

Title 365 WAC

COMMUNITY DEVELOPMENT, DEPARTMENT OF

(Formerly: Planning and Community Affairs Agency)

Chapters

- 365-04** General procedures.
- 365-06** Public records.
- 365-08** Uniform procedural rules.
- 365-24** Uniform relocation assistance and real property acquisition.
- 365-40** State funding of local Head Start programs.
- 365-60** State administration of the local Section 8 housing assistance payments program.
- 365-70** Allocating single family housing bonds among local housing agencies.
- 365-80** Fire protection contracts for state facilities with cities and towns.
- 365-90** Supplemental law enforcement resources for border areas.
- 365-100** Winter utility moratorium program.
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- 365-120** State funding of local emergency shelter programs.
- 365-130** Bond users clearinghouse.
- 365-135** Bond cap allocation.
- 365-140** State funding of local emergency food programs.
- 365-150** Washington state development loan fund.
- 365-170** State funding for local early childhood education and assistance programs.
- 365-180** Energy matchmakers.
- 365-190** Minimum guidelines to classify agriculture, forest, mineral lands and critical areas.
- 365-195** Growth management act—Procedural criteria for adopting comprehensive plans and development regulations
- 365-200** The affordable housing program.

Reviser's note: The department of community development reaffirmed and assumed all rules made by the former planning and community affairs agency by the filing of WSR 84-14-064 on June 30, 1984. The reaffirmed chapters within Title 365 are as follows: Chapters 365-04, 365-06, 365-08, 365-12, 365-14, 365-22, 365-24, 365-31, 365-40, 365-60, 365-70, 365-80, and 365-90 WAC.

**DISPOSITION OF CHAPTERS FORMERLY
CODIFIED IN THIS TITLE**

- Chapter 365-12
REGULATIONS REGARDING RECOGNITION AND APPROVAL
OF REGIONAL PLANNING AGENCIES FOR COMPREHENSIVE
HEALTH PLANNING**
- 365-12-010** Declaration of public policy. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-2, § 365-12-010, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
 - 365-12-020** Definitions. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed

- 365-12-030** 6/30/84. Order 72-2, § 365-12-020, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-12-040** Regional planning agencies—Establishment. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-2, § 365-12-030, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-12-050** Functions. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-2, § 365-12-040, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-12-060** Recognition and approval. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-2, § 365-12-050, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-12-070** Procedure. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-2, § 365-12-060, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-12-080** Criteria. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/85. Order 73-2, § 365-12-070, filed 6/29/73; Order 72-2, § 365-12-070, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-12-090** Rejection. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-2, § 365-12-080, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-12-100** Withdrawal. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-2, § 365-12-090, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-12-110** Notification requirements. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-2, § 365-12-100, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-12-110** Declaration of emergency. [Order 72-2, § 365-12-110, filed 1/31/72 and Emergency Order 72-1, filed 1/18/72.] Decodified.

**Chapter 365-14
FUNDING OF REGIONAL COMPREHENSIVE HEALTH
PLANNING AGENCIES**

- 365-14-010** General purpose. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Permanent and Emergency Order 77-01, § 365-14-010, filed 3/4/77, effective 3/4/77; Order 72-6, § 365-14-010, filed 1/13/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-14-020** Eligibility of applicants. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Permanent and Emergency Order 77-01, § 365-14-020, filed 3/4/77, effective 3/4/77; Order 73-2, § 365-14-020, filed 6/29/73; Order 72-6, § 365-14-020,

365-14-030	filed 11/3/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060. Application process. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 73-2, § 365-14-030, filed 6/29/73; Order 72-6, § 365-14-030, filed 11/3/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.	365-22-020	Eligibility of applicants. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-020, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
365-14-040	Action by agency regarding application. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-6, § 365-14-040, filed 11/3/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.	365-22-030	Eligibility of public work. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-030, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
365-14-050	Funding allocation basis. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Permanent and Emergency Order 77-01, § 365-14-050, filed 3/4/77, effective 3/4/77; Order 73-2, § 365-14-050, filed 6/29/73; Order 72-6, § 365-14-050, filed 11/3/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.	365-22-040	Application for planning advance. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-040, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
365-14-060	Decision of agency final. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 73-2, § 365-14-060, filed 6/29/73; Order 72-6, § 365-14-060, filed 11/3/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.	365-22-050	Action by agency regarding application. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-050, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
365-14-070	Contract terms and conditions. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-6, § 365-14-070, filed 11/3/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.	365-22-060	Planning advance funding criteria and preferences. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-060, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
365-14-080	Commitment for additional funds. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Permanent and Emergency Order 77-01, § 365-14-080, filed 3/4/77, effective 3/4/77; Order 72-6, § 365-14-080, filed 11/3/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.	365-22-070	Decision of agency final. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-070, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
365-14-110	Opportunity of funded agency to apply for funds for use in otherwise unfunded district. [Order 73-2, § 365-14-110, filed 6/29/73.] Repealed by Permanent and Emergency Order 77-01, filed 3/4/77, effective 3/4/77.	365-22-080	Planning advance terms. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-080, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
365-14-120	Application process. [Order 73-2, § 365-14-120, filed 6/29/73.] Repealed by Permanent and Emergency Order 77-01, filed 3/4/77, effective 3/4/77.	365-22-090	Commitment for additional funds. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-090, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
365-14-130	Agreement contents. [Order 73-2, § 365-14-130, filed 6/29/73.] Repealed by Permanent and Emergency Order 77-01, filed 3/4/77, effective 3/4/77.		
365-14-200	Funding of demonstration projects. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Permanent and Emergency Order 77-01, § 365-14-200, filed 3/4/77, effective 3/4/77; Order 74-03, § 365-14-200, filed 5/23/74; Order 74-02, § 365-14-200, filed 2/19/74.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.		
365-14-210	Application process. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 74-02, § 365-14-210, filed 2/19/74.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.		
365-14-220	Demonstration of local support. [Order 75-3, § 365-14-220, filed 8/11/75; Order 74-02, § 365-14-220, filed 2/19/74.] Repealed by Permanent and Emergency Order 77-01, filed 3/4/77, effective 3/4/77.		
	Chapter 365-22 PLANNING ADVANCES PROGRAM FOR LOCAL GOVERNMENT PUBLIC WORKS		
365-22-010	Objectives of the planning advance program. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-010, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.	365-26-010	General purpose and applicability. [Order 75-5, § 365-26-010, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
		365-26-015	Definitions. [Order 75-5, § 365-26-015, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
		365-26-110	Application for advanced financial support payment. [Order 75-5, § 365-26-110, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
		365-26-120	Office response to application. [Order 75-5, § 365-26-120, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
		365-26-130	Conditions of advanced financial support payments. [Order 75-5, § 365-26-130, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
		365-26-200	Required elements of comprehensive transit plan. [Order 75-5, § 365-26-200, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
		365-26-210	Capital improvements element. [Order 75-5, § 365-26-210, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
		365-26-220	Level of service element. [Order 76-05, § 365-26-220, filed 11/17/76; Order 75-5, § 365-26-220, filed 12/31/75,

- 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
- 365-26-230 System funding for initial year of operation element. [Order 76-05, § 365-26-230, filed 11/17/76; Order 75-5, § 365-26-230, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
- 365-26-240 System of funding for the second through fifth years of operation element. [Order 75-5, § 365-26-240, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
- 365-26-250 Relation to nearby transit operations element. [Order 76-05, § 365-26-250, filed 11/17/76; Order 75-5, § 365-26-250, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
- 365-26-260 Prospects for geographic expansion of service area element. [Order 75-5, § 365-26-260, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
- 365-26-270 Minorities, elderly, handicapped, and low income people transportation service element. [Order 75-5, § 365-26-270, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
- 365-26-280 Citizen participation element. [Order 75-5, § 365-26-280, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
- 365-26-290 Coordinated planning element. [Order 75-5, § 365-26-290, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
- 365-26-300 Submission of comprehensive transit plans to agency. [Order 75-5, § 365-26-300, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
- 365-26-310 Review of comprehensive transit plan of public transportation benefit area. [Order 75-5, § 365-26-310, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
- Chapter 365-31**
ORGANIZATION AND GENERAL PROCEDURES OF THE
PLANNING AND COMMUNITY AFFAIRS AGENCY'S LAW AND
JUSTICE PLANNING OFFICE AND THE GOVERNOR'S
COMMITTEE ON LAW AND JUSTICE
- 365-31-010 Definitions. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-010, filed 4/14/80; Order 76-01, § 365-31-010, filed 2/13/76; Order 75-01, § 365-11-010 (codified as WAC 365-31-010), filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-31-020 Rules of interpretation. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-020, filed 4/14/80; Order 75-01, § 365-31-020, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-31-110 Officers of the governor's council on criminal justice and governor's juvenile justice advisory committee. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-110, filed 4/14/80; Order 75-01, § 365-31-110, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-31-111 Functions and membership of the governor's council on criminal justice and governor's juvenile justice advisory committee. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-111, filed 4/14/80.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-31-120 Meetings of the governor's council and committee, subcommittees, advisory committees. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-120, filed 4/14/80; Order 76-01, § 365-31-120, filed 2/13/76; Order 75-01, § 365-31-120, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-31-130 Absences of members from meetings. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-130, filed 4/14/80; Order 75-01, § 365-31-130, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-31-140 Quorum. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 75-01, § 365-31-140, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-31-150 Participation and discussion during governor's council and committee meetings, rules of order, and forms of action. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-150, filed 4/14/80; Order 76-01, § 365-31-150, filed 2/13/76; Order 75-01, § 365-31-150, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-31-160 Voting procedures. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-160, filed 4/14/80; Order 76-01, § 365-31-160, filed 2/13/76; Order 75-01, § 365-31-160, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-31-170 Minutes. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-170, filed 4/14/80; Order 76-01, § 365-31-170, filed 2/13/76; Order 75-01, § 365-31-170, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-31-180 Subcommittees, advisory committees, and task forces. [Order 76-01, § 365-31-180, filed 2/13/76; Order 75-01, § 365-31-180, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-31-210 Duties of division of criminal justice. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-210, filed 4/14/80; Order 76-01, § 365-31-210, filed 2/13/76; Order 75-01, § 365-31-210, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.
- 365-31-310 Administrative review of LJPO action grant applications. [Order 76-01, § 365-31-310, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-31-320 Program review of application. [Order 76-01, § 365-31-320, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-31-330 Appeal procedures. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-330, filed 4/14/80; Order 76-01, § 365-31-330, filed 2/13/76.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

- 365-31-340 LJPO hearing and review committee. [Order 76-01, § 365-31-340, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-31-350 Notice and scheduling of appeals to LJPO hearing and review committee. [Order 76-01, § 365-31-350, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-31-360 LJPO hearing and review committee operation. [Order 76-01, § 365-31-360, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-31-370 LJPO hearing and review committee action. [Order 76-01, § 365-31-370, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-31-410 Regional plan evaluation process. [Order 76-01, § 365-31-410, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-31-420 Evaluation criteria and rankings. [Order 76-01, § 365-31-420, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-31-430 Notice and scheduling of planning subcommittee consideration of regional plans—Appeals to planning subcommittee of SPA decisions on plans. [Order 76-01, § 365-31-430, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-31-440 Eligible appellants of SPA action on plan—Permissible subjects of appeal. [Order 76-01, § 365-31-440, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-31-450 Planning subcommittee operation when considering plans. [Order 76-01, § 365-31-450, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-31-460 Planning subcommittee action on regional plans. [Order 76-01, § 365-31-460, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-31-470 Appeal of planning subcommittee decision regarding a regional plan. [Order 76-01, § 365-31-470, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

Chapter 365-33

COMPREHENSIVE STATE PLANS FOR LAW ENFORCEMENT AND THE ADMINISTRATION OF JUSTICE

- 365-33-730 Adoption of 1973 state plan. [Order 75-01, § 365-33-730, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-33-740 Adoption of 1974 plan. [Order 75-01, § 365-33-740, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-33-750 Adoption of 1975 plan. [Order 76-01, § 365-33-750, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-33-760 Adoption of 1976 plan. [Order 76-01, § 365-33-760, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

Chapter 365-35

FINANCIAL GUIDELINES REGARDING GRANTS OF LAW AND JUSTICE FUNDS AND MATCHING CONTRIBUTIONS REQUIRED OF SUBGRANTEES

- 365-35-010 Adoption of financial guidelines of the SPA. [Order 75-01, § 365-35-010, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-35-900 Resolution of conflicts between LEAA regulations and LJPO financial guidelines and other sections of this chapter. [Order 75-01, § 365-35-900, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

Chapter 365-37

SPECIAL POLICIES AND PROCEDURES OF THE GOVERNOR'S COMMITTEE ON LAW AND JUSTICE AND THE STATE PLANNING AGENCY FOR LAW AND JUSTICE

- 365-37-010 Administration of law and justice program in accordance with applicable federal legislation and rules—Conformance with such federal legislation and regulations required of all subgrantees. [Order 75-01, § 365-37-010, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100. Later promulgation, see chapter 365-31 WAC.
- 365-37-110 Requirement that applications be "conforming" to necessitate SPA action within 90 days of receipt. [Order 75-01, § 365-37-110, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-37-120 Criteria for determining whether or not an application is "conforming." [Order 76-01, § 365-37-120, filed 2/13/76; Order 75-01, § 365-37-120, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-37-130 Conditional approval of application. [Order 75-01, § 365-37-130, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-37-210 Submission date for application for initial or continuation funding. [Order 75-01, § 365-37-210, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-37-220 Date after which applications for reallocation funds will be accepted. [Order 76-01, § 365-37-220, filed 2/13/76; Order 75-01, § 365-37-220, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-37-310 Authorization for the granting of project period extensions for operating projects—Maximum period of extension. [Order 75-01, § 365-37-310, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-37-320 Circumstances under which project period extensions may be granted. [Order 75-01, § 365-37-320, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-37-330 Circumstances under which a grant contract project period will not be extended. [Order 75-01, § 365-37-330, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-37-340 Procedure for requesting and granting a project period extension. [Order 76-01, § 365-37-340, filed 2/13/76; Order 75-01, § 365-37-340, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-37-410 Maximum project funding period—Exceptions. [Order 75-01, § 365-37-410, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-37-510 Governor's committee as appellate forum. [Order 76-03, § 365-37-510, filed 3/26/76; Order 76-01, § 365-37-510, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-37-520 Eligible appellants—Decisions that may be appealed. [Order 76-03, § 365-37-520, filed 3/26/76; Order 76-01, § 365-37-520, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-37-530 Notice and scheduling of appeals to governor's committee. [Order 76-03, § 365-37-530, filed 3/26/76; Order 76-01, § 365-37-530, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-37-540 Submission of material to governor's committee for consideration in an appeal. [Order 76-01, § 365-37-540, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-37-550 Appeal consideration procedures. [Order 76-03, § 365-37-550, filed 3/26/76; Order 76-01, § 365-37-550, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

