters into sections. (1) In numbering sections within a chapter, if the chapter will initially contain less than ninety-eight sections, number the section factor in a progression of tens, e.g. -010, -020, -030, etc. If there are many sections within a proposed chapter, number by threes, e.g. -003, -006, -009, -012, etc. or by fives, e.g. -005, -010, -015, -020, etc. In special cases where the volume of material requires progression of section numbers by less than intervals of one, contact the code reviser's office.

(2) Material should be divided into short, concise sections. Short sections facilitate future amendment, since a section in its entirety is the smallest unit which can be amended. As a rule of thumb, if the contents of a section cannot be described in a one line caption, the section should be divided into two or more sections. Short sentences are likewise to be preferred.

(3) Sections should not begin with the word "That."

(4) Each section shall be preceded by its WAC number and a caption which shall briefly describe the contents of the section.

(5) All tables, charts, maps, appendices, and forms which an agency intends to enforce or which otherwise constitute a rule, must be either a part of another WAC section or be assigned their own WAC numbers and adopted as independent sections. The latter method is preferred, as it will greatly simplify upkeep and revision of such material. [Order 15, § 1-12-090, filed 10/31/77, effective 12/1/77; Order 12, § 1-12-090, filed 5/9/77, effective 6/9/77; Order 9, § 1-12-090, filed 9/25/74, effective 10/25/74; Order 2, § 1-12-090, adopted 12/11/67, effective 1/17/68.]

WAC 1-12-100 Drafting instructions—Subsections, subdivisions, items, and subitems. Sections may be divided into subsections (1), (2), (3), etc., which may in turn be divided into subdivisions (a), (b), (c), etc., which may be further divided into items (i), (ii), (iii), etc., which may be further divided into subitems (A), (B), (C), etc., all according to the following hierarchy, e.g.

- | | | |
|--------------|------|-------------|
| Subsections | —(1) | subsection |
| | (2) | subsection |
| Subdivisions | —(a) | subdivision |
| | (b) | subdivision |
| Items | —(i) | item |
| | (ii) | item |
| Subitems | —(A) | subitem |
| | (B) | subitem |
| | (c) | subdivision |
| | (3) | subsection |

[Order 15, § 1-12-100, filed 10/31/77, effective 12/1/77; Order 2, § 1-12-100, adopted 12/11/67, effective 1/17/68.]

WAC 1-12-110 Drafting instructions—Citations and references. (1) In referring to other parts of the rules or to other rules, refer to specific WAC sections or parts thereof. Avoid references such as "above," "below," "hereinbefore," "hereinafter," "preceding," and "following" since the relative position of the material referred to may be changed in future drafts.

(2) If the first draft and subsequent drafts require revision before they are promulgated, the drafter must check all internal references to be sure they are still accurate, i.e., that any rearrangement of sections referred to has been reflected by correcting the references thereto where necessary.

(3) Cite and refer to the various parts of the Washington Administrative Code as follows:

- (a) Title 16 — Title 16 WAC
- (b) Chapter 16-24 — chapter 16-24 WAC
- (c) Section 16-24-580 — WAC 16-24-580
- (d) Subsection 1 of section 16-24-580 — WAC 16-24-580(1)
- (e) Inclusive string of sections — WAC 16-24-580 through 16-24-600.

[Order 12, § 1-12-110, filed 5/9/77, effective 6/9/77; Order 2, § 1-12-110, adopted 12/11/67, effective 1/17/68.]

WAC 1-12-120 Drafting instructions—Title and chapter digests—History notes. At the fore of each title of WAC is a title digest which lists all chapters within the title. Each chapter is likewise preceded by a chapter digest which lists all sections within the chapter. Title and chapter digests may be prepared by the agency, or they will be added later by the code reviser's office.

Each section of WAC is followed by a history note which recites the agency's order number and filing date or effective date of the section. History notes shall be omitted by the promulgating agency and shall be added later by the code reviser's office. [Order 12, § 1-12-120, filed 5/9/77, effective 6/9/77; Order 5, § 1-12-120, filed 10/4/71; Emergency Order 4, § 1-12-120, filed 9/3/71; Order 2, § 1-12-120, adopted 12/11/67, effective 1/17/68.]

WAC 1-12-125 Drafting instructions—Use of underlining. (1) Words in the text of rules shall not be underlined, except to indicate language added to an existing WAC section as explained in WAC 1-12-130. The designations "AMENDATORY SECTION," "NEW SECTION," and "REPEALER" shall also be underlined. No other use of underlining will be permitted, as the legal effect of underlining has been established by statute, and other uses present the codifier with an ambiguous situation.

(2) If it is desirable to emphasize certain text within the section for agency publication purposes, then consult

with the code reviser's office for the appropriate style. [Order 15, § 1-12-125, filed 13/31/77, effective 12/1/77; Order 12, § 1-12-125, filed 5/9/77, effective 6/9/77.]

WAC 1-12-130 Drafting instructions—Amendatory section. (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 34.04.----- (1977 c 19 § 1)).

(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 1-12-155 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 agencies regarding the style in which rules amending existing WAC sections must be drafted. (See WAC 1-12-220.)

(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 will have no legal effect and will not be enforceable by the agency (RCW 34.04.-----¹ (1977 c 19 § 1)).

(7) In the event that any section to be amended is exempted from publication under the provisions of RCW 34.04.050(3) and therefore not codified in the Washington Administrative Code, it shall be referred to by agency order and section number, or other appropriate description.

NOTE:

¹RCW 34.04.----- (1977 c 19 § 1) provides:

"(1) Rules promulgated by an agency pursuant to RCW 34.04.025 or 34.04.030 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 shall be forwarded by any agency to the code reviser, nor shall 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 agency the code reviser need not, except with regard to the bulletin [register] published pursuant to RCW 34.04.050(2), 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 agency 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."

[Order 15, § 1-12-130, filed 10/31/77, effective 12/1/77; Order 12, § 1-12-130, filed 5/9/77, effective 6/9/77; Order 9, § 1-12-130, filed 9/25/74, effective 10/25/74; Order 2, § 1-12-130, adopted 12/11/67, effective 1/17/68.]