- 365-37-560 Governor's committee action on appeals. [Order 76-03, § 365-37-560, filed 3/26/76; Order 76-01, § 365-37-560, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-37-570 Notice of governor's committee decision and right to appeal to governor. [Order 76-03, § 365-37-570, filed 3/26/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.
- 365-37-580 Procedure applicable to petition to governor for reconsideration of governor's committee decision—Action by governor on petition. [Order 76-03, § 365-37-580, filed 3/26/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

Chapter 365-41
REGULATIONS REGARDING ADVANCED FINANCIAL
SUPPORT PAYMENTS FOR THE CONDUCT OF PUBLIC
TRANSPORTATION FEASIBILITY STUDIES

- 365-41-010 General purpose and applicability. [Order 77-04, § 365-41-010, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.
- 365-41-015 Definitions. [Order 77-04, § 365-41-015, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.
- 365-41-110 Application for advanced financial support payment. [Order 77-04, § 365-41-110, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.
- 365-41-120 Agency response to application. [Order 77-04, § 365-41-120, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.
- 365-41-130 Conditions of advanced financial support payments. [Order 77-04, § 365-41-130, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.
- 365-41-200 Required elements of feasibility study. [Order 77-04, § 365-41-200, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.
- 365-41-210 Geographical extent. [Order 77-04, § 365-41-210, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.
- 365-41-220 Identification of related transportation operations. [Order 77-04, § 365-41-220, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.
- 365-41-230 Estimation of need. [Order 77-04, § 365-41-230, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.
- 365-41-240 Alternative management schemes. [Order 77-04, § 365-41-240, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.
- 365-41-250 Alternative funding sources. [Order 77-04, § 365-41-250, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.
- 365-41-300 Submission of feasibility study to agency. [Order 77-04, § 365-41-300, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.
- 365-41-310 Submission of municipal resolution to agency. [Order 77-04, § 365-41-310, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.
- 365-41-320 Submission of municipal ordinance levying and collecting taxes to agency. [Order 77-04, § 365-41-320, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.

Chapter 365-42
REGULATIONS REGARDING FINANCIAL SUPPORT TO
PRIVATE, NONPROFIT CORPORATIONS FOR CAPITAL
ASSISTANCE IN PROVIDING TRANSPORTATION FOR THE
ELDERLY AND HANDICAPPED

- 365-42-010 Definitions. [Order 77-02, § 365-42-010, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-010.
- 365-42-020 Program description. [Order 77-02, § 365-42-020, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-020.
- 365-42-030 Purpose. [Order 77-02, § 365-42-030, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-030.
- 365-42-100 Program period. [Order 77-02, § 365-42-100, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-100.
- 365-42-110 Qualification criteria. [Order 77-02, § 365-42-110, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-110.
- 365-42-200 Application procedures. [Order 77-02, § 365-42-200, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-200.
- 365-42-210 Evaluation of applications. [Order 77-02, § 365-42-210, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-210.
- 365-42-220 Coordination. [Order 77-02, § 365-42-220, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-220.
- 365-42-230 Selection. [Order 77-02, § 365-42-230, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-230.
- 365-42-240 State application. [Order 77-02, § 365-42-240, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-240.
- 365-42-300 Contract. [Order 77-02, § 365-42-300, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-300.
- 365-42-310 Surplus funds. [Order 77-02, § 365-42-310, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-310.
- 365-42-320 Equipment purchasing. [Order 77-02, § 365-42-320, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-320.
- 365-42-330 UMTA interest. [Order 77-02, § 365-42-330, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-330.
- 365-42-340 Equipment acceptance. [Order 77-02, § 365-42-340, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-340.
- 365-42-350 Vehicle registration and licensing. [Order 77-02, § 365-42-350, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-350.
- 365-42-360 Equipment use. [Order 77-02, § 365-42-360, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-360.

- 365-42-370 Maintenance. [Order 77-02, § 365-42-370, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-370.
- 365-42-380 Inspections. [Order 77-02, § 365-42-380, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-380.
- 365-42-390 Reports. [Order 77-02, § 365-42-390, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-390.
- 365-42-410 Insurance. [Order 77-02, § 365-42-410, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-410.
- 365-42-420 Indemnity. [Order 77-02, § 365-42-420, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-420.
- 365-42-430 Risk of loss or damage. [Order 77-02, § 365-42-430, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-430.
- 365-42-440 Disposal of equipment. [Order 77-02, § 365-42-440, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-440.
- 365-42-510 Accounting records. [Order 77-02, § 365-42-510, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-510.
- 365-42-610 Safety. [Order 77-02, § 365-42-610, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-610.
- 365-42-710 Termination. [Order 77-02, § 365-42-710, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-710.
- Chapter 365-43**
- REGULATIONS REGARDING PASS-THROUGH OF U.S. URBAN MASS TRANSPORTATION ADMINISTRATION FUNDS FOR PUBLIC TRANSPORTATION TECHNICAL STUDIES**
- 365-43-010 General purpose and applicability. [Order 77-03, § 365-43-010, filed 8/19/77, effective 9/19/77.] Repealed by 80-01-031 (Order 45), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
- 365-43-015 Definitions. [Order 77-03, § 365-43-015, filed 8/19/77, effective 9/19/77.] Repealed by 80-01-031 (Order 45), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
- 365-43-110 Application for technical study grant. [Order 77-03, § 365-43-110, filed 8/19/77, effective 9/19/77.] Repealed by 80-01-031 (Order 45), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
- 365-43-120 Agency response to application. [Order 77-03, § 365-43-120, filed 8/19/77, effective 9/19/77.] Repealed by 80-01-031 (Order 45), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
- 365-43-200 Application prioritization criteria. [Order 77-03, § 365-43-200, filed 8/19/77, effective 9/19/77.] Repealed by 80-01-031 (Order 45), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.
- Chapter 365-50**
- CRIMINAL RECORDS**
- 365-50-010 General applicability. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-010, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-020 Definitions. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-020, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-030 Separation of information. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-030, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-040 Deferred prosecutions. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-040, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-050 Convictions under appeal or review. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-050, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-060 Certification of criminal justice agencies. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-060, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-070 Inspection—Individual's right to review record. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-070, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-080 Inspection—Forms to be made available. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-080, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-090 Inspection—Identification of requester. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-090, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-100 Inspection—Timeliness and manner of agency response. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-100, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-110 Inspection—Time allowed for review. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-110, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-120 Inspection—Retention or reproduction of records. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-120, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-130 Inspection—Prevention of unauthorized retention or reproduction. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-130, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-140 Inspection—Designation of person to assist in review. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-140, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-150 Inspection—Statement of procedures to be available. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-150, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-160 Inspection—Procedure for correctional or detention agencies. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-160, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-170 Deletion—Individual's right to have certain information deleted. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-170, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

- pealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-180 Deletion—Agency option to refuse to delete. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-180, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-190 Deletion—Policies to be adopted. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-190, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-200 Deletion—Inquiries required. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-200, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-210 Challenge—Individual's right to challenge. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-210, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-220 Challenge—Forms to be made available. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-220, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-230 Challenge—Forwarding of challenge to appropriate agency. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-230, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-240 Challenge—Agency to make determination. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-240, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-250 Correction of erroneous information. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-250, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-260 Review of refusal to alter record. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-260, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-270 Dissemination—Dispositions to be included. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-270, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-280 Dissemination—Inquiry of prosecutor required. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-280, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-290 Dissemination—To implement a statute or other grant of authority. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-290, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-300 Dissemination pursuant to contract for services. [Statutory Authority: RCW 10.97.080. 78-10-038 (Order 40), § 365-50-300, filed 9/18/78; 78-03-065 (Order 78-01), § 365-50-300, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-310 Dissemination—Research purposes. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-310, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-320 Dissemination—Record of disseminations to be maintained. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-320, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-330 Dissemination—Fees. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-330, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-340 Protection from accidental loss or injury. [Statutory Authority: RCW 10.97.080. 78-10-038 (Order 40), § 365-50-340, filed 9/18/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-350 Protection against unauthorized access. [Statutory Authority: RCW 10.97.080. 78-10-038 (Order 40), § 365-50-350, filed 9/18/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-360 Personnel security. [Statutory Authority: RCW 10.97.080. 78-10-038 (Order 40), § 365-50-360, filed 9/18/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-370 Personnel training. [Statutory Authority: RCW 10.97.080. 78-10-038 (Order 40), § 365-50-370, filed 9/18/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-380 Personnel clearances. [Statutory Authority: RCW 10.97.080. 78-10-038 (Order 40), § 365-50-380, filed 9/18/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-390 Auditing of CHRI systems. [Statutory Authority: RCW 10.97.080. 78-10-038 (Order 40), § 365-50-390, filed 9/18/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-400 Establishment of procedures. [Statutory Authority: RCW 10.97.080. 78-10-038 (Order 40), § 365-50-400, filed 9/18/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-500 Form of request to inspect record. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-500, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-510 Form of request to modify record. [Statutory Authority: RCW 10.97.090. 78-04-031 (Order 78-03), § 365-50-510, filed 3/15/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-520 Form of request to review refusal to modify record. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-520, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-530 Appendix III to state of Washington plan for security and privacy of criminal offender records. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-530, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-540 Certification request form for criminal justice agencies seeking access to criminal offender record information. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-540, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.
- 365-50-550 Certification request form for noncriminal justice agencies seeking access to criminal offender record information. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-550, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-560 Contract for support services model agreement under WAC 365-50-300. [Statutory Authority: RCW 10.97.080, 78-10-038 (Order 40), § 365-50-560, filed 9/18/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

Chapter 365-55

WASHINGTON STATE WEATHERIZATION ASSISTANCE PROGRAM FOR LOW-INCOME PERSONS

- 365-55-010 Definitions. [Statutory Authority: RCW 43.63A.060, 78-04-013 (Order 78-02), § 365-55-010, filed 3/9/78.] Repealed by 83-06-066 (Order 83-02), filed 3/2/83. Statutory Authority: RCW 43.63A.060.
- 365-55-020 Program description. [Statutory Authority: RCW 43.63A.060, 78-04-013 (Order 78-02), § 365-55-020, filed 3/9/78.] Repealed by 83-06-066 (Order 83-02), filed 3/2/83. Statutory Authority: RCW 43.63A.060.
- 365-55-030 Program purpose. [Statutory Authority: RCW 43.63A.060, 78-04-013 (Order 78-02), § 365-55-030, filed 3/9/78.] Repealed by 83-06-066 (Order 83-02), filed 3/2/83. Statutory Authority: RCW 43.63A.060.
- 365-55-040 Application procedures. [Statutory Authority: RCW 43.63A.060, 78-04-013 (Order 78-02), § 365-55-040, filed 3/9/78.] Repealed by 83-06-066 (Order 83-02), filed 3/2/83. Statutory Authority: RCW 43.63A.060.
- 365-55-050 Contract awards. [Statutory Authority: RCW 43.63A.060, 78-04-013 (Order 78-02), § 365-55-050, filed 3/9/78.] Repealed by 83-06-066 (Order 83-02), filed 3/2/83. Statutory Authority: RCW 43.63A.060.
- 365-55-060 Reports and records. [Statutory Authority: RCW 43.63A.060, 78-04-013 (Order 78-02), § 365-55-060, filed 3/9/78.] Repealed by 83-06-066 (Order 83-02), filed 3/2/83. Statutory Authority: RCW 43.63A.060.
- 365-55-070 Policy advisory council. [Statutory Authority: RCW 43.63A.060, 78-04-013 (Order 78-02), § 365-55-070, filed 3/9/78.] Repealed by 83-06-066 (Order 83-02), filed 3/2/83. Statutory Authority: RCW 43.63A.060.
- 365-55-080 Termination. [Statutory Authority: RCW 43.63A.060, 78-04-013 (Order 78-02), § 365-55-080, filed 3/9/78.] Repealed by 83-06-066 (Order 83-02), filed 3/2/83. Statutory Authority: RCW 43.63A.060.

Chapter 365-04 WAC

GENERAL PROCEDURES

WAC

- 365-04-010 Agency purpose.
- 365-04-030 Agency organization.
- 365-04-050 Appearance and practice before agency—Who may appear.

WAC 365-04-010 Agency purpose. The planning and community affairs agency was established in 1967 in the office of the governor to provide planning and technical assistance to the counties and municipalities of Washington state to aid them with the demands of change and the complex problems of rapid growth and development. The key elements of this assistance are cooperation and service — cooperation with and service to city governments, county governments and state and regional agencies.

[Order 72-6, § 365-04-010, filed 11/3/72.]

WAC 365-04-030 Agency organization. (1) The executive head of the agency is a director appointed by the governor. The director may delegate such of his functions, powers, and duties to such officers and employees of the office as he deems expedient to the furtherance of the purposes of the agency. The operating sections of the

agency include the comprehensive health planning office, the law and justice planning office, and the local planning assistance, community services, model cities/planned variations, training and education, special projects, and administrative divisions.

(2) The principal office of the agency shall be at Olympia, Washington, in care of the Director of the Planning and Community Affairs Agency, Insurance Building, which office shall be open each day for the transaction of business from 8:00 a.m. to 5:00 p.m., (Saturdays, Sundays, and legal holidays excepted). Submissions, requests and communications shall be sent to the Director, Planning and Community Affairs Agency, Insurance Building, Olympia, Washington 98504.

(3) Pursuant to chapter 39.34 RCW and Executive Order 73-03, the director of the agency has entered into a joint venture agreement under which the functions and responsibilities of the planning and community affairs agency's local planning assistance, model cities/planned variations, special projects, training and education, community services, comprehensive health planning, law and justice planning and the Indian economic and employment assistance divisions, sections, and programs; as well as portions of the agency's administrative division and supporting programs have been assigned and delegated to the office of community development. The office of community development shall act as the agent for the planning and community affairs agency in carrying out the agency's functions and responsibilities; the agency shall act through the office of community development in connection with all matters assigned and delegated to the office of community development under the joint venture agreement for the duration of that agreement.

[Order 73-4, § 365-04-030, filed 9/12/73; Order 72-6, § 365-04-030, filed 11/3/72.]

WAC 365-04-050 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, corporation or municipal corporation.

[Order 72-6, § 365-04-050, filed 11/3/72.]

Chapter 365-06 WAC

PUBLIC RECORDS

WAC

- 365-06-010 Purpose of chapter.
- 365-06-020 Availability of public records and office procedures applicable to such availability.

WAC 365-06-010 Purpose of chapter. The purpose of this chapter shall be to ensure compliance by the planning and community affairs agency (hereinafter referred to as the "agency"), including its officers and employees, with the provisions of chapter 1, Laws of 1973 (Initiative 276), Disclosure—Campaign finances—Lobbying—Records; and in particular with sections 25 through 32 of that act [RCW 42.17.250 through 42.17.320], dealing with public records.

[Order 73-4, § 365-06-010, filed 9/12/73.]

WAC 365-06-020 Availability of public records and office procedures applicable to such availability. In accordance with WAC 365-04-030(3), the office of community development acts on behalf of the agency in connection with all matters affected by this chapter; persons seeking a public record of the agency must contact the office of community development. Public records of the agency shall be made available to members of the general public in accordance with rules and regulations promulgated by the office of community development, chapters 120-04, 120-06, 120-08, and 120-52 WAC.

[Order 73-4, § 365-06-020, filed 9/12/73.]

Chapter 365-08 WAC UNIFORM PROCEDURAL RULES

WAC

365-08-010 Uniform procedural rules.

WAC 365-08-010 Uniform procedural rules. The planning and community affairs agency, hereinafter designated as the agency, adopts as its own rules of practice all those uniform procedural rules promulgated by the code reviser now codified in the Washington Administrative Code, WAC 1-08-005 through 1-03-590 [1-08-590], (excepting WAC 1-08-010 which is adopted as amended by the agency as set out herein as WAC 365-04-050) as now or hereafter amended subject to any additional rules that the agency may add from time to time. The agency reserves the right to make whatever determination is fair and equitable should any question not covered by its rules come before the agency, said determination to be in accordance with the spirit and intent of the law.

[Order 72-6, § 365-08-010, filed 11/3/72.]

Chapter 365-24 WAC UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION

WAC

GENERAL CONSIDERATIONS

365-24-010 General purpose and coverage.
365-24-020 General responsibilities of relocating entities.
365-24-030 State agencies and local public bodies policies and procedures.
365-24-040 Review of activities for compliance with chapter 8.26 RCW.
365-24-050 Public information.
365-24-060 Payments not considered income or resource.
365-24-100 Interpretation of definitions.

(1992 Ed.)

365-24-110 Specific definitions.

ASSURANCE OF ADEQUATE REPLACEMENT HOUSING PRIOR TO DISPLACEMENT

365-24-210 Determination or assurance of availability of housing.
365-24-220 Data support for determination or assurance.
365-24-230 Waiver of assurances.
365-24-240 Housing provided as a last resort.

RELOCATION ASSISTANCE ADVISORY SERVICES

365-24-310 Relocation assistance advisory program.
365-24-312 Other advisory services.
365-24-320 Contracting for relocation services.
365-24-330 Coordination of planned relocation activities.

RELOCATION PAYMENT FOR MOVING AND RELATED EXPENSES

365-24-410 Eligibility.
365-24-420 Allowable moving expenses for displaced persons.
365-24-430 Limitations on allowable moving expenses for displaced persons.
365-24-440 Nonallowable moving expenses and losses of displaced persons.
365-24-450 Allowable expenses in searching for replacement business or farms.
365-24-460 Limitations on allowable expenses in searching for replacement business or farms.

PAYMENT IN LIEU OF MOVING AND RELATED EXPENSES

365-24-510 For displacement from a dwelling.
365-24-520 For displacement from a business.
365-24-530 For displacement from a farm operation.
365-24-540 Amount of business fixed payment.

REPLACEMENT HOUSING PAYMENTS FOR DWELLING OWNER/OCCUPANTS

365-24-610 Eligibility.
365-24-620 Computation of replacement housing payment.

REPLACEMENT HOUSING PAYMENTS FOR TENANTS AND CERTAIN OTHERS

365-24-710 Eligibility.
365-24-720 Computation of replacement housing payments for displaced tenants.
365-24-730 Computation of replacement housing payment for certain others.

ADMINISTRATIVE REVIEW AND RULE MAKING

365-24-810 Right of review.
365-24-820 Initiation of appeal—Notice and statement.
365-24-822 Form of statement.
365-24-824 Correction or amendment of notice.
365-24-830 Preliminary review authorized.
365-24-832 Notice and time limitation on preliminary review.
365-24-834 Effect of preliminary review.
365-24-840 Applicability of Administrative Procedure Act.
365-24-850 Appointment of hearing officer.
365-24-852 Hearing officer powers and duties.
365-24-854 Time and place of hearing.
365-24-856 Evidence.
365-24-858 Submission of proposed decision and orders.
365-24-860 Exceptions—Time for filing.
365-24-862 Reply to exceptions.
365-24-870 Submission or record and issuance of final decision.
365-24-880 Petitions for rule making.
365-24-882 Requisites.
365-24-884 Notice of disposition.

UNIFORM ACQUISITION POLICIES

365-24-910 Acquisition procedures.
365-24-920 Statement furnished to owner upon initiation of negotiations for acquisition of real property.
365-24-930 Relocation costs and awards not to be considered in making appraisals.

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365-24-940	Consideration of relocation costs of outdoor advertising displays in making appraisals.
365-24-950	Acquisition of mobile homes.
365-24-960	Appraisal standards.

[Order 74-05, § 365-24-010, filed 10/9/74.]

GENERAL CONSIDERATIONS

WAC 365-24-010 General purpose and coverage.

(1) Purpose: These interim regulations are to assist state agencies and local public bodies in the development of policies and procedures implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1971, chapter 8.26 RCW, to assure a uniform policy for the fair and equitable treatment of persons displaced by state programs, or federally assisted programs administered by state agencies or local public bodies. These interim regulations are adopted pursuant to the provisions of RCW 8.26.110.

(2) Conflicts: In the event of any conflict between these regulations and the provisions of chapter 8.26 RCW or any other applicable law, the statutory provisions are controlling.

(3) Authorization to exceed maximum payment specified herein: The intent of these regulations is to establish minimum requirements for relocation assistance payments by state agencies and local public bodies. Notwithstanding anything to the contrary in these regulations, any state agency or local public body, where otherwise authorized, may make any relocation assistance payment in an amount which exceeds the maximum amount for such payment authorized by this chapter, and may comply with the more specific requirements of chapter 8.26 RCW and regulations promulgated pursuant thereto, if the making of such payment or compliance with such requirements is necessary under federal law or regulations to secure federal funds.

(4) Extended eligibility for receipt of benefits: Whenever the acquisition of, or receipt of notice to vacate real property used for a business or farm operation causes any person to move from real property used for his dwelling, or to move his personal property from such other real property, such person may receive the benefits provided by RCW 8.26.040 through 8.26.070. Furthermore, whenever a displacing entity determines that a sufficient portion of a parcel upon which a business operation and dwelling unit(s) are located is taken to justify the operator of such business to move his business or go out of business, the owners and/or occupants of the dwellings on such property not within the actual taking but who are consequently forced to move shall be eligible to receive the same payments as though their dwellings were within the actual taking.

(5) Persons displaced due to federal Housing, or Demonstration Cities and Metropolitan Development Acts included: A person who moves or discontinues his business, or moves other personal property, or moves from his dwelling on or after July 1, 1971, as a direct result of any project or program which receives federal financial assistance under Title I of the Housing Act of 1949 (PL 81-171) as amended, or as a result of carrying out a comprehensive city demonstration program under Title I of the Demonstration Cities and Metropolitan Development Act of 1966 (PL 89-754), for the purposes of chapter 8.26 RCW and these regulations, shall be deemed to have been displaced as a result of the acquisition of real property.

WAC 365-24-020 General responsibilities of relocating entities. State agencies and local public body acquiring real property and relocating persons as a consequence of such acquisition should instruct officials responsible for programs affected by chapter 8.26 RCW that:

(1) Application of chapter 8.26 RCW and these regulations: The provisions of chapter 8.26 RCW and these regulations apply to any program or project of real property acquisition which may create a "displaced person" as defined in WAC 365-24-110,

(a) Where such acquisition is initiated by a state agency;

(b) Where such acquisition is initiated by a local public body for a program or project which received federal financial assistance for all or part of the cost; or

(c) Where such acquisition is initiated by a local public body which, pursuant to RCW 8.26.020(2), elects to comply with chapter 8.26 RCW.

(2) Responsibility of head of displacing entity: The executive head of a state agency or local public body engaged in the acquisition of real property or any interest therein for a project or program involving relocation, and over funds appropriated or otherwise available for such acquisition and relocation is responsible for carrying out the provisions of chapter 8.26 RCW and these regulations applicable to that program or project, subject to review as provided in RCW 8.26.030(1).

(3) Use of housing agencies: In carrying out relocation assistance activities affected by these regulations, a state agency or local public body, whenever practicable, shall utilize the services of state or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities.

[Order 74-05, § 365-24-020, filed 10/9/74.]

WAC 365-24-030 State agencies and local public bodies policies and procedures. (1) All state agencies and local public bodies responsible for the acquisition of real property in connection with a program or project that will result in the displacement of any person on or after the effective date of these regulations, shall prepare and adopt policies and procedures consistent with these regulations not less than 60 days prior to the commencement of any project phase causing displacement. Such policies and procedures must provide at a minimum, that:

(a) A written notice of the initiation of negotiations with the owner of property to be acquired must be given by the displacing entity to tenants and other persons occupying such property advising:

(i) Eligibility for relocation assistance and benefits which could become available after acquisition of the property by the displacing entity can be lost if the owner or any tenant moves or makes any financial commitments for replacement housing or facilities prior to receiving a written notice to vacate from the displacing entity for its program or project, or otherwise fails to meet the legal requirements for such assistance or benefits;

(ii) The displacing entity's land purchase intentions and plans are subject to change and even cancellation until the acquisition is closed;

(iii) Neither the owner nor any tenant should move or make any financial commitment for replacement housing or facilities until he has received a final determination from the displacing entity concerning his eligibility for relocation payments; the requirements which must be satisfied before such payments or benefits, if any, can be provided by the acquiring entity if it purchases the property; and until receipt of a written authorization or notice to vacate for the program or project from the acquiring entity;

(iv) Where he can obtain full information concerning relocation assistance, eligibility for relocation payments and the requirements which must be satisfied before such payments can be made; and

(v) The procedures for obtaining RCW 8.26.130 review.

(b) A written notice to vacate must be given to each individual, family, business, or farm operation to be displaced; and that all notices shall be served personally or delivered by certified or registered first class mail.

(c) A displaced person who makes proper application for a payment authorized for such person by chapter 8.26 RCW and these regulations shall be paid promptly after a move, or, in hardship cases, be paid in advance.

(d) Applications for benefits under the act are to be made within 18 months of the date on which the displaced person moves from the real property acquired or to be acquired; or the date on which the acquiring entity makes final payment of all costs of that real property, whichever is the later date. The head of the state agency or local public body may extend this period upon a proper showing of good cause.

(2) A copy of such policies and procedures and revisions thereof shall be furnished to the office by the displacing entity within 30 days after adoption by the displacing entity. A copy of any policies and procedures regarding real property acquisition or relocation being utilized by a displacing entity at the time these regulations become effective shall be transmitted to the office within 30 days of such effective date.

[Order 74-05, § 365-24-030, filed 10/9/74.]

WAC 365-24-040 Review of activities for compliance with chapter 8.26 RCW. The director shall provide for periodic review of all state agency and local public bodies land acquisition and relocation policies, procedures and practices to ensure compliance with the provisions of chapter 8.26 RCW and these regulations. Records relating to such policies, procedures and practices, as specified by the office, shall be maintained by displacing entities for the purpose of review.

[Order 74-05, § 365-24-040, filed 10/9/74.]

WAC 365-24-050 Public information. (1) The head of each state agency or local public body should make available to the public full information concerning such entity's relocation program and he shall ensure that persons to be displaced are fully informed, at the earliest possible time, of the specific plans and procedures for assuring that comparable replacement housing will be available for home owners and tenants in advance of displacement; available relocation payments and assistance; the eligibility requirements and procedures for obtaining such payments and

assistance; and the right of administrative review by the head of the state agency or local public body concerned, as provided by RCW 8.26.130.

(2) Whenever a displaced person is eligible for a replacement housing payment under RCW 8.26.050 or 8.26.060(1) and Parts VI and VII of these regulations except that he has not yet purchased a replacement dwelling, the head of the displacing entity or his designee shall at the request of the displaced person provide a written statement to any interested person, financial institution, or lending agency as to such person's eligibility for a payment and the requirements that must be satisfied before such payment can be made. If the proposed replacement dwelling has been selected or if plans and specifications are available for the construction or rehabilitation of a proposed dwelling, the displacing entity, after its representative has inspected the dwelling or plans and found that they meet the required standards, shall include such finding and the amount of the payment to be available in such statement.

[Order 74-05, § 365-24-050, filed 10/9/74.]