WAC 1-12-140 Drafting instructions—Repealer sections. (1) Orders or parts of orders which repeal existing code sections shall be mentioned generally in the Administrative Order and Transmittal (Form CR-7 or CR-8), and shall be set forth specifically by WAC citation and caption in the text of the rules adopted following the new and/or amended rules.

Great care should be taken in citing the proper WAC section numbers. If a section has been repealed inadvertently a repetition of the entire rule-making procedure is required in order to correct the error.

NOTE: Once a section has been repealed the number and history note are listed in the chapter disposition of repealed sections.

(2) In repealing rules not published in WAC the description thereof shall be similar to that prescribed for amendment in WAC 1-12-130(7). [Order 15, § 1-12-140, filed 10/31/77, effective 12/1/77; Order 12, § 1-12-140, filed 5/9/77, effective 6/9/77; Order 9, § 1-12-140, filed 9/25/74, effective 10/25/74; Order 2, § 1-12-140, adopted 12/11/67, effective 1/17/68.]

WAC 1-12-150 Drafting instructions—Sequence and numbering of sections. New and amendatory sections within the same chapter shall be organized sequentially and interspersed in ascending order according to their WAC number. Repealers shall be placed in a separate group following the new and/or amendatory sections.

When amending or adding sections to more than one chapter begin each chapter on a new page. The sections are to be arranged sequentially with respect to title, chapter, and section.

Legislation style section numbering as "Section 1, Sec. 2., Sec. 3., etc.," shall not be used. [Order 15, § 1-12-150, filed 10/31/77, effective 12/1/77; Order 12, § 1-12-150, filed 5/9/77, effective 6/9/77; Order 9, § 1-12-150, filed 9/25/74, effective 10/25/74; Order 2, § 1-12-150, adopted 12/11/67, effective 1/17/68.]

WAC 1-12-155 Drafting instructions—Identification of sections as new, amendatory, or repealed. Each

section shall be preceded by an identifier, as set forth below, indicating whether such section is new, amendatory, or repealed. One line shall be skipped before beginning the section, e.g.:

SAMPLE
NEW SECTION

WAC 16-12-825 LABELS TO CONFORM WITH DEFINITIONS. When inspected and passed products are labeled with the names of, or are represented as, articles for which definitions have been prescribed by regulation, the labels shall conform to such definitions.

SAMPLE
AMENDATORY SECTION (Amending Order 76-5, filed 6/17/76)

WAC 16-12-840 APPROVED LABELS TO BE USED ONLY ON PRODUCTS TO WHICH THEY ARE APPLICABLE. Labels ~~((shall be used only on products for which they are approved. They))~~ shall not be applied to any product, the covering or container of which bears any ~~((false information))~~ statement that is false or misleading.

SAMPLE
REPEALER

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

(1) **WAC 16-12-835 INSPECTOR TO PERMIT CERTAIN MODIFICATIONS OF APPROVED LABELS.**

(2) **WAC 16-12-865 RELABELING PRODUCT; REQUIREMENTS REGARDING.**

[Order 15, § 1-12-155, filed 10/31/77, effective 12/1/77; Order 12, § 1-12-155, filed 5/9/77; effective 6/9/77.]

WAC 1-12-160 Drafting instructions—Redesignation of WAC numbers—Amendment or repeal of inconsistent rules. (1) WAC numbers assigned to chapters or sections are permanent and shall not be changed by the use of addition and deletion marks; the only way to change the WAC number originally assigned to a section is to repeal the entire section and readopt it under the new WAC number desired.

(2) Unless special permission is obtained from the code reviser's office, the WAC numbers previously assigned to repealed sections or chapters shall not again be used to designate other sections or chapters as the sections or chapters repealed will continue to be referenced in the code as memorial sections or chapters.

(3) In drafting new rules, the draftsman must be cognizant of rules already in existence, and must expressly amend or repeal existing chapters or sections which would not be consistent with the new rules. [Order 15, § 1-12-160, filed 10/31/77, effective 12/1/77; Order 5, § 1-12-160, filed 10/4/71; Emergency Order 4, § 1-12-160, filed 9/3/71; Order 2, § 1-12-160, adopted 12/11/67, effective 1/17/68.]

WAC 1-12-170 Typing instructions—General. (1) Agency rules submitted to the code reviser's office for filing shall be typed or typeset on good quality white

paper which shall be eight and one-half inches wide and from eleven to fourteen inches long.

(2) Sections shall be single spaced, with no space between paragraphs.

(3) Leave five lines between sections.

(4) Indent 5 spaces to begin a section and for each paragraph within the section.

(5) Subsections, subdivisions, items, and subitems within a section may be simply indented 5 spaces: e.g.

- (1) _____
_____ subsection
- (a) _____
_____ subdivision
- (i) _____
_____ item
- (A) _____
_____ subitem
- (B) _____
_____ subitem
- (ii) _____
_____ item
- (b) _____
_____ subdivision

or they may be shown in the hanging style at the item level and with deeper indents below that level: e.g.

- (1) _____
_____ subsection
- (a) _____
_____ subdivision
- (i) _____
_____ item
- (A) _____
_____ subitem
- (B) _____
_____ subitem
- (ii) _____
_____ item
- (b) _____
_____ subdivision

(6) The WAC number at the beginning of each section will appear in boldface type in the code reviser's publication, and should not be underlined. The caption is always typed in upper case (capital) letters. If the caption does not use up the whole line, skip two spaces and begin the body of the section on the same line.

(7) Number each page at the bottom to indicate its sequence within the adopted rules. [Order 15, § 1-12-170, filed 10/31/77, effective 12/1/77; Order 12, § 1-12-170, filed 5/9/77, effective 6/9/77; Order 9, § 1-12-170, filed 9/25/74, effective 10/25/74; Order 2, § 1-12-170, adopted 12/11/67, effective 1/17/68.]

WAC 1-12-180 Typing instructions—New chapters of WAC. A new chapter of WAC should begin with the number and name of the chapter being created, centered on the page, followed by the chapter digest, which is a list of WAC section numbers and their associated captions within such chapter, and prepared by either the agency or the code reviser,¹ as follows:

Chapter 16-312
STANDARDS FOR BLENDING CERTIFIED SEED OF
ALFALFA AND RED CLOVER

WAC

16-312-010	Approval prior to blending.
16-312-020	Miscellaneous contents—Percentage.
...	

The first section of the rules shall follow five lines after the last section number and caption listed in the chapter digest.

NOTE:

¹See WAC 1-12-120.

[Order 12, § 1-12-180, filed 5/9/77, effective 6/9/77; Order 2, § 1-12-180, adopted 12/11/67, effective 1/17/68.]

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.

(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. [Order 15, § 1-12-190, filed 10/31/77, effective 12/1/77; Order 12, § 1-12-190, filed 5/9/77, effective 6/9/77; Order 9, § 1-12-190, filed 9/25/74, effective 10/25/74; Order 2, § 1-12-190, adopted 12/11/67, effective 1/17/68.]

WAC 1-12-191 Emergency rules—Filing after office hours. The reviser's office will be open for the filing of agency orders from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays. The reviser's office hereby delegates to the Washington State Patrol the authority to accept during the period outside such office hours the filing of emergency orders adopting, amending, or repealing rules and regulations when the emergent nature of such orders requires the filing and immediate effectiveness thereof during such period. An agency requiring acceptance of an emergency filing during such period may telephone the office of the State

Patrol, Capitol Security Unit, at 753-2191 to make arrangements for the receipt by the Patrol of such filing. The agency shall notify the reviser's office of such filing no later than 9:00 a.m. on the next business day following such filing. [Order 9, § 1-12-191, filed 9/25/74, effective 10/25/74.]

WAC 1-12-200 Exemption from these rules. Agency rules which are likely to be omitted from WAC by the code reviser pursuant to the authority granted him by RCW 34.04.050(3) may, upon application in writing by the agency to the code reviser for such exemption, be exempted by the code reviser from the form and style requirements of this chapter, other than those requirements which are statutorily imposed. Such application shall be made and approved prior to filing the rules in the code reviser's office. [Order 15, § 1-12-200, filed 10/31/77, effective 12/1/77; Order 9, § 1-12-200, filed 9/25/74, effective 10/25/74; Order 2, § 1-12-200, adopted 12/11/67, effective 1/17/68.]

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 12/1/77 (WAC 1-12-910).
- (2) Form CR-7 Form of order and transmittal by agency having single head—Dated 12/1/77 (WAC 1-12-930).
- (3) Form CR-8 Form of order and transmittal by board, commission, or council—Dated 12/1/77 (WAC 1-12-940).

[Order 15, § 1-12-210, filed 10/31/77, effective 12/1/77; Order 12, § 1-12-210, filed 5/9/77, effective 6/9/77; Order 9, § 1-12-210, filed 9/25/74, effective 10/25/74; Order 2, § 1-12-210, adopted 12/11/67, effective 1/17/68.]

WAC 1-12-220 Order typing service (OTS). The order typing service (OTS) of the code reviser's office functions on a voluntary, cooperative basis between the code reviser and rule-making agencies in order to prepare new, amendatory, and repealing rules with minimal duplicated effort. The entire WAC is stored in a computerized data base, and a printout of existing rules can be given to an agency for rule drafting purposes. The agency can show its proposed changes directly on this copy which is then returned to the code reviser's office. The proposal is then entered into the computer, the output is proofed against the agency markup, and a printout is sent to the agency.

At this point it is the agency's responsibility to carefully proofread the markup copy and the printout to make sure that the printout reflects exactly what the agency wants. If further changes are desired, a second or subsequent draft will be prepared by OTS.

When the agency is satisfied with the OTS printout it can adopt the proposal in accordance with the other requirements of this chapter and submit the final printout

to the code reviser for filing. Any changes in the proposal which the agency may wish to make between the hearing and the final filing must be incorporated by the OTS into a computer printout.

The time schedule, format options, and other details relating to the OTS may be discussed with the code reviser. The service is presently offered on a time-available basis, but every effort is made to accommodate the particular needs of an agency. The most important point however, is that the final responsibility for the accuracy of an agency rule-making order still rests with the agency itself. [Order 15, § 1-12-220, filed 10/31/77, effective 12/1/77.]

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 _____¹, that the (name of agency) intends to adopt, amend, or repeal rules concerning:²

(HEARING DATE AND PLACE)

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

(3) and that 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 agency —

- (a) in writing to be received by this agency prior to (date) and/or
- (b) orally at (time), (day), (date),³ (place).

(6) The additional notice required by RCW 34.04.025 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.

(7) This notice is connected to and continues the matter noticed in Notice Nos. _____ filed with the code reviser's office on (date)⁵.

(AGENCY)
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-1: Rev. 12/1/77]

INSTRUCTIONS FOR COMPLETION OF FORM CR-1

NOTES:

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

²Here 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).

³The 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) and WAC 1-12-030(5) and 1-12-035.

⁴This date may not be earlier than that noted in³; see RCW 34.04.025 and WAC 1-12-030(5).

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

This space for additional information.

[Order 15, § 1-12-910, filed 10/31/77, effective 12/1/77; Order 9, Form CR-1, filed 9/25/74, effective 10/25/74; Order 5, Form CR-1, filed 10/4/71; Emergency Order 3, Form CR-1, filed 8/6/71; Order 2, Form CR-1, filed 12/18/67, effective 1/17/68.]

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. (1977 c 19 § 2)¹ 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 certifies that, to the best of his or her knowledge, the applicable requirements of the Administrative Procedure Act, chapter 34.04 RCW, have been fulfilled.

(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]

..... Such rules shall take effect:

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

NOTE:

¹RCW 34.04..... (1977 c 19 § 2) 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."

[Order 15, § 1-12-930, filed 10/31/77, effective 12/1/77; Emergency Order 13, § 1-12-930, filed 6/16/77; Order 14, § 1-12-930, filed 7/28/77; Order 12, § 1-12-930, filed 5/9/77, effective 6/9/77.]