WAC 365-24-060 Payments not considered income or resource. As provided for in RCW 8.26.140 no payment received under RCW 8.26.010 through 8.26.130 shall be considered as income for the purposes of any income tax or any tax imposed under Title 82 RCW as now or hereafter amended; or for the purpose of determining the eligibility or extent of eligibility of any person for assistance under the Social Security Act or any other federal law. These payments are not to be considered income or resources, and such payments shall not be deducted from any amount to which any recipient would otherwise be entitled, under Title 74 RCW, as now or hereinafter amended. Supplemental rent payments, however, may be considered in determining the amount of public assistance to which a recipient may be entitled to the extent that there would be a duplication of a shelter allowance as established by the public assistance standards.

[Order 74-05, § 365-24-060, filed 10/9/74.]

WAC 365-24-100 Interpretation of definitions. The head of the displacing state agency or local public body may expand the following definitions where necessary to insure greater clarity and the successful implementation of the acquisition and/or relocation program; modification of the definitions should not, however, deviate from the general concepts contained herein.

[Order 74-05, § 365-24-100, filed 10/9/74.]

WAC 365-24-110 Specific definitions. (1) "Average annual net earnings" (see definition in WAC 365-24-540).

(2) "Bona fide mortgage" (see definition in WAC 365-24-620 (2)(c)).

(3) "Business" means any lawful activity, excepting a farm operation, conducted primarily:

(a) For the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or other personal property; or

(b) For the sale of services to the public; or

(c) By a nonprofit organization; or

(d) Solely for the purposes of RCW 8.26.040(1) for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by means of an outdoor advertising display or displays, otherwise lawfully erected and maintained, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(4) "Comparable replacement dwelling" means a dwelling unit which meets the requirements of chapter 8.26 RCW and those outlined in WAC 365-24-210.

(5) "Director" means the director of the Washington state office of community development, and any persons to whom he has delegated his powers and duties under the act and these rules and regulations.

(6) "Displaced person" means any person who, on or after July 1, 1971, moves from real property lawfully occupied by him, or moves his personal property from real property on which it was lawfully located, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring entity to vacate real property, for a program or project undertaken by a state agency or a local public body. Solely for the purposes of RCW 8.26.040 (1) and (2), and 8.26.070, the term "displaced person" includes any person who, on or after July 1, 1971, moves from real property or moves his personal property from real property, as a result of the acquisition of, or the receipt of the written order of the acquiring entity to vacate other real property, on which such person conducts a business or farm operation, for a program or project undertaken by the state or a local public body. The term "displaced person" also includes persons deemed to have been displaced as a result of the acquisition of real property financed in whole or in part under certain federal legislation referenced in RCW 8.26.160 and WAC 365-24-010(5). The term "displaced person" DOES NOT INCLUDE persons who occupy property subsequent to other persons in occupancy of the same property at the initiation of negotiations for the property or at the time written notice of intent to acquire or to vacate is issued by the displacing entity, whichever is earlier.

(7) "Dwelling unit" means any single family building; one family unit (including a nonhousekeeping unit) in a two-family or multi-family building, a unit of a condominium, or cooperative housing project; a mobile home; or other residential unit.

(8) "Economic rent" is the amount of rent the displaced occupant would have had to pay for a comparable dwelling in an area that is generally equal to that in which is located the dwelling unit to be acquired by the displacing entity.

(9) "Eligible person" means any displaced person who is or becomes lawfully entitled to any relocation under chapter 8.26 RCW.

(10) "Family" means two or more individuals, one of whom is the head of a household, plus all other individuals regardless of blood or legal ties who live with and are considered a part of the family unit. Where two or more individuals occupy the same dwelling with no identifiable head of a household, they shall be treated as one family for replacement housing payment purposes.

(11) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or for home use, which customarily produces such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support; where an activity is not obviously a farm operation and that designation is sought for such activity, such activity may be so considered where it customarily produces such products or commodities in sufficient quantity to be capable of contributing at least one-third of the operator's income. The term "farm operation" shall geographically include so much land as is farmed in the same agricultural operation. In determining whether geographically separated lands constitute a single farming operation, the displacing entity may consider the common or separate use of machinery, tools, or employees, the manner in which income is reported, depreciation is calculated, products or commodities are stored and marketed, and any other factors which would be helpful in making this determination.

(12) "His" means, where appropriate, hers or its; words importing the masculine gender may be understood as also importing the feminine and neuter genders.

(13) "Initiation of negotiations" means the day on which the acquiring entity makes the first personal or written contract with the property owner or his representative during which price is discussed, and offers to purchase the real property.

(14) "Real property acquisition" means the purchase of real property or any rights therein for a public purpose through negotiation or condemnation by a state agency or local public body.

(15) "Local public body" means any county, city, or town, or other municipal corporation or political subdivision of the state or any instrumentality of any of the foregoing but only with respect to any program or project the cost of which is financed in whole or in part by a federal agency; unless such entity has elected to comply with chapter 8.26 RCW pursuant to RCW 8.26.020(2).

(16) "Mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of this state, together with the credit instruments, if any, secured thereby. The term "mortgage" shall include real estate contracts.

(17) "Office" means the Washington state office of community development.

(18) "Owner" means a person who holds fee title, a life estate, a 99-year lease, or an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any such estates or interest; owns a mobile home which under state law is determined to be real property and not personal property; or who is possessed of such other proprietary interest in the property acquired as, in the judgment of the head of the acquiring entity, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interests by devise, bequest, inheritance, or operation of law, the tenure of ownership (but not, however, occupancy) of the succeeding owner shall include the tenure of the preceding owner.

(19) "Person" means any individual, partnership, corporation or association; or any owner, part-owner, tenant, or sharecropper who operates a farm.

(20) "Regulations" means the regulations promulgated by the director pursuant to chapter 8.26 RCW.

(21) "State agency" means any department, commission, office, agency, or instrumentality of the state of Washington.

[Order 74-05, § 365-24-110, filed 10/9/74.]

ASSURANCE OF ADEQUATE REPLACEMENT HOUSING PRIOR TO DISPLACEMENT

WAC 365-24-210 Determination or assurance of availability of housing. (1) Prohibition of displacement unless housing availability has been determined or assured: No state agency or local public body shall proceed with any project phase which will cause the displacement of any person until the director has determined or received satisfactory assurances from the displacing entity that within a reasonable period of time prior to displacement there will be dwellings available, on a basis consistent with the requirements of Title VIII of the Civil Rights Act of 1968 (PL 90-284) and chapter 49.60 RCW; in areas not generally less desirable in regard to public utilities and public and commercial facilities; at rents or prices within the financial means of the families and individuals displaced; that are decent, safe, and sanitary (as described in (2) below); comparable to those previously occupied (as described in (3) below); and equal in number to the number of, and available to, such displaced persons who require such dwellings; and reasonably accessible to their places of employment. Where a project or program is being financed in whole or in part by a federal agency and such agency has received and accepted satisfactory assurances from the displacing entity that dwellings will be available within a reasonable period of time prior to displacement on the bases and under the conditions specified in this subsection, receipt by the director of a notice from the displacing entity of acceptance of assurances, confirmed by the federal agency, will satisfy the requirements of this subsection.

(2) Decent, safe and sanitary housing: A decent, safe and sanitary dwelling, is one which is found to be in sound, clean and weathertight condition, and which meets the following minimum criteria. Adjustments may only be made in cases of unusual circumstances or in unique geographic areas.

(a) Housekeeping unit: A housekeeping unit must include a kitchen with fully usable sink; a cooking stove, or connections for same; a separate complete bathroom; hot and cold running potable water in both the bathroom and kitchen; an adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and local codes.

(b) Nonhousekeeping unit: A nonhousekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living.

(3) Comparable replacement dwelling: A comparable replacement dwelling is one which is:

(a) Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing.

(b) Adequate in size to meet the needs of the displaced family or individual. However, at the option of the displaced person, a comparable replacement dwelling may exceed his needs when the replacement dwelling has the same number of rooms or the equivalent square footage as the dwelling from which he was displaced.

(c) Open to all persons regardless of race, color, religion, or national origin, consistent with the requirements of the Civil Rights Act of 1964, and Title VIII of the Civil Rights Act of 1968, and chapter 49.60 RCW.

(d) Located in an area not generally less desirable than one in which the acquired dwelling is located, with respect to:

(i) Neighborhood conditions, including but not limited to municipal services and other environmental factors.

(ii) Public utilities.

(iii) Public and commercial facilities.

(e) Reasonably accessible to the displaced person's place of employment or potential place of employment.

(f) Within a financial means of the displaced family or individual.

(g) Available on the market to the displaced person.

(h) If a mobile home, placed in a fixed location:

(i) In a mobile home park which is licensed and operating under applicable state and local laws or ordinances; or

(ii) In a mobile home subdivision where the displaced person owns the lot on which the mobile home is placed; or

(iii) On real property owned or leased by the displaced person in other than a mobile home subdivision, provided such placement is in accordance with state and local laws or ordinances and provided such placement was made under any applicable permits needed from the state or local public body.

(i) Whenever comparable replacement housing is not available on the market, the head of the displacing entity may consider available housing exceeding these basic criteria.

(4) Determination of financial means: In the process of determining or giving assurances that decent, safe and sanitary comparable housing is available consistent with the standards of WAC 365-24-210(1) a determination must be made as to the displaced person's ability to afford the replacement dwelling. The following should be used as a guideline in making this determination: The average monthly rental or housing cost (e.g., monthly mortgage payments, insurance for the dwelling unit, property taxes and other reasonable recurring related expenses) which the displaced person will be required to pay, in general, should not exceed 25 percent of the monthly gross income or the present ratio of housing payment to the income of the displaced family or individual, including supplemental payments made by public agencies. The policies of a displacing entity may provide for determinations that 25 percent of monthly gross income for housing costs or the present ratio of housing payment to the individual's income is or is not excessive to the other needs of the displaced family or individual, such as food, clothing, child care, medical expenses, etc. In these cases, the head of the displacing entity or his designee shall establish criteria for determining the financial means of the displaced family or individual.

[Order 74-05, § 365-24-210, filed 10/9/74.]

WAC 365-24-220 Data support for determination or assurance. The determination or assurances should be based on a current survey and analysis of the available replacement housing by the displacing entity. Such survey and analysis must take into account the competing demand on available housing.

[Order 74-05, § 365-24-220, filed 10/9/74.]

WAC 365-24-230 Waiver of assurances. Pursuant to RCW 8.26.090, the director may prescribe by regulation, situations where the assurances described in WAC 365-24-210(1) may be waived. Only emergency or other extraordinary situations where immediate possession of real property is of critical importance will warrant the waiving of assurances required under this chapter. Each request from a displacing entity for a waiver of assurance of replacement housing shall be supported by appropriate justification. Any waiver of assurances shall be in writing, signed by the director.

[Order 74-05, § 365-24-230, filed 10/9/74.]

WAC 365-24-240 Housing provided as a last resort. When it is determined that adequate, comparable replacement housing is not available and cannot otherwise be made available, the head of the displacing entity or his designee may take action or approve action to develop replacement housing pursuant to RCW 8.26.080.

[Order 74-05, § 365-24-240, filed 10/9/74.]

RELOCATION ASSISTANCE ADVISORY SERVICES

WAC 365-24-310 Relocation assistance advisory program. Pursuant to RCW 8.26.070, every state agency or local public body shall provide a relocation assistance advisory program for persons displaced as a result of any federally assisted or, for state agencies, state financed, land acquisition programs or projects. State agencies and local public bodies shall ensure that the relocation assistance advisory program includes such measures, facilities or services as may be necessary or appropriate to perform all of the tasks detailed in RCW 8.26.070(2). Relocation advisory services of such program may also be provided to any person occupying property immediately adjacent to the real property acquired, who the head of the displacing entity or his designee finds is caused substantial economic injury because of the acquisition.

[Order 74-05, § 365-24-310, filed 10/9/74.]

WAC 365-24-312 Other advisory services. Other advisory services shall be provided under RCW 8.26.070 (2)(e) to displaced persons and under WAC 365-24-310 to persons occupying property immediately adjacent to real property acquired, in order to minimize hardships to such persons in adjusting to relocation. Such other advisory services shall include ready access to needed social services and counseling services for families and individuals both

prior to and subsequent to relocation. In meeting this requirement, the displacing entity should utilize local welfare or social services and counseling whenever possible, or take whatever steps are necessary to assure adequate services are provided.

[Order 74-05, § 365-24-312, filed 10/9/74.]

WAC 365-24-320 Contracting for relocation services. In order to prevent unnecessary expense and duplication of functions and to promote uniform and effective administration of relocation assistance programs for displaced persons, any state agency or local public body may enter into contracts with any individual, firm, association, or corporation for services in connection with such programs, or may carry out its functions under these regulations through any federal, state, or local governmental agency or instrumentality having an established organization for conducting relocation assistance programs provided, however, responsibility, control, and authority for compliance with chapter 8.26 RCW and these regulations remain with the head of the displacing entity.

[Order 74-05, § 365-24-320, filed 10/9/74.]

WAC 365-24-330 Coordination of planned relocation activities. (1) When two or more state agencies or local public bodies contemplate displacement activities in a given community or area, the heads of the respective entities shall coordinate their activities through the director. He shall require that appropriate channels of communication be established between the entities for the purpose of planning relocation activities and coordinating available housing resources.

(2) The entities causing displacement shall designate at least one representative who will meet periodically with the director and representatives of other federal, state agencies and local public bodies to review the impact of their respective programs on the community or area.

(3) When more than one state agency or local public body or a combination of the two are causing displacement in a community or area, the heads of those displacing entities or their designees shall cooperate in choosing a uniform procedure for the application of methods for computing replacement housing payments, shall use uniform schedules of rental housing in the community or area, and shall otherwise cooperate and coordinate their activities under Parts IV through VII of these regulations to ensure equality of payments in similar situations.

[Order 74-05, § 365-24-330, filed 10/9/74.]

RELOCATION PAYMENT FOR MOVING AND RELATED EXPENSES

WAC 365-24-410 Eligibility. (1) Any displaced person (including one who conducts a business or farm operation), is eligible to receive a relocation payment for moving expenses. A person who lives on his business or farm property may be eligible for payments for both moving and related expenses as a dwelling occupant, as well as payments for displacement from a business or farm operation.