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 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 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)¹ 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 certifies that, to the best of his or her knowledge, the applicable requirements of the Administrative Procedure Act, chapter 34.04 RCW, and of the Open Public Meetings Act, chapter 42.30 RCW, have been fulfilled.

(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]

NOTE:

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

[Order 15, § 1-12-940, filed 10/31/77, effective 12/1/77; Emergency Order 13, § 1-12-940, filed

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

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

6/16/77; Order 14, § 1-12-940, filed 7/28/77; Order 12, § 1-12-940, filed 5/9/77, effective 6/9/77.]

Chapter 1-13 WAC

REGULATIONS FOR THE DRAFTING AND FILING OF NOTICES AND RULES BY INSTITUTIONS OF HIGHER EDUCATION

WAC

1-13-005	Declaration of purpose.
1-13-010	Who must file rules.
1-13-020	What rules must be filed.
1-13-030	Notices of intention to adopt rules.
1-13-035	Time for filing material for inclusion in register.
1-13-040	Administrative orders—How promulgated.
1-13-045	Administrative orders—Duty to maintain order register.
1-13-050	Filing of administrative order—Rules adopted.
1-13-060	Formulation of institution orders creating, amending, or repealing rules.
1-13-070	Washington Administrative Code—Basic organization.
1-13-080	Drafting instructions—Title number—Chapter and section names and numbers.
1-13-090	Drafting instructions—Division of chapters into sections.
1-13-100	Drafting instructions—Subsections, subdivisions, items, and subitems.
1-13-110	Drafting instructions—Citations and references.
1-13-120	Drafting instructions—Title and chapter digest—History notes.
1-13-125	Drafting instructions—Use of underlining.
1-13-130	Drafting instructions—Amendatory sections.
1-13-140	Drafting instructions—Repealer sections.
1-13-150	Drafting instructions—Sequence and numbering of sections.
1-13-155	Drafting instructions—Identification of sections as new, amendatory, or repealed.
1-13-160	Drafting instructions—Redesignation of WAC numbers—Amendment or repeal of inconsistent rules.
1-13-170	Typing instructions—General.
1-13-180	Typing instructions—New chapters of WAC.
1-13-190	Emergency rules.
1-13-200	Exemption from these rules.
1-13-210	Official forms supplied on request.
1-13-220	Temporary filing of rules.
1-13-230	Disposition of rules and notices filed under chapter 34.04 RCW.
1-13-240	Order typing service (OTS).
1-13-910	Notice of intention to adopt, amend, or repeal rules by institutions of higher education (CR-4).
1-13-930	Form of order and transmittal by institution having single head (CR-9).
1-13-940	Form of order and transmittal by board, commission, or council (CR-10).

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

1-13-047	Completion of Form CR-5, transmittal of rules adopted. [Order 12, § 1-13-047, filed 5/9/77, effective 6/9/77; Order 9, § 1-13-047, filed 9/25/74, effective 10/25/74.] Repealed by Order 15, filed 10/31/77, effective 12/1/77.
1-13-920	Transmittal of rules adopted by institutions of higher education (CR-5). [Order 9, Form CR-5, filed 9/25/74, effective 10/25/74; Order 5, Form CR-5, filed 10/4/71; Emergency Order 4, Form CR-5, filed 9/3/71.] Repealed by Order 15, filed 10/31/77, effective 12/1/77.
Form CR-3	Typing guide underlay sheet. [Order 9, Form CR-3, filed 9/25/74; Order 5, Form CR-3, filed 10/4/71;

Emergency Order 4, Form CR-3, filed 9/3/71.] Repealed by Order 12, filed 5/9/77, effective 6/9/77.
Suggested form of order by agency having single head. [Order 9, filed 9/25/74; Order 5, filed 10/4/71; Emergency Order 4, filed 9/3/71.] Repealed by Order 12, filed 5/9/77, effective 6/9/77.
Sample form of order by board or commission. [Order 9, filed 9/25/74; Order 5, Form CR-3, filed 10/4/71; Emergency Order 4, filed 9/3/71.] Repealed by Order 12, filed 5/9/77, effective 6/9/77.
Form CR-6 Filing of rules adopted other than under chapter 34.04 RCW and prior to September 1, 1971. [Order 5, Form CR-6, filed 10/4/71.] Decodified December 31, 1972.

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) that they formulate both newly created and amendatory rules 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..... (1977 1st ex.s. c 240 § 2), 28B.19.080, and 34.08..... (1977 1st ex.s. c 240 § 4) 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 shall apply only to those institutions. [Order 15, § 1-13-005, filed 10/31/77, effective 12/1/77; Order 12, § 1-13-005, filed 5/9/77, effective 6/9/77; Order 5, § 1-13-005, filed 10/4/71; Emergency Order 4, § 1-13-005, filed 9/3/71.]

WAC 1-13-010 Who must file rules. (1) "Institutions of higher education" defined; see RCW 28B.19.020(1) (1971 ex.s. c 57 § 2(1)).¹

(2) Filing required; see RCW 28B.19.050 (1971 ex.s. c 57 § 5).²

NOTES:

¹RCW 28B.19.020(1) (1971 ex.s. c 57 § 2(1)) provides:

"(1) "Institutions of higher education" are the University of Washington, Washington State University, Central Washington State College, Eastern Washington State College, Western Washington

State College, 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 (1971 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 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."

[Order 5, § 1-13-010, filed 10/4/71; Emergency Order 4, § 1-13-010, filed 9/3/71.]

WAC 1-13-020 What rules must be filed. (1) "Rule" defined; see RCW 28B.19.020(2) (1971 ex.s. c 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 (1971 ex.s. c 57 § 9).²

NOTES:

¹RCW 28B.19.020(2) (1971 ex.s. c 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 (1971 ex.s. c 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."

[Order 5, § 1-13-020, filed 10/4/71; Emergency Order 4, § 1-13-020, filed 9/3/71.]

WAC 1-13-030 Notices of intention to adopt rules.

(1) Statutory notice requirements; see RCW 28B.19.030¹ and 34.08.----- (1977 1st ex.s. c 240 § 3).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. On and after January 1, 1978, 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 state be done according to the bill drafting style requirements of WAC 1-13-125 through 1-13-160.

(4) Number of copies; Notice numbers. Agencies shall file in the code reviser's office an original and two copies of the notice 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-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 on the administrative order and transmittal form by which the rules are adopted and transmittal form transmitted for filing.

(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 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 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-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) 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) Prior to January 1, 1978, the code reviser construes RCW 28B.19.030(1)(a) as requiring the actual physical filing of the notice in the reviser's office at least twenty days prior to the date of such first action; thus notices filed by mail must have been received at least twenty days prior to the date of such first action. The time from such date of receipt, to the time of such first action, will be computed according to RCW 1.12.040 which provides that:

"The time within which an act is to be done, as herein provided shall be computed by excluding the first day, and including the last, unless the last day is a holiday or Sunday, and then it is also excluded."

As a rule of thumb consider the date of filing in the code reviser's office 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. *State ex rel. Earley v. Batchelor*, 15 Wn.2d 149.

(c) On and after January 1, 1978, the twenty day notice requirement will apply to the publication of the notice and the text of the proposal in the state register and not to its filing with the code reviser. The twenty day count will begin 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). 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.

(d) The distribution date of each monthly register shall be the third Wednesday of that month; the last day to file material in the code reviser's office for inclusion in that month's register will be established according to WAC 1-13-035.

(e) If upon convening on any of the dates announced in parts (2) and (3) of the notice form (Form CR-4) 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-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.

NOTES:

¹ & ² RCW 28B.19.030 as amended by § 10, chapter 240, Laws of 1977 1st ex. sess. (effective January 1, 1978) 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.----- (1977 1st ex.s. c 240 § 3(1)) for publication in the state register, 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) 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;

(c) 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. The institution shall consider fully all written and oral statements respecting the proposed rule.

(2) No proceeding shall 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.

(3) No rule adopted under this chapter is valid unless adopted in substantial compliance with this section, or, if an emergency rule designated as such, 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.----- (1977 1st ex.s. c 240 § 3(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.

(4) 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 (2) of this section, the code reviser shall not publish such rule and such rule shall not be effective for any purpose."

³RCW 34.08.----- (1977 1st ex.s. c 240 § 3) provides: "There is hereby created a state publication to be called the Washington State Register, which shall be published on 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 shall 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; and

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

[Order 15, § 1-13-030, filed 10/31/77, effective 12/1/77; Order 12, § 1-13-030, filed 5/9/77, effective 6/9/77; Order 9, § 1-13-030, filed 9/25/74, effective 10/25/74; Order 5, § 1-13-030, filed 10/4/71; Emergency Order 4, § 1-13-030, filed 9/3/71.]

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.----- (1977 1st ex.s. c 240 § 3) in a particular monthly register 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 month'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 month'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 month'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 month's register. [Order 15, § 1-13-035, filed 10/31/77, effective 12/1/77.]

WAC 1-13-040 Administrative orders—How promulgated. The promulgation of new rules and of rules amending or repealing existing rules shall be accomplished by an administrative order. Such order shall include, as a minimum, the substance of the items set forth in WAC 1-13-930 and 1-13-940 (Forms CR-9 and CR-10). If other items or findings are required by law to be included in an institution order, such material may be included with or appended to the order, and if certain terms or nomenclature in such forms are inappropriate for a particular institution or adoption, correct terminology may be substituted. Orders shall be numbered seriatim and a record thereof shall be maintained by the institution. (See WAC 1-13-045 for maintaining order register.)

Four copies of the administrative order are required for filing in the code reviser's office. The order shall be properly signed by an authorized agent of the institution.

Each order shall set forth an appropriate statement of state statutory authority. [Order 12, § 1-13-040, filed 5/9/77, effective 6/9/77; Order 9, § 1-13-040, filed 9/25/74, effective 10/25/74; Order 5, § 1-13-040, filed 10/4/71; Emergency Order 4, § 1-13-040, filed 9/3/71.]

WAC 1-13-045 Administrative orders—Duty to maintain order register. An order register shall be maintained by the institution, in which shall be entered the number of each order together with a brief description or digest of the subject matter of the order, including in the case of orders amending or repealing prior orders a list of the WAC section numbers affected. [Order 12, § 1-13-045, filed 5/9/77, effective 6/9/77; Order 9, § 1-13-045, filed 9/25/74, effective 10/25/74.]

WAC 1-13-050 Filing of administrative order—Rules adopted. Each filing of rules, whether permanent or emergency, shall be assembled and presented to the reviser's office in the following order:

(1) The administrative order adopting said rules, Form CR-9 or CR-10, as appropriate; four signed copies (See WAC 1-13-040);

(2) The text of rules adopted; one original and three identical copies.

The adoption of permanent and emergency rules shall be effected by separate administrative orders and transmittals thereof. [Order 15, § 1-13-050, filed 10/31/77, effective 12/1/77; Order 12, § 1-13-050, filed 5/9/77, effective 6/9/77; Order 9, § 1-13-050, filed 9/25/74, effective 10/25/74; Order 5, § 1-13-050, filed 10/4/71; Emergency Order 4, § 1-13-050, filed 9/3/71.]

WAC 1-13-060 Formulation of institution orders creating, amending, or repealing rules. Institution orders amending or repealing rules or creating new rules, shall be formulated in accordance with the style, format, and

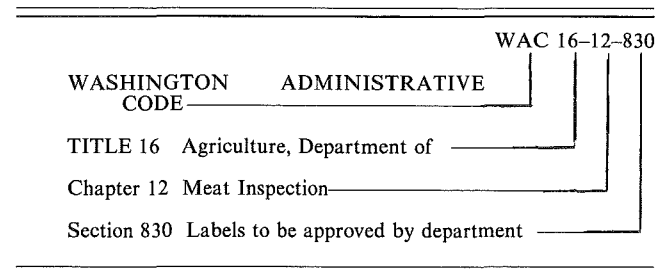
numbering system of the Washington Administrative Code. [Order 5, § 1-13-060, filed 10/4/71; Emergency Order 4, § 1-13-060, filed 9/3/71.]