(2) Any person who moves from real property or moves his personal property from real property as a result of the acquisition of his real property, in whole or part, or receipt of a written notice from the acquiring agency to vacate real property; or, solely for the purpose of RCW 8.26.040, as a result of the acquisition of, or receipt of a written notice of the acquiring agency to vacate, other real property on which such person conducts a farm or business; is eligible to receive a payment for moving expenses.

[Order 74-05, § 365-24-410, filed 10/9/74.]

WAC 365-24-420 Allowable moving expenses for displaced persons. (1) Transportation of individuals, families, and personal property from the acquired site to the replacement site, not to exceed a distance of 50 miles, except where the displacing entity determines that relocation beyond this 50-mile area is justified.

(2) Packing, and unpacking, crating, and uncrating of personal property.

(3) Advertising for packing, crating, and transportation when the displacing entity determines that such advertising is necessary.

(4) Storage of personal property for a period generally not to exceed 12 months when the displacing entity determines that storage is necessary in connection with relocation.

(5) Insurance premiums covering loss and damage of personal property while in storage or transit.

(6) Removal, reinstallation, reestablishment, including such modifications as deemed necessary by the displacing entity of, and reconnection of utilities for, machinery, equipment, appliances, and other items, not acquired as real property. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personal and that the displacing entity is released from any payment for the property.

(7) Property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agents, or employees) in the process of moving, where insurance to cover such loss or damage is not available.

(8) Such other reasonable expenses determined to be allowable under regulations issued by the displacing entity.

[Order 74-05, § 365-24-420, filed 10/9/74.]

WAC 365-24-430 Limitations on allowable moving expenses for displaced persons. (1) Maximum amount of payment for moves accomplished by the displaced person, himself: When the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost to move him commercially, unless the head of the responsible displacing entity determines a greater amount is justified.

(2) Maximum reimbursement for business or farm operation personal property not moved, but sold and replaced: When an item of personal property which is used in connection with any business or farm operation is not moved but is sold and promptly replaced with a comparable item, reimbursement shall not exceed whichever is the lesser of:

(a) The replacement cost plus reasonable costs incurred in selling the property minus the proceeds received from the sale; or

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(b) The estimated cost of moving.

(3) Maximum reimbursement for business or farm operation personal property of low value and high bulk: When personal property which is used in connection with a business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value in the judgment of the head of the displacing entity, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amounts which would have been received for such items on liquidation and the cost of replacing the same with a comparable item available on the market. This provision will be applicable in the case of the moving of junkyards, stockpiled sand, gravel, minerals, metals and similar type items of personal property. The cost of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person.

(4) Maximum reimbursement for business or farm operation personal property that is abandoned: When the personal property which is used in connection with a business or farm operation is abandoned, the displaced person is entitled to payment for the fair market value of the property for continued use at its location prior to displacement or the estimated cost of moving 50 miles, whichever is less. A displaced person, prior to abandoning property, shall be required to make reasonable efforts to dispose of the property by, for instance, contacting persons known to deal in the type of property involved. The displaced person shall be required to submit to the displacing entity a written statement certifying his efforts to sell or otherwise dispose of the property prior to submitting a claim for property loss. The cost of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person.

[Order 74-05, § 365-24-430, filed 10/9/74.]

WAC 365-24-440 Nonallowable moving expenses and losses of displaced persons. (1) Additional expenses incurred because of living in a new location.

(2) Cost of moving structures or other improvements which the displaced person received or shipped except as otherwise provided by law.

(3) Improvements to the replacement site, except when required by law or specifically authorized by the displacing entity.

(4) Interest on loans covering moving expenses.

(5) Loss of good will.

(6) Loss of profit.

(7) Loss of trained employees.

(8) Personal injury.

(9) Cost of preparing the application for moving and related expenses.

(10) Payment for search costs in connection with locating a replacement dwelling.

(11) Such other items as the head of the displacing entity or his designee determines should be excluded.

[Order 74-05, § 365-24-440, filed 10/9/74.]

WAC 365-24-450 Allowable expenses in searching for replacement business or farms. (1) Actual travel costs.

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(2) Extra costs for meals and lodging.

(3) Time spent in searching for a replacement facility or farm at the rate of the searcher's salary or earnings, but not to exceed \$10.00 per hour.

(4) At the discretion of the displacing entity, necessary broker, real estate or other professional fees to locate a replacement business facility or farm operation, under circumstances described in the displacing entity's policies and procedures.

[Order 74-05, § 365-24-450, filed 10/9/74.]

WAC 365-24-460 Limitations on allowable expenses in searching for replacement business or farms. The total amount a displaced person may be paid for searching expenses may not exceed \$500 unless the head of the displacing entity or his designee determines and gives prior approval that the greater amount is justified based on the circumstances involved.

[Order 74-05, § 365-24-460, filed 10/9/74.]

PAYMENT IN LIEU OF MOVING AND RELATED EXPENSES

WAC 365-24-510 For displacement from a dwelling. RCW 8.26.040(2) provides that at the option of the displaced person, in lieu of the moving and related expense payment payable pursuant to Part IV of these rules and regulations, a displaced person may receive a moving expense allowance not to exceed \$300, based on a schedule established by the state highway commission, as well as a dislocation allowance of \$200. The director will make copies of the schedule available upon request.

[Order 74-05, § 365-24-510, filed 10/9/74.]

WAC 365-24-520 For displacement from a business.

(1) A person displaced from his business, as defined in RCW 8.26.020 (5)(a through c) and WAC 365-24-110 (4)(a through c) is eligible under RCW 8.26.040(3) to receive a fixed payment in lieu of moving and related expenses as specified in WAC 365-24-540. Care must be exercised in each instance, however, to assure that such payments are made only in connection with a bona fide business. The displacing entity shall include in its policies and procedures adopted pursuant to these regulations appropriate criteria for a determination that a given activity does, in fact, constitute a bona fide business.

(2) Those businesses described in RCW 8.26.020(d) are not eligible under RCW 8.26.040(3) for a payment in lieu of moving and related expenses.

(3) Where a displaced person is displaced from his place of business, no payment shall be made under RCW 8.26.040(3) until the head of the displacing entity or his designee determines

(a) That the business is not part of a commercial enterprise having at least one other establishment not being acquired, which is engaged in the same or similar business, and

(b) That the business cannot be relocated without a substantial loss of existing patronage. The determination of loss of existing patronage shall be made by the displacing

entity only after consideration of all the pertinent circumstances, including but not limited to the following factors:

(i) The type of business conducted by the displaced business.

(ii) The nature of the clientele of the displaced business.

(iii) The relative importance of the present and proposed location to the displaced business and the availability of a suitable replacement location for the displaced person. The term "existing patronage" as applied in the section to businesses that are nonprofit organizations, includes the persons, community and clientele served or affected by the activities of the nonprofit organization.

[Order 74-05, § 365-24-520, filed 10/9/74.]

WAC 365-24-530 For displacement from a farm operation. A person displaced from his farm operation, as defined in RCW 8.26.020(6) and WAC 365-24-110(12) is eligible under RCW 8.26.040(3) to receive a fixed payment in lieu of moving and related expenses as specified in WAC 365-24-540, except as further provided herein: Where a displaced person is displaced from only a part of his farm operation the fixed payment provided by RCW 8.26.040(3) and WAC 365-24-540 shall be made only if the displacing entity determines that the farm met the definition of the farm operation prior to the acquisition and that the property remaining after the acquisition can no longer meet the definition of a farm operation.

[Order 74-05, § 365-24-530, filed 10/9/74.]

WAC 365-24-540 Amount of business fixed payment. The fixed payment to a person displaced from a business (including nonprofit organizations) or a farm operation shall be an amount equal to the average annual net earnings of the business or farm operation, except that such payments shall not be less than \$2,500 nor more than [than] \$10,000. The term "average annual net earnings" as used in this section means one-half of any net earnings of the business or farm operation, before federal, state, and local income tax, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the head of the displacing entity or his designee determines to be more equitable for establishing such earnings, and includes any compensation made by the business or farm operation to the owner, his spouse or his dependents during such period. If a business or farm operation has no net earnings, or has suffered losses during the period used to compute "average annual net," it may nevertheless receive the \$2,500 minimum payment.

[Order 74-05, § 365-24-540, filed 10/9/74.]

REPLACEMENT HOUSING PAYMENTS FOR DWELLING OWNER/OCCUPANTS

WAC 365-24-610 Eligibility. (1) A displaced owner/occupant is eligible for a replacement housing payment as authorized by RCW 8.26.050 in an amount not to exceed \$15,000 if he meets both of the following requirements.

(a) The displaced owner/occupant actually owned and occupied the acquired dwelling from which he was displaced, for not less than 180 days prior to the initiation of negotiation for the property; or owned and occupied an acquired dwelling covered or qualified under RCW 8.26.160 from which he was displaced, for not less than 180 days prior to displacement; and

(b) Purchases and occupies a comparable replacement dwelling which is decent, safe, and sanitary, as defined in WAC 365-24-210 (2) and (3), not later than the end of the one-year period beginning on the date on which he received from the displacing entity the final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

(2) A displaced owner/occupant of a dwelling who does not qualify under this section for a replacement housing payment for homeowners, may be eligible for a replacement housing payment under Part VII of these regulations.

[Order 74-05, § 365-24-610, filed 10/9/74.]

WAC 365-24-620 Computation of replacement housing payment. The replacement housing payment of not more than \$15,000 consists of a differential payment for replacement as well as, where determined necessary, amounts for interest and incidental expenses.

(1) Differential payment for replacement housing: The head of the displacing entity or his designee, utilizing standards established by the state highway commission, shall determine the amount, if any, which when added to the acquisition cost of the dwelling acquired by the displacing entity is necessary to purchase a comparable replacement dwelling. The director will make copies of such standards available to displacing entities upon request.

(2) Interest payment: The head of the displacing entity or his designee shall determine the amount, if any, necessary to compensate a displaced owner/occupant for any increased interest cost, including points paid by him. Such amount shall be paid only if the acquired dwelling was encumbered by a bona fide mortgage. The following shall be used in determining the amount of the interest payment to be paid:

(a) The payment shall be equal to the excess in the aggregate interest and other debt service costs of the amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the bona fide mortgage on the acquired dwelling at the time of acquisition, over the remaining term of the mortgage on the acquired dwelling, reduced to the discounted present value.

(b) The discount rate shall be the prevailing interest rate made on savings deposits by commercial banks in the general area in which a replacement dwelling is located.

(c) A "bona fide mortgage" is one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations.

(d) However, the interest payment shall be based on the present value of the reasonable cost of the interest differential, including points paid by the purchaser, on the amount financed not to exceed the amount of the unpaid debt on the acquired dwelling for its remaining term.

(3) Incidental expenses:

(a) The head of the displacing entity or his designee shall determine the amount, if any, necessary to reimburse a

displaced owner/occupant for the actual costs incurred by him incident to the purchase of the replacement dwelling (but not including prepaid expenses) such as:

(i) Legal, closing and related costs including title search, preparing conveyance instruments, notary fees, surveys, preparing plats, and charges incident to recordation.

(ii) Lenders, FHA or VA appraisal fees.

(iii) FHA application fees.

(iv) Certification of structural soundness when required by lender, FHA, VA.

(v) Credit report.

(vi) Title policies or abstract of title.

(vii) Escrow agent's fee.

(viii) State revenue stamps or transfer taxes.

(b) Limitation: No fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth-in-Lending Act, Title I, Public Law 90-321 and Regulation "Z" (12 CFR Part 226) issued pursuant thereto by the Board of Governors of the Federal Reserve System.

[Order 74-05, § 365-24-620, filed 10/9/74.]

REPLACEMENT HOUSING PAYMENTS FOR TENANTS AND CERTAIN OTHERS

WAC 365-24-710 Eligibility. (1) A displaced tenant, or an owner/occupant of a dwelling for less than 180 days, is eligible for a replacement housing payment not to exceed \$4,000 as authorized by RCW 8.26.060 if he meets both of the following requirements:

(a) Actually and lawfully occupied the dwelling for not less than 90 days prior to the initiation of negotiations for acquisition of the property, or actually occupied the property covered or qualified under RCW 8.26.160 for not less than 90 days prior to displacement.

(b) Is not eligible to receive payments under RCW 8.26.050.

(2) An owner/occupant of a dwelling for not less than 180 days prior to the initiation of negotiations is eligible for replacement housing payments as a tenant as authorized by RCW 8.26.060 when he rents a decent, safe and sanitary comparable replacement dwelling (instead of purchasing and occupying such a dwelling) not later than the end of the one-year period beginning on the date on which he receives from the displacing entity final payment for all costs of the acquired dwelling or on the date on which he moves from an acquired dwelling, whichever is the later date.

[Order 74-05, § 365-24-710, filed 10/9/74.]

WAC 365-24-720 Computation of replacement housing payments for displaced tenants. A displaced tenant is either eligible for a replacement rental housing payment; or, if he purchases replacement housing within one year from displacement, is eligible for a down payment including expenses incidental to closing not to exceed \$4,000.

(1) Differential payment for replacement rental housing: The head of the displacing entity or his designee shall determine by either a schedule, comparative, or other method, the amount necessary to rent a comparable replace-

ment dwelling. The displaced tenant is bound to the method selected by the displacing entity for determining the reasonable cost of a comparable replacement dwelling, except he may appeal the displacing entity's determination in accordance with Part VIII of these regulations.

(a) Schedule method: The displacing entity may establish a schedule for renting comparable replacement dwellings available on the private market. The schedule should be based on current market analysis sufficient to support determinations of the amount for each type of dwelling to be acquired.

(b) Comparative methods: The displacing entity may determine the average month's rent of a comparable replacement dwelling by selecting one or more dwellings most representative of the dwelling acquired, which is available to the displaced person, and which meets the standards set in WAC 365-24-210(3) for a comparable replacement dwelling. A single dwelling shall be used only when additional comparable dwellings are not available.

(c) Alternate method: The displacing entity may develop other criteria for computing replacement rental housing payments when neither the schedule nor the comparative method is feasible.