WAC 1-13-070 Washington Administrative Code—Basic organization. (1) The primary division is the *Title*. Each agency and institution has been assigned a Title number which falls in alphabetical sequence according to the name of the agency or institution. Subsequent name changes by an agency or institution shall not necessitate a change in title number. A list of titles assigned or reserved may be found in the prefatory material of Volume 1, WAC. Newly created institutions shall apply to the code reviser's office for assignment of a title number.

(2) Each title is divided into *chapters* which constitute the major breakdown by subject matter of the rules adopted by the institution.

(3) Each chapter is divided into *sections*.

(4) Each code number is a composite of these three factors e.g.



[Order 15, § 1-13-070, filed 10/31/77, effective 12/1/77; Order 5, § 1-13-070, filed 10/4/71; Emergency Order 4, § 1-13-070, filed 9/3/71.]

WAC 1-13-080 Drafting instructions—Title number—Chapter and section names and numbers. (1) The institution's title number has been assigned by the code reviser. Chapter names and numbers, and section captions and numbers within the chapter will be henceforth selected by the institution with the advice of the code reviser's office when such advice is requested. It is desirable to coordinate chapter and section numbers within the institution to avoid discrepancies and inadvertent repeal of chapters and sections. Do not duplicate section captions within the same chapter.

(2) In selecting chapter and section names, choose a designation which expresses generally the subject matter of the material to be contained in the chapter or section. The chapter names should be fairly concise and should be one having some meaning to the subject matter being regulated and/or to the general public.

(3) In selecting chapter numbers, consider the general outline of all subjects regulated or anticipated to be regulated by the institution and assign chapter numbers in accordance with this outline.

In order to provide for future expansion in an orderly sequence, a gap of four numbers should be left between chapters, e.g. at the outset use chapter numbers -12, -16, -24, etc. leaving the intervening numbers to be used

for later interpolation of subjects related to those which have already been assigned numbers. Chapter -08 of each title should be reserved for the adoption of comprehensive rules of practice and procedure before the agency or institution. [Order 12, § 1-13-080, filed 5/9/77, effective 6/9/77; Order 9, § 1-13-080, filed 9/25/74, effective 10/25/74; Order 5, § 1-13-080, filed 10/4/71; Emergency Order 4, § 1-13-080, filed 9/3/71.]

WAC 1-13-090 Drafting instructions—Division of chapters into sections. (1) In numbering sections within a chapter, if the chapter will initially contain less than ninety-eight sections, number the section factor in a progression of tens, e.g. -010, -020, -030, etc. If there are many sections within a proposed chapter, number by threes, e.g. -003, -006, -009, -012, etc. or by fives, e.g. -005, -010, -015, -020, etc. In special cases where the volume of material requires progression of section numbers by less than intervals of one, contact the code reviser's office.

(2) Material should be divided into short, concise sections. Short sections facilitate future amendment, since a section in its entirety is the smallest unit which can be amended. As a rule of thumb, if the contents cannot be described in a one line caption, the section should be divided into two or more sections. Short sentences are likewise to be preferred.

(3) Sections should not begin with the word "That."

(4) Each section should be preceded by its WAC number and a caption which should briefly describe the contents of the section.

(5) All tables, charts, maps, appendices, and forms which an institution intends to enforce or which otherwise constitute a rule, must be either a part of another WAC section or be assigned their own WAC numbers and adopted as independent sections. The latter method is preferred, as it will greatly simplify upkeep and revision of such material. [Order 15, § 1-13-090, filed 10/31/77, effective 12/1/77; Order 12, § 1-13-090, filed 5/9/77, effective 6/9/77; Order 9, § 1-13-090, filed 9/25/74, effective 10/25/74; Order 5, § 1-13-090, filed 10/4/71; Emergency Order 4, § 1-13-090, filed 9/3/71.]

WAC 1-13-100 Drafting instructions—Subsections, subdivisions, items, and subitems. Sections may be divided into subsections (1), (2), (3), etc., which may in turn be divided into subdivisions (a), (b), (c), etc., which may be further divided into items (i), (ii), (iii), etc., which may be further divided into subitems (A), (B), (C), etc., all according to the following hierarchy, e.g.

Subsections	——(1)	subsection
	(2)	subsection
Subdivisions	——(a)	subdivision
	(b)	subdivision
Items	——(i)	item
	(ii)	item
Subitems	——(A)	subitem
	(B)	subitem
	(c)	subdivision
	(3)	subsection

[Order 15, § 1-13-100, filed 10/31/77, effective 12/1/77; Order 5, § 1-13-100, filed 10/4/71; Emergency Order 4, § 1-13-100, filed 9/3/71.]

WAC 1-13-110 Drafting instructions—Citations and references. (1) In referring to other parts of the rules or to other rules, refer to specific WAC sections or parts thereof. Avoid references such as "above," "below," "hereinbefore," "hereinafter," "preceding," and "following" since the relative position of the material referred to may be changed in future drafts.

(2) If the first draft and subsequent drafts require revision before they are promulgated, the drafter must check all internal references to be sure they are still accurate, i.e., that any rearrangement of sections referred to has been reflected by correcting the references thereto where necessary.

(3) Cite and refer to the various parts of the Washington Administrative Code as follows:

(a) Title 16 — Title 16 WAC

(b) Chapter 16-24 — chapter 16-24 WAC

(c) Section 16-24-580 — WAC 16-24-580

(d) Subsection 1 of section 16-24-580 — WAC 16-24-580(1)

(e) Inclusive string of sections — WAC 16-24-580 through 16-24-600.

[Order 12, § 1-13-110, filed 5/9/77, effective 6/9/77; Order 5, § 1-13-110, filed 10/4/71; Emergency Order 4, § 1-13-110, filed 9/3/71.]

WAC 1-13-120 Drafting instructions—Title and chapter digest—History notes. At the fore of each title of WAC is a title digest which lists all chapters within the title. Each chapter is likewise preceded by a chapter digest which lists all sections within the chapter. Title and chapter digests may be prepared by the agency, or they will be added later by the code reviser's office.