(d) Computation process: The payment should be computed by determining the payment necessary to rent a comparable replacement dwelling for four years and subtracting from such amount 48 times the average month's rent paid by the displaced tenant during the last three months prior to initiation of negotiations, or such other period prior to such date as the head of the displacing entity or his designee shall establish, if such rent was reasonable. Regulations, ordinances, policies or procedures of the displacing entity may prescribe the circumstances or determine the individual cases in which economic rent rather than the actual rent paid by the displaced tenant may be used in this computation; provided, however, whenever rent is being paid to the displacing entity by a displaced tenant, economic rent shall be used in determining the amount of the payment to which the displaced tenant is entitled.

(e) Disbursement of rental replacement housing payment: The head of the displacing entity or his designee should develop procedures to implement RCW 8.26.060 to provide a replacement rental housing payment that will enable the displaced person to rent comparable decent, safe, and sanitary housing. The displacing entity should develop criteria for determining the manner of disbursement of such payment, that is, whether it will be in the form of a lump sum payment, and/or annual installments, or monthly payments. The criteria should include, as a minimum, the displaced person's present status as to decent, safe and sanitary housing conditions, income, and the wishes of the displaced person.

(2) Payment for purchased replacement housing: If the tenant elects to purchase replacement housing instead of continuing to rent, a payment shall be made to him in the amount necessary to enable him to make a down payment and to cover incidental expenses on the purchase of replacement housing, but not exceeding \$4,000, computed as follows:

(a) The down payment shall be the amount necessary to make a down payment on a comparable replacement dwelling. Determination of the amount necessary for such down

payment shall be based upon the amount of down payment required for purchase of the dwelling using a conventional loan; plus

(b) Incidental expenses of closing the transaction as described in WAC 365-24-620(3).

(c) Whenever a payment for purchased replacement housing exceeds \$2,000, the tenant must match any amount in excess of the \$2,000 by an equal amount in making the down payment.

(d) The full amount of the replacement housing payment must be applied to the purchase price and incidental costs shown on the closing statement.

[Order 74-05, § 365-24-720, filed 10/9/74.]

WAC 365-24-730 Computation of replacement housing payment for certain others. (1) Replacement rental housing payments for displaced owner/occupants who do not qualify for replacement housing payments under WAC 365-24-610 because of the 180-day occupancy requirement and who elect to rent shall be computed in the manner provided in WAC 365-24-720(1).

(2) Replacement housing payments for displaced owner/occupants who do not qualify for replacement housing payments under WAC 365-24-610 because of the 180-day occupancy requirement but who have actually and lawfully occupied for a period of 90 days or more the dwelling unit to be acquired and who elect to purchase a replacement dwelling shall be computed in the manner provided in WAC 365-24-720(2).

[Order 74-05, § 365-24-730, filed 10/9/74.]

ADMINISTRATIVE REVIEW AND RULE MAKING

WAC 365-24-810 Right of review. Any person aggrieved by a determination as to eligibility for, method of determination, or the amount of, a payment authorized by chapter 8.26 RCW and these regulations may have such determination reviewed and reconsidered by the head of the displacing entity having authority over the applicable program or project.

[Order 74-05, § 365-24-810, filed 10/9/74.]

WAC 365-24-820 Initiation of appeal—Notice and statement. Any person aggrieved by determination as to his eligibility for, method of determination, or the amount of, a payment authorized by chapter 8.26 RCW and these regulations and desiring to invoke the appeal procedures, within 30 days following receipt of notification of the rejection of such claim by the displacing entity or its administrative review board, shall submit to the head of the displacing entity, a notice of appeal which shall include a written statement of the facts pertinent to the case and the decision, if any, of the displacing entity's administrative review board, with respect to such appeal.

[Order 74-05, § 365-24-820, filed 10/9/74.]

WAC 365-24-822 Form of statement. No specified form or format is prescribed, but the statement or letter should state all of the facts and the reasons why the ag-

grieved person believes the claim should be paid or why he believes he is otherwise aggrieved. For identification, the letter or statement should show the project name and parcel number of the real property involved, and should bear the signature and address of the aggrieved person or his attorney.

[Order 74-05, § 365-24-822, filed 10/9/74.]

WAC 365-24-824 Correction or amendment of notice. If any notice of appeal is found by the displacing entity to be defective or insufficient, such entity may require the persons filing said notice of appeal to correct, clarify or amend the same to conform with the requirements of chapter 8.26 RCW and these regulations. The displacing entity may refuse to schedule any conference or hearing thereon until such requirements have been complied with or may issue an order providing for dismissal of such appeal upon failure to comply within a specified reasonable time.

[Order 74-05, § 365-24-824, filed 10/9/74.]

WAC 365-24-830 Preliminary review authorized. In order to insure consistent and uniform administration of the relocation assistance program, a displacing entity may establish an administrative review board for a preliminary review of all such claims.

[Order 74-05, § 365-24-830, filed 10/9/74.]

WAC 365-24-832 Notice and time limitation on preliminary review. In the event of such preliminary review, the aggrieved person shall be given 20 days' notice of such review and allowed to present any documents or written statements or written evidence in support of his claim. Such review shall be accomplished within 30 days of the date of hearing and the aggrieved person shall be promptly notified of the rejection or allowance, in whole or in part, of the claim submitted.

[Order 74-05, § 365-24-832, filed 10/9/74.]

WAC 365-24-834 Effect of preliminary review. In the event of such preliminary review, a claim shall not be considered as rejected until it shall have been rejected, in whole or in part, by the administrative review board.

[Order 74-05, § 365-24-834, filed 10/9/74.]

WAC 365-24-840 Applicability of Administrative Procedure Act. (1) In accordance with RCW 8.26.030(1), the provisions of the Administrative Procedure Act (chapter 34.04 RCW) regarding the resolution of contested cases shall be utilized by the head of a displacing entity in resolving any appeal filed pursuant to WAC 365-24-830.

(2) References to "agency" in the Administrative Procedure Act shall be understood to mean "displacing entity" for the purposes of these regulations.

[Order 74-05, § 365-24-840, filed 10/9/74.]

WAC 365-24-850 Appointment of hearing officer. Upon receipt of a notice of appeal, the head of the displacing entity may designate any qualified person as hearing officer with respect to such appeal.

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[Order 74-05, § 365-24-850, filed 10/9/74.]

WAC 365-24-852 Hearing officer powers and duties. It shall be the duty of the hearing officer to conduct conferences or hearings in cases assigned to him in an impartial and orderly manner, and he shall have the authority, subject to the other provisions of these regulations:

(1) To administer oaths and affirmations;
 (2) To issue subpoenas on request of any party;
 (3) To rule on all procedural matters, objections and motions;

(4) To rule on all offers of proof and receive relevant evidence;

(5) To interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the appeal;

(6) To secure and present in an impartial manner such evidence, in addition to that presented by the parties, as he deems necessary to fairly and equitably decide the appeal;

(7) To take any other action necessary and authorized by these regulations and the law.

[Order 74-05, § 365-24-852, filed 10/9/74.]

WAC 365-24-854 Time and place of hearing. Hearing officers shall hold hearings within 45 days following receipt by the displacing entity of the notice of appeal, and upon not less than 20 days' notice to the aggrieved person. Hearings shall be held in the county where the real property is located, or at such other location as may be agreed upon between the hearing officer and the aggrieved person. Failure to hold such hearing within the time specified herein, however, shall not affect the authority of the hearing examiner, the necessity of the hearing, or the rights of the parties involved.

[Order 74-05, § 365-24-854, filed 10/9/74.]

WAC 365-24-856 Evidence. (1) Admissibility: Subject to the other provisions of these regulations, all relevant evidence is admissible which, in the opinion of the hearing officer, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the hearing officer 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.

(2) Subpoenas: Every subpoena shall state the name of the state agency or local public body 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.

(3) 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.

(4) Proof of service: The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgment of service with the state agency or local public body or the officer before

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whom the witness is required to testify or produce evidence. If service is made by a person other than an officer of the state agency or local public body 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.

(5) 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 was issued, any party may

(a) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or

(b) Condition denial of the motion upon just and reasonable conditions.

(6) Scope - geographical: 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.

(7) Depositions and interrogatories: 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 20 days after the filing of a notice of appeal. The attendance of witnesses may be compelled by the use of a subpoena. Depositions shall be taken only in accordance with this regulation and the regulation on subpoenas.

(8) Scope (relevance): Unless otherwise ordered, the deponent may be examined regarding any matter not privileged, which is relevant to the subject matter involved in the proceeding.

(9) Protection of parties and deponents: A party desiring to take a deposition of any person upon oral examination shall give reasonable notice of not less than three days in writing to 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. 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 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 any other order which justice requires.

(10) Recordation - objections: 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. Objections to 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.

(11) Signing attestation and returns: 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 therefore; and the deposition may then be used as fully as though signed, unless on a motion to suppress, the hearing officer holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(12) Use and effect - certification: 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 endorsed 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 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 therefore, the officer shall furnish a copy of the deposition to any party or to the deponent.

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.

(13) Depositions upon 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.

(14) Official notice - matters of law: The hearing officer, upon request made before or during a hearing, will officially notice:

(a) Federal law: The Constitution; congressional acts, resolutions, records, journals and committee reports; deci-

sions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and official publications;

(b) 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 official publications;

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

(d) Agency organization: The department, commission or board organization, administration, officers, personnel, and official publications.

(15) Record: The record on any appeal shall consist of the decision or order appealed from the notice of appeal therefrom, responsive pleadings, if any, and notices of appearances, and any other written applications, motions, briefs, stipulations or requests duly filed by any party. Such record shall also include all depositions, the transcript of testimony and argument and other proceedings at the hearing, together with all exhibits offered. No part of the records of the agency or local public body or other documents shall be made part of the record unless admitted in evidence.

[Order 74-05, § 365-24-856, filed 10/9/74.]

WAC 365-24-858 Submission of proposed decision and orders. The hearing examiner shall within 30 days after completion of the hearing and record, prepare in writing a proposed decision and order containing findings and conclusions as to each contested issue of fact and law, as well as the order based thereon. The hearing examiner shall file the original, signed by him with the head of the displacing entity and mail by certified or registered first class mail, a copy to each aggrieved person who is a party to the appeal and to his attorney or representative of record.

[Order 74-05, § 365-24-858, filed 10/9/74.]

WAC 365-24-860 Exceptions—Time for filing. Within 20 days, or such further period as the hearing examiner may allow, any party to the appeal may file with the hearing examiner, a written statement of exceptions.

[Order 74-05, § 365-24-860, filed 10/9/74.]

WAC 365-24-862 Reply to exceptions. Any party may, within 15 days after the filing of an exception by an adverse party, submit a reply to exceptions, a written brief, or a statement of position regarding the matters on which exceptions were taken. In such instances, a copy of the transcript of testimony and other proceedings of the hearing shall be made available to the parties.

[Order 74-05, § 365-24-862, filed 10/9/74.]

WAC 365-24-870 Submission or record and issuance of final decision. The entire record, including all exhibits, and proposed finding of fact and conclusion of law, together with all exceptions and replies to exceptions, shall

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be submitted to the head of the displacing entity having authority over the applicable program or project. Upon receipt of the entire record, the head of the displacing entity, in a manner consistent with RCW 34.04.110, shall consider the same and may either adopt, modify, or reject the proposed findings of fact and conclusions of law and proposed order, and shall issue the final decision of the displacing entity. Such decision shall be made within a reasonable time after receipt of the entire record.

[Order 74-05, § 365-24-870, filed 10/9/74.]

WAC 365-24-880 Petitions for rule making. Any interested person may petition the director requesting the promulgation, amendment, or repeal of any rule or regulation.

[Order 74-05, § 365-24-880, filed 10/9/74.]

WAC 365-24-882 Requisites. Where the petition requests the promulgation of a rule, the requested or proposed rule must be set out in full. 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 the suggested amended form, if any. The petition must also include a statement of the need or reasons for, or the advisability of the requested rule, proposed amended rule, or repeal of a rule, together with briefs of any applicable law.

[Order 74-05, § 365-24-882, filed 10/9/74.]

WAC 365-24-884 Notice of disposition. The director will notify the petitioning party within a reasonable time of the disposition of the petition.

[Order 74-05, § 365-24-884, filed 10/9/74.]

UNIFORM ACQUISITION POLICIES

WAC 365-24-910 Acquisition procedures. Every state agency and local public body acquiring real property in connection with any program or project shall, to the greatest extent practicable, be guided by the policies and requirements contained in RCW 8.26.180 through 8.26.200. For the purposes of those sections and these regulations and term "acquiring agency" includes both a state agency and a local public body.

[Order 74-05, § 365-24-910, filed 10/9/74.]

WAC 365-24-920 Statement furnished to owner upon initiation of negotiations for acquisition of real property. When negotiations for the acquisitions of real property are initiated, the owner shall be provided with a written statement concerning the proposed acquisition, which statement includes the information required under RCW 8.26.180(3) as well as a clear identification of the real property and the estate or interest therein to be acquired including the buildings, structures, and other improvements on the land, as well as the fixtures considered to be part of the real property.

[Order 74-05, § 365-24-920, filed 10/9/74.]

WAC 365-24-930 Relocation costs and awards not to be considered in making appraisals. For real property acquisitions under state law, contracts or options to purchase real property shall not incorporate provisions for making payments for relocation costs and related items as outlined in Parts IV through VII of these regulations. Appraisers shall not give consideration to or include in their real property appraisals any allowances for the benefits provided under Parts IV through VII of these regulations. The estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under Parts IV through VII of these regulations.

[Order 74-05, § 365-24-930, filed 10/9/74.]

WAC 365-24-940 Consideration of relocation costs of outdoor advertising displays in making appraisals. Notwithstanding any other provisions contained herein, whenever, the cost of moving or relocating an outdoor advertising display or displays is determined to be equal to or in excess of the in-place value of the display, consideration should be given to acquiring such display or displays as a part of the real property.

[Order 74-05, § 365-24-940, filed 10/9/74.]

WAC 365-24-950 Acquisition of mobile homes. A state agency or local public body may purchase mobile homes where:

(1) The structural condition of the mobile home is such that it cannot be moved without substantial damage or unreasonable cost; or

(2) The mobile home does not meet the standards for decent, safe, and sanitary dwelling units as set out in WAC 365-24-210(2).

[Order 74-05, § 365-24-950, filed 10/9/74.]

WAC 365-24-960 Appraisal standards. For the purpose of promoting uniformity under RCW 8.26.180, the head of any state agency or local public body engaged in a program of land acquisition shall establish standards for appraisals used in their projects or programs, criteria for determining the qualifications of appraisers, and a system of review by qualified appraisers. In preparing such standards, acquiring entities should be guided by the Uniform Appraisal Standards for Federal Land Acquisition published in 1973, by the Interagency Land Acquisition Conference, and any modifications or subsequent revisions thereof. To the maximum extent feasible, this procedural guide should be followed by state agencies and local public bodies in acquiring real property for federally-assisted programs.

[Order 74-05, § 365-24-960, filed 10/9/74.]

Chapter 365-40 WAC

STATE FUNDING OF LOCAL HEAD START PROGRAMS

WAC

365-40-010	Purpose and authority.
365-40-020	Definitions.
365-40-041	Financial support application process.
365-40-051	Eligibility criteria.
365-40-071	Method of payment and reporting requirements.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

365-40-030	Financial support application process. [Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 78-11-059 (Order 78-04), § 365-40-030, filed 10/25/78.] Repealed by 79-08-050 (Order 79-02), filed 7/20/79. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW.
365-40-031	Establishment of advisory council. [Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 79-08-050 (Order 79-02), § 365-40-031, filed 7/20/79.] Repealed by 82-07-066 (Order 82-01), filed 3/22/82. Statutory Authority: RCW 43.06.110 and 43.63A.060.
365-40-040	Eligibility criteria. [Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 78-11-059 (Order 78-04), § 365-04-040 (codified as WAC 365-40-040), filed 10/25/78.] Repealed by 79-08-050 (Order 79-02), filed 7/20/79. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW.
365-40-050	Allowed and forbidden uses of state head start funds. [Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 78-11-059 (Order 78-04), § 365-40-050, filed 10/25/78.] Repealed by 79-08-050 (Order 79-02), filed 7/20/79. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW.
365-40-060	Method of payment. [Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 78-11-059 (Order 78-04), § 365-40-060, filed 10/25/78.] Repealed by 79-08-050 (Order 79-02), filed 7/20/79. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW.
365-40-061	Allowable and unallowable costs. [Statutory Authority: RCW 43.63A.060. 85-13-006 (Order 85-03), § 365-40-061, filed 6/7/85. Statutory Authority: RCW 43.06.110 and 43.63A.060. 82-07-066 (Order 82-01), § 365-40-061, filed 3/22/82. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 79-08-050 (Order 79-02), § 365-40-061, filed 7/20/79.] Repealed by 89-21-056 (Order 89-04), filed 10/16/89, effective 11/16/89. Statutory Authority: Chapter 43.63A RCW.

WAC 365-40-010 Purpose and authority. (1) The purpose of this chapter is to outline the conditions and procedures under which state funds will be made available for Head Start programs.

(2) This activity is undertaken pursuant to RCW 43.06.110 and chapter 43.63A RCW.

[Statutory Authority: RCW 43.63A.060. 85-13-006 (Order 85-03), § 365-40-010, filed 6/7/85. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 78-11-059 (Order 78-04), § 365-40-010, filed 10/25/78.]

WAC 365-40-020 Definitions. (1) "Applicant" means a public or private nonsectarian organization which receives federal Head Start funds.

(2) "Contractor" means an applicant which has been allocated state Head Start funds under the state Head Start match program.

(3) "Department" means the department of community development.

(4) "Director" means the director of the department of community development.

(5) "Head Start program" means an operation undertaken in accordance with the program performance standards set forth in the *ocd-hs head start policy manual* (OCD Notice N-30-364-4) "Head Start program performance standards," published by the United States Department of Health, Education, and Welfare July 1975.

[Statutory Authority: Chapter 43.63A RCW. 89-21-056 (Order 89-04), § 365-40-020, filed 10/16/89, effective 11/16/89; 88-01-058 (Order 87-20), § 365-40-020, filed 12/16/87; 86-18-026 (Order 86-02), § 365-40-020, filed 8/27/86. Statutory Authority: RCW 43.63A.060. 85-13-006 (Order 85-03), § 365-40-020, filed 6/7/85. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 78-11-059 (Order 78-04), § 365-40-020, filed 10/25/78.]

WAC 365-40-041 Financial support application process. (1) Each potential applicant will be notified by the department that application for state Head Start financial assistance is to be made to the department.

(2) An applicant must make formal application in the form and manner specified by the department. Failure of an applicant to make application in the specified time will result in no state Head Start funds being allocated.

(3) Applications for state Head Start financial assistance shall contain a description of the services to be provided with state Head Start funds.

(4) The department shall provide a contract for signature to the applicant or a request for additional information.

[Statutory Authority: Chapter 43.63A RCW. 89-21-056 (Order 89-04), § 365-40-041, filed 10/16/89, effective 11/16/89; 86-18-026 (Order 86-02), § 365-40-041, filed 8/27/86. Statutory Authority: RCW 43.63A.060. 85-13-006 (Order 85-03), § 365-40-041, filed 6/7/85. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 79-08-050 (Order 79-02), § 365-40-041, filed 7/20/79.]

WAC 365-40-051 Eligibility criteria. In order to receive state Head Start funds, a contractor must currently be receiving federal funds to operate a Head Start program. State Head Start funds may be used only for activities which result in direct and measurable services to Head Start program children. The department shall determine the formula for distribution of state funds based on current federal enrollment levels at the time of funding.

[Statutory Authority: Chapter 43.63A RCW. 89-21-056 (Order 89-04), § 365-40-051, filed 10/16/89, effective 11/16/89; 88-01-058 (Order 87-20), § 365-40-051, filed 12/16/87; 86-18-026 (Order 86-02), § 365-40-051, filed 8/27/86. Statutory Authority: RCW 43.63A.060. 85-13-006 (Order 85-03), § 365-40-051, filed 6/7/85. Statutory Authority: RCW 43.06.110 and 43.63A.060. 82-07-066 (Order 82-01), § 365-40-051, filed 3/22/82. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 79-08-050 (Order 79-02), § 365-40-051, filed 7/20/79.]

WAC 365-40-071 Method of payment and reporting requirements. (1) State Head Start funds will be paid in accordance with the provisions of the applicable contract and these regulations.

(2) Reports to the department to assure that funds are being expended for purposes authorized in the approved contract are required in a format approved by the department.

(3) The contractor at time of application, and annually thereafter, shall submit a current audit of funds by an independent auditor or office of state auditor and resolution of findings provided under this rule. Standard accepted auditing techniques shall be used. Such audit may be that conducted for and provided to other funding sources. This audit report must include a breakdown of state funds by contract number.

[Statutory Authority: Chapter 43.63A RCW. 89-21-056 (Order 89-04), § 365-40-071, filed 10/16/89, effective 11/16/89; 88-01-058 (Order 87-20), § 365-40-071, filed 12/16/87; 86-18-026 (Order 86-02), § 365-40-071, filed 8/27/86. Statutory Authority: RCW 43.63A.060. 85-13-006 (Order 85-03), § 365-40-071, filed 6/7/85. Statutory Authority: RCW 43.06.110 and 43.63A.060. 82-07-066 (Order 82-01), § 365-40-071, filed 3/22/82. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 79-08-050 (Order 79-02), § 365-40-071, filed 7/20/79.]

Chapter 365-60 WAC

STATE ADMINISTRATION OF THE LOCAL SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

WAC

365-60-010 Purpose and authority.
365-60-020 Policies and procedures.

WAC 365-60-010 Purpose and authority. (1) The purpose of this chapter is to present the conditions and procedures under which the state will administrate available contract authority for specified number of federally assisted dwelling units.

(2) This activity is undertaken pursuant to chapter 43.63A RCW.

[Statutory Authority: Chapter 43.63A RCW. 79-03-004 (Order 79-02), § 365-60-010, filed 2/9/79.]

WAC 365-60-020 Policies and procedures. The policies and procedures followed by the planning and community affairs agency in administering the contract authority awarded to it for the Section 8 housing assistance payments program will coincide with all federal laws and rules governing the Section 8 housing assistance payments program including but not limited to the following: New Construction Regulations 24 CFR 880; Substantial Rehabilitation Regulations 24 CFR 881; Existing Regulations 24 CFR 882; State Agency Regulations 24 CFR 883; Regulations Affecting Eligible Section 8 Recipients 24 CFR 889; Section 11(b) Regulations 24 CFR 811; Community Development and Section 8 Regulations 24 CFR 570 and 24 CFR 891; Department of Housing and Urban Development Act (42 USC 3531, et seq); U.S. Housing Act of 1937 (42 USC 1401, et seq); Title VI of the Civil Rights Act of 1964; Title VIII of the Civil Rights Act of 1968; Executive Orders 11063 and 11246, and Section 3 of the Housing and Urban Development Act of 1968; the National Flood Insurance Act of 1968; Executive Orders 11988 and 11990; the National Environmental Policy Act; the Clean Air Act; the Federal Pollution Control Act; and the Davis-Bacon Act. The Section 8 housing assistance payments program is completely unrelated to and should not be confused with the planning advances program (WAC 365-22-010 through 365-22-090) of the planning and community affairs agency. None of

WAC 365-22-010 through 365-22-090 pertain to or are applicable to the state administration of the local Section 8 housing assistance payments program.

[Statutory Authority: Chapter 43.63A RCW. 79-03-004 (Order 79-02), § 365-60-020, filed 2/9/79.]

Chapter 365-70 WAC

ALLOCATING SINGLE FAMILY HOUSING BONDS AMONG LOCAL HOUSING AGENCIES

WAC

365-70-010	Definitions.
365-70-020	Applications.
365-70-030	Distributions.
365-70-040	Criteria for distribution.
365-70-050	1983 distribution.
365-70-060	Distribution prior to distribution date.
365-70-070	Confirmation of distribution.

WAC 365-70-010 Definitions. (1) "Act" means E2SSB No. 3245, chapter 161, Laws of 1983.

(2) "Agency" means the planning and community affairs agency.

(3) "Code" means the Internal Revenue Code of 1954, as amended, and regulations promulgated thereunder.

(4) "Commission" means the state housing finance commission.

(5) "Local housing agency" means any municipal corporation or other entity authorized under state law to issue bonds for the financing of single family housing in accordance with section 103A of the code.

(6) "Distribution date" means the date by which the director of the agency will make the allocation of single housing family bonds among local housing agencies.

[Statutory Authority: 1983 c 161 § 20. 83-17-047 (Order 83-03), § 365-70-010, filed 8/16/83.]

WAC 365-70-020 Applications. (1) Any local housing agency which intends to issue bonds within a calendar year for the financing of single family housing in accordance with the code, shall submit an application to be received by the agency no later than January 1 of such year: *Provided*, That for calendar year 1983 such application shall be received no later than July 1, 1983.

(2) Such application shall contain the following information: (i) The jurisdiction served by the applicant and the population of such jurisdiction; (ii) the amount of bonds intended to be issued during the calendar year; (iii) the amount of housing to be supplied as a result of such financing; (iv) a description of the housing and financing proposed; (v) a statement regarding the likelihood of completing such financing during the calendar year (reference should be made to the existence of bond purchase contracts or other documentation already executed or scheduled to be executed); (vi) a statement regarding the consistency of the project(s) with the plan of the commission, if available; (vii) a statement concerning coordination with other applicable federal and state programs; (viii) any other information the applicant believes is pertinent to the agency's decision to grant an allocation distribution.

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[Statutory Authority: 1983 c 161 § 20. 83-17-047 (Order 83-03), § 365-70-020, filed 8/16/83.]

WAC 365-70-030 Distributions. The director of the agency shall make a distribution of all or a portion of the allocation of single family housing bonds available to local housing agencies pursuant to the act and the code. Such distribution shall be made by the director no later than February 1: *Provided*, That for 1983 it shall be made no later than September 1, 1983. The distribution shall be announced in writing, mailed to each applicant and copies thereof made available by the director to all interested parties.

[Statutory Authority: 1983 c 161 § 20. 83-17-047 (Order 83-03), § 365-70-030, filed 8/16/83.]

WAC 365-70-040 Criteria for distribution. In determining such distribution the director shall attempt to make available to local housing agencies and the commission the maximum amount of housing financing allocable pursuant to the code and the act. The director shall specifically consider:

(1) The amount of housing to be made available by each applicant;

(2) The population within the jurisdiction of each applicant;

(3) Coordination with other applicable federal and state housing programs;

(4) The likelihood of implementing the proposed financing during that year; and

(5) Consistency with the plan of the commission, if available.

[Statutory Authority: 1983 c 161 § 20. 83-17-047 (Order 83-03), § 365-70-040, filed 8/16/83.]

WAC 365-70-050 1983 Distribution. For calendar year 1983 the distribution to a local housing agency shall include bonds issued by it on or before June 30, 1983, but in an amount not to exceed twenty-five million dollars per issuer and in an aggregate amount for all local housing agencies not to exceed forty-six million dollars.

[Statutory Authority: 1983 c 161 § 20. 83-17-047 (Order 83-03), § 365-70-050, filed 8/16/83.]

WAC 365-70-060 Distribution prior to distribution date. A local housing agency may request a decision regarding its distribution amount prior to the distribution date if a bond issue is scheduled to be sold prior to the distribution date and a failure to certify such a distribution would impose an unavoidable or serious hardship on the local agency and its housing program. The director may, under such circumstances, grant a specific allocation in advance of the distribution date if such action would not seriously impair the ability of another applicant to issue bonds which would otherwise be likely to be allocated on the distribution date.

[Statutory Authority: 1983 c 161 § 20. 83-17-047 (Order 83-03), § 365-70-060, filed 8/16/83.]

WAC 365-70-070 Confirmation of distribution. Each local housing authority that receives a distribution must

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confirm its distribution by providing the agency with a copy of an executed bond purchase contract or alternative documentation deemed sufficient by the commission to evidence the reasonable likelihood that the distribution will be fully used. Any portion of such distribution which is not confirmed will be added to the allocation of the commission. Such confirmation must be received by the agency no later than June 1: *Provided*, That for 1983 such confirmation must be received no later than October 1, 1983. The agency shall provide written notice of any change in the distribution to the affected local housing authority prior to the effectiveness of any such change.