Each section of WAC is followed by a history note which recites the agency's order number and filing date or effective date of the section.

History notes shall be omitted by the promulgating institution and shall be added later by the code reviser's office. [Order 12, § 1-13-120, filed 5/9/77, effective 6/9/77; Order 5, § 1-13-120, filed 10/4/71; Emergency Order 4, § 1-13-120, filed 9/3/71.]

WAC 1-13-125 Drafting instructions—Use of underlining. Words in the text of rules shall not be underlined, except to indicate language added to an existing section as explained in WAC 1-13-130. The designations "AMENDATORY SECTION," "NEW SECTION," and "REPEALER" shall also be underlined. No other use of underlining will be permitted as other uses present the codifier with an ambiguous situation. [Order 15, § 1-13-125, filed 10/31/77, effective 12/1/77.]

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.

(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) 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. [Order 15, § 1-13-130, filed 10/31/77, effective 12/1/77; Order 12, § 1-13-130, filed 5/9/77, effective 6/9/77; Order 9, § 1-13-130, filed 9/25/74, effective 10/25/74; Order 5, § 1-13-130, filed 10/4/71; Emergency Order 4, § 1-13-130, filed 9/3/71.]

WAC 1-13-140 Drafting instructions—Repealer sections. (1) Orders or parts of orders which repeal existing code sections shall be mentioned generally in the Administrative Order and Transmittal (Form CR-9 or CR-10), and shall be set forth specifically by WAC citation and caption in the text of the rules adopted following the new and/or amended rules.

Great care should be taken in citing the proper WAC section numbers. If a section has been repealed inadvertently a repetition of the entire rule-making procedure is required in order to correct the error.

NOTE: Once a section has been repealed the number and history note are listed in the chapter disposition of repealed sections.

(2) In repealing rules not yet codified in WAC the description thereof shall be similar to that prescribed for amendment in WAC 1-13-130(6). [Order 15, § 1-13-140, filed 10/31/77, effective 12/1/77; Order 12, § 1-13-140, filed 5/9/77, effective 6/9/77; Order 9, § 1-13-140, filed 9/25/74, effective 10/25/74; Order 5, § 1-13-140, filed 10/4/71; Emergency Order 4, § 1-13-140, filed 9/3/71.]

WAC 1-13-150 Drafting instructions—Sequence and numbering of sections. New and amendatory sections within the same chapter shall be organized sequentially and interspersed in ascending order according to their WAC number. Repealers shall be placed in a separate group following the new and/or amendatory sections.

When amending or adding sections to more than one chapter begin each chapter on a new page. The sections are to be arranged sequentially with respect to title, chapter, and section.

Legislation style section numbering as "Section 1, Sec. 2., Sec. 3., etc.," shall not be used. [Order 12, § 1-13-150, filed 5/9/77, effective 6/9/77; Order 9, § 1-13-150, filed 9/25/74, effective 10/25/74; Order 5, § 1-13-150, filed 10/4/71; Emergency Order 4, § 1-13-150, filed 9/3/71.]

WAC 1-13-155 Drafting instructions—Identification of sections as new, amendatory, or repealed. Each section shall be preceded by an identifier, as set forth below, indicating whether such section is new, amendatory, or repealed. One line shall be skipped before beginning the section, e.g.:

SAMPLE
NEW SECTION

WAC 16-12-825 LABELS TO CONFORM WITH DEFINITIONS. When inspected and passed products are labeled with the names of, or are represented as, articles for which definitions have been prescribed by regulation, the labels shall conform to such definitions.

NOTE:

¹See WAC 1-13-120.

[Order 12, § 1-13-180, filed 5/9/77, effective 6/9/77; Order 5, § 1-13-180, filed 10/4/71; Emergency Order 4, § 1-13-180, filed 9/3/71.]

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.

(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. [Order 15, § 1-13-190, filed 10/31/77, effective 12/1/77; Order 12, § 1-13-190, filed 5/9/77, effective 6/9/77; Order 9, § 1-13-190, filed 9/25/74, effective 10/25/74; Order 5, § 1-13-190, filed 10/4/71; Emergency Order 4, § 1-13-190, filed 9/3/71.]

WAC 1-13-200 Exemption from these rules. Institution rules which are likely to be omitted from WAC by the reviser pursuant to the authority granted him by RCW 28B.19.070 may, upon application in writing by the institution to the reviser for such exemption, be exempted by the reviser from the form and style requirements of these rules. Such application shall be made and approved prior to filing the rules in the reviser's office. [Order 9, § 1-13-200, filed 9/25/74, effective 10/25/74; Order 5, § 1-13-200, filed 10/4/71; Emergency Order 4, § 1-13-200, filed 9/3/71.]

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 institutions of higher education—Dated 12/1/77 (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).

[Order 15, § 1-13-210, filed 10/31/77, effective

12/1/77; Order 12, § 1-13-210, filed 5/9/77, effective 6/9/77; Order 9, § 1-13-210, filed 9/25/74, effective 10/25/74; Order 5, § 1-13-210, filed 10/4/71; Emergency Order 4, § 1-13-210, filed 9/3/71.]

WAC 1-13-220 Temporary filing of rules. Rules adopted by an institution of higher education prior to September 1, 1971, and not according to the requirements of chapter 34.04 RCW may be filed with the code reviser prior to March 1, 1972; see RCW 28B.19.060 (1971 ex.s. c 57 § 6).¹

(2) Such rules shall not be valid after December 31, 1972, except as provided by RCW 28B.19.060 (1971 ex.s. c 57 § 6).²

(3) One copy of such rules may be filed with the code reviser accompanied by two copies of a form entitled "Filing of Rules Adopted other than under chapter 34.04 RCW and Prior to September 1, 1971" (Form CR-6) as provided by the code reviser's office. One copy of Form CR-6 will be returned to the filing institution as a receipt.

NOTES:

¹ & ² RCW 28B.19.060 (1971 ex.s. c 57 § 6) provides:

"Any rules which have been adopted prior to September 1, 1971 shall be filed within six months of that date with the code reviser, who is not authorized to prescribe the form of nor required to publish such rules. Such rules shall not be valid after December 31, 1972, except that they shall continue to be valid for the purpose of proceedings pending as of that date, unless readopted pursuant to this chapter in the form and style of the code reviser: *Provided, however,* That any rules previously adopted and filed in accordance with chapter 34.04 RCW need not be refiled and they shall remain valid as though they had been adopted under this chapter."

[Order 5, § 1-13-220, filed 10/4/71; Emergency Order 4, § 1-13-220, filed 9/3/71.]

WAC 1-13-230 Disposition of rules and notices filed under chapter 34.04 RCW. Notices or rules filed with the reviser's office prior to the effective date of this chapter (September 7, 1971) will be accorded the same force and effect as if such filing had been made according to the provisions of chapter 28B.19 RCW (1971 ex.s. c 57) and of chapter 1-13 WAC if such filing was executed according to the provisions of chapter 34.04 RCW and chapter 1-12 WAC. [Order 5, § 1-13-230, filed 10/4/71; Emergency Order 4, § 1-13-230, filed 9/3/71.]

WAC 1-13-240 Order typing service (OTS). The order typing service (OTS) of the code reviser's office functions on a voluntary, cooperative basis between the code reviser and rule-making institutions in order to prepare new, amendatory, and repealing rules with minimal duplicated effort. The entire WAC is stored in a computerized data base, and a printout of existing rules can be given to an institution for rule drafting purposes. The institution can show its proposed changes directly on this copy which is then returned to the code reviser's office. The proposal is then entered into the computer, the output is proofed against the institution markup, and a printout is sent to the institution.

At this point it is the institution's responsibility to carefully proofread the markup copy and the printout to

make sure that the printout reflects exactly what the institution wants. If further changes are desired, a second or subsequent draft will be prepared by OTS.

When the institution is satisfied with the OTS printout it can adopt the proposal in accordance with the other requirements of this chapter and submit the final printout to the code reviser for filing. Any changes in the proposal which the institution may wish to make between the hearing and the final filing must be incorporated by the OTS into a computer printout.

The time schedule, format options, and other details relating to the OTS may be discussed with the code reviser. The service is presently offered on a time-available basis, but every effort is made to accommodate the particular needs of an institution. The most important point however, is that the final responsibility for the accuracy of an institution rule-making order still rests with the institution itself. [Order 15, § 1-13-240, filed 10/31/77, effective 12/31/77.]

WAC 1-13-910 Notice of intention to adopt, amend, or repeal rules by institutions of higher education (CR-4).

**NOTICE OF INTENTION
TO ADOPT, AMEND, OR REPEAL
RULES BY INSTITUTIONS
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 _____,¹ that the _____ (name of institution) intends to adopt, amend, or repeal rules concerning:²

(HEARING DATE AND PLACE)

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

(3) and that 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)⁵ _____ (place).

(6) The additional notice required by RCW 28B.19.030 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.

(7) This notice is connected to and continues the matter noticed in Notice Nos. _____ 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. 12/1/77]

**INSTRUCTIONS FOR COMPLETION OF FORM
CR-4**

NOTES:

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

²Here 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).

³The 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. c 240 § 3(1)) and WAC 1-13-030(5) and 1-13-035.

⁴This date may not be earlier than that noted in³; see RCW 28B.19.030 and WAC 1-13-030(5).

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

This space for additional information.

[Order 15, § 1-13-910, filed 10/31/77, effective 12/1/77; Order 9, Form CR-4, filed 9/25/74, effective 10/25/74; Order 5, Form CR-4, filed 10/4/71; Emergency Order 4, Form CR-4, filed 9/3/71.]

WAC 1-13-930 Form of order and transmittal by institution having single head (CR-9).

State of Washington

(name of institution)

Administrative Order No. -----

(1) I, _____, (position) _____ of the (institution) _____, do promulgate and adopt at (place) _____ the annexed rules relating to:

Code Reviser for filing pursuant to chapter 28B.19 RCW and chapter 1-13 WAC.

APPROVED AND ADOPTED _____ 19...

By _____

Title

[Form CR-9: Effective 12/1/77]

[Order 15, § 1-13-930, filed 10/31/77, effective 12/1/77; Order 14, § 1-13-930, filed 7/28/77; Emergency Order 13, § 1-13-930, filed 6/16/77; Order 12, § 1-13-930, filed 5/9/77, effective 6/9/77.]

WAC 1-13-940 Form of order and transmittal by board, commission, or council (CR-10).

State of Washington

(name of governing body)

(name of institution)

Resolution No. _____ Administrative Order No. _____

(1) Be it resolved by the board of _____ of the (institution) _____ 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 28B.19.050(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.

(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 28B.19.050(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 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 WAC 1-13-040 that each order shall set forth an appropriate statement of state statutory authority (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 (institution) _____ 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 (institution) _____ as authorized in RCW _____.

(4) The undersigned hereby certifies that, to the best of his or her knowledge, the applicable requirements of the Higher Education Administrative Procedure Act, chapter 28B.19 RCW, have been fulfilled.

(5) This order after being first recorded in the order register of this institution is herewith transmitted to the

(3) Pursuant to the requirements of WAC 1-13-040 that each order shall set forth an appropriate statement of state statutory authority (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 (institution) 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 (institution) as authorized in RCW _____.

(4) The undersigned hereby certifies that, to the best of his or her knowledge, the applicable requirements of the Higher Education Administrative Procedure Act, chapter 28B.19 RCW, and of the Open Public Meetings Act, chapter 42.30 RCW, have been fulfilled.

(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 28B.19 RCW and chapter 1-13 WAC.

APPROVED AND ADOPTED _____, 19__

By _____

Title

[Form CR-10: Effective 12/1/77]

[Order 15, § 1-13-940, filed 10/31/77, effective 12/1/77; Order 14, § 1-13-940, filed 7/28/77; Emergency Order 13, § 1-13-940, filed 6/16/77; Order 12, § 1-13-940, filed 5/9/77, effective 6/9/77.]