[Statutory Authority: 1983 c 161 § 20. 83-17-047 (Order 83-03), § 365-70-070, filed 8/16/83.]

Chapter 365-80 WAC

FIRE PROTECTION CONTRACTS FOR STATE FACILITIES WITH CITIES AND TOWNS

WAC

365-80-100	Authority.
365-80-110	Purpose.
365-80-120	Definitions.
365-80-130	Eligible municipalities.
365-80-140	Notification of intent to contract.
365-80-150	Method for determining state agency square footage.
365-80-160	Method for determining estimated values.
365-80-170	Notification to municipalities.
365-80-180	Good faith negotiations.
365-80-190	Dispute resolution.
365-80-200	Annual payments.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

365-80-010	General purpose. [Statutory Authority: RCW 35.21.775 as amended by 1983 c 146. 83-19-063 (Order 83-06), § 365-80-010, filed 9/20/83.] Repealed by 92-15-047 (Order 92-05), filed 7/10/92, effective 8/10/92. Statutory Authority: Chapter 35.21 RCW.
365-80-020	Eligible agencies. [Statutory Authority: RCW 35.21.775 as amended by 1983 c 146. 83-19-063 (Order 83-06), § 365-80-020, filed 9/20/83.] Repealed by 92-15-047 (Order 92-05), filed 7/10/92, effective 8/10/92. Statutory Authority: Chapter 35.21 RCW.
365-80-030	State facilities. [Statutory Authority: RCW 35.21.775 as amended by 1983 c 146. 83-19-063 (Order 83-06), § 365-80-030, filed 9/20/83.] Repealed by 92-15-047 (Order 92-05), filed 7/10/92, effective 8/10/92. Statutory Authority: Chapter 35.21 RCW.
365-80-040	Fire protection services. [Statutory Authority: RCW 35.21.775 as amended by 1983 c 146. 83-19-063 (Order 83-06), § 365-80-040, filed 9/20/83.] Repealed by 92-15-047 (Order 92-05), filed 7/10/92, effective 8/10/92. Statutory Authority: Chapter 35.21 RCW.
365-80-050	Basic fire protection payment. [Statutory Authority: RCW 35.21.775 as amended by 1983 c 146. 83-19-063 (Order 83-06), § 365-80-050, filed 9/20/83.] Repealed by 92-15-047 (Order 92-05), filed 7/10/92, effective 8/10/92. Statutory Authority: Chapter 35.21 RCW.
365-80-060	Method of determining square footage of state facilities. [Statutory Authority: RCW 35.21.775 as amended by 1983 c 146. 83-19-063 (Order 83-06), § 365-80-060, filed 9/20/83.] Repealed by 92-15-047 (Order 92-05), filed 7/10/92, effective 8/10/92. Statutory Authority: Chapter 35.21 RCW.
365-80-070	Payments. [Statutory Authority: RCW 35.21.775 as amended by 1983 c 146. 83-19-063 (Order 83-06), § 365-80-070, filed 9/20/83.] Repealed by 92-15-047 (Order 92-

05), filed 7/10/92, effective 8/10/92. Statutory Authority: Chapter 35.21 RCW.

365-80-080 Decisions of the planning and community affairs agency final. [Statutory Authority: RCW 35.21.775 as amended by 1983 c 146. 83-19-063 (Order 83-06), § 365-80-080, filed 9/20/83.] Repealed by 92-15-047 (Order 92-05), filed 7/10/92, effective 8/10/92. Statutory Authority: Chapter 35.21 RCW.

365-80-090 Unexpended funds. [Statutory Authority: RCW 35.21.775 as amended by 1983 c 146. 83-19-063 (Order 83-06), § 365-80-090, filed 9/20/83.] Repealed by 92-15-047 (Order 92-05), filed 7/10/92, effective 8/10/92. Statutory Authority: Chapter 35.21 RCW.

WAC 365-80-100 Authority. This chapter is promulgated pursuant to the authority granted in chapter 35.21 RCW.

[Statutory Authority: Chapter 35.21 RCW. 92-15-047 (Order 92-05), § 365-80-100, filed 7/10/92, effective 8/10/92.]

WAC 365-80-110 Purpose. The purpose of these rules is to implement the provisions of Substitute House Bill No. 2937 (chapter 117, Laws of 1992) which provides that state agencies and municipalities may negotiate fire protection contracts at their discretion, and also provides that certain municipalities are eligible to enter into compulsory fire protection contracts with state agencies. These rules set forth the guidelines that the department will use in determining which municipalities are eligible to enter into compulsory fire protection contracts with state agencies, and a process for resolving disputes between the parties negotiating any such contracts.

[Statutory Authority: Chapter 35.21 RCW. 92-15-047 (Order 92-05), § 365-80-110, filed 7/10/92, effective 8/10/92.]

WAC 365-80-120 Definitions. (1) "Department" means the department of community development.

(2) "Director" means the director of the department of community development.

(3) "Fire protection services" mean those fire services normally provided by a city or town for the protection of persons and property, except equipment operated and facilities owned by a city or town.

(4) "State facilities" mean buildings or facilities owned by the state or an agency or institution of the state, except those leased to a nontax-exempt person or organization, located within a city's or town's territorial limits.

(5) "State agency" means any agency or institution of the state of Washington.

(6) "Compulsory fire protection contract" means a fire protection contract as described in WAC 365-80-130.

(7) "Municipality" means city or town.

[Statutory Authority: Chapter 35.21 RCW. 92-15-047 (Order 92-05), § 365-80-120, filed 7/10/92, effective 8/10/92.]

WAC 365-80-130 Eligible municipalities. Section 4, chapter 117, Laws of 1992, provides that when a municipality has one or more state agencies located within its city limits, the municipality and the agency or agencies may enter into fire protection contracts. Section 6, chapter 117, Laws of 1992, provides that in cities or towns where the estimated value of state facilities, as determined by the department, equals ten percent or more of the municipality's total

assessed valuation, the state agency shall enter into a compulsory fire protection contract to provide the municipality with an equitable share of its fire protection services costs. An exception is provided where fire protection services are performed by state staff and equipment or by a fire protection district pursuant to RCW 52.30.020.

[Statutory Authority: Chapter 35.21 RCW. 92-15-047 (Order 92-05), § 365-80-130, filed 7/10/92, effective 8/10/92.]

WAC 365-80-140 Notification of intent to contract.

Cities and towns shall notify the department and the appropriate state agency in writing, not later than July 1 of the fiscal year for which payment shall be made, of their intent to enter into compulsory fire protection contract negotiations. When more than one state agency is located in a city or town, that municipality may notify only the department of its intent to enter into compulsory fire contract negotiations, and the department shall thereupon notify the appropriate state agencies of the municipality's intent. Municipalities making such notification shall include the name of the state agency or agencies which have state-owned facilities located therein. The department shall verify whether the state agency facilities in the municipality meet the estimated value threshold.

[Statutory Authority: Chapter 35.21 RCW. 92-15-047 (Order 92-05), § 365-80-140, filed 7/10/92, effective 8/10/92.]

WAC 365-80-150 Method for determining state agency square footage. After a municipality notifies the department of its intent to enter into compulsory fire protection contract negotiations (WAC 365-80-140), the department shall request a written report from each state agency in that municipality identifying the agency's state-owned facilities located therein. The report shall provide the square footage for each agency, and shall be submitted to the department within twenty days after receiving the request. The square footage shall be calculated as of July 1 of the fiscal year for which payment shall be made. No adjustments will be made until the following year for new facilities built or acquired after the determinations have been made.

[Statutory Authority: Chapter 35.21 RCW. 92-15-047 (Order 92-05), § 365-80-150, filed 7/10/92, effective 8/10/92.]

WAC 365-80-160 Method for determining estimated values. The department shall estimate the value of a state facility by formula, using the facility's total square footage and an estimated value per square foot, as developed by the department in consultation with the department of general administration and the association of Washington cities. State facility values so assigned shall be used solely for the purpose of determining a municipality's eligibility to enter into compulsory fire protection contract negotiations, and shall be reviewed annually and revised accordingly.

[Statutory Authority: Chapter 35.21 RCW. 92-15-047 (Order 92-05), § 365-80-160, filed 7/10/92, effective 8/10/92.]

WAC 365-80-170 Notification to municipalities.

Not later than July 31 of each year the department shall inform in writing each municipality making notification

under WAC 365-80-140, and the appropriate state agency or agencies, whether or not the municipality meets the estimated value threshold.

[Statutory Authority: Chapter 35.21 RCW. 92-15-047 (Order 92-05), § 365-80-170, filed 7/10/92, effective 8/10/92.]

WAC 365-80-180 Good faith negotiations. Negotiations for compulsory fire protection contracts shall be conducted in good faith. Good faith negotiations may include consideration of the unique benefits and burdens associated with the presence of the state facility or facilities in the city or town.

[Statutory Authority: Chapter 35.21 RCW. 92-15-047 (Order 92-05), § 365-80-180, filed 7/10/92, effective 8/10/92.]

WAC 365-80-190 Dispute resolution. If disputes arise when negotiating compulsory fire protection contracts, they shall be disposed of as follows:

(1) When notified by one of the parties of a disagreement, the director shall mediate a resolution.

(2) If the impasse continues, the director shall recommend a resolution. Mediation efforts shall be completed within thirty days after the director is notified.

(3) If the recommended resolution is not accepted, the director shall direct the parties to arbitration. Arbitration shall be conducted by a neutral arbiter acceptable to each party to the negotiations, and shall be completed within sixty days after being initiated. The arbiter shall select the final offer of either of the contracting parties, or the director's recommended resolution. Expenses associated with the arbitration shall be borne by the contracting parties, and the arbiter's decision shall be final, binding, and nonappealable.

[Statutory Authority: Chapter 35.21 RCW. 92-15-047 (Order 92-05), § 365-80-190, filed 7/10/92, effective 8/10/92.]

WAC 365-80-200 Annual payments. Payment for compulsory fire protection contracts shall be made directly to the municipalities not later than November 30 of each year. In cases involving arbitration, payment shall be made to the municipalities within thirty days of the arbiter's decision.

[Statutory Authority: Chapter 35.21 RCW. 92-15-047 (Order 92-05), § 365-80-200, filed 7/10/92, effective 8/10/92.]

Chapter 365-90 WAC

SUPPLEMENTAL LAW ENFORCEMENT RESOURCES FOR BORDER AREAS

WAC

365-90-010	Declaration of public policy.
365-90-020	Definitions.
365-90-040	Allocation of funds.
365-90-060	Responsibilities of eligible jurisdictions.
365-90-070	Changes.
365-90-080	Unexpended funds.
365-90-090	Annual review.

**DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER**

- 365-90-030 Eligible jurisdiction. [Statutory Authority: RCW 43.63A.190. 83-22-037 (Order 83-08), § 365-90-030, filed 10/27/83.] Repealed by 91-04-017 (Order 91-01), filed 1/28/91, effective 2/28/91. Statutory Authority: RCW 43.63A.060.
- 365-90-050 Procedure for notification and distribution. [Statutory Authority: RCW 43.63A.190. 83-22-037 (Order 83-08), § 365-90-050, filed 10/27/83.] Repealed by 91-04-017 (Order 91-01), filed 1/28/91, effective 2/28/91. Statutory Authority: RCW 43.63A.060.

WAC 365-90-010 Declaration of public policy. The following regulations are adopted pursuant to chapter 34.05 RCW, for the purpose of distributing excess funds from the liquor revolving fund as supplemental resources for border areas, and commonly referred to as the bordertowns program.

The legislature has found and declared that certain counties and municipalities near international borders are subjected to a constant volume and flow of travelers and visitors for whom local government services must be provided. In addition, the legislature has further found that it is in the public interest and for the protection of the health, property, and welfare of both the residents and visitors to provide supplemental resources to augment and maintain existing levels of police protection in these areas.

The legislature has directed the liquor control board to disburse a percentage share of the excess funds from the liquor revolving fund to the department of community development for the bordertowns program. These rules are intended to provide the criteria and procedures that the department of community development will utilize to distribute these funds to eligible jurisdictions.

[Statutory Authority: RCW 43.63A.060. 91-04-017 (Order 91-01), § 365-90-010, filed 1/28/91, effective 2/28/91. Statutory Authority: RCW 43.63A.190. 83-22-037 (Order 83-08), § 365-90-010, filed 10/27/83.]

WAC 365-90-020 Definitions. (1) "Department" means the department of community development and any of its employees or personnel designated thereof.

(2) "Border areas" means Blaine, Everson, Friday Harbor, Lynden, Nooksack, Northport, Oroville, Port Angeles, Sumas, and the area of Whatcom County commonly referred to as Point Roberts. All funds received by Whatcom County shall be spent within the Point Roberts area.

(3) "Formula" means the formula developed by the department of community development under RCW 43.63A.190 based on border traffic and historical public impacts of law enforcement problems.

[Statutory Authority: RCW 43.63A.060. 91-04-017 (Order 91-01), § 365-90-020, filed 1/28/91, effective 2/28/91. Statutory Authority: RCW 43.63A.190. 83-22-037 (Order 83-08), § 365-90-020, filed 10/27/83.]

WAC 365-90-040 Allocation of funds. The liquor control board shall disburse to the department three-tenths of one percent of the excess funds from the liquor revolving fund not less than once every three months. The department shall allocate those funds within thirty days to the eligible jurisdictions based on criteria to include but not be limited

to the following: (1) Traffic, (2) crime, and (3) per capita law enforcement budget.

[Statutory Authority: RCW 43.63A.060. 91-04-017 (Order 91-01), § 365-90-040, filed 1/28/91, effective 2/28/91. Statutory Authority: RCW 43.63A.190. 83-22-037 (Order 83-08), § 365-90-040, filed 10/27/83.]

WAC 365-90-060 Responsibilities of eligible jurisdictions. Eligible jurisdictions are responsible for complying with the legislative intent of the bordertowns program as cited in RCW 43.63A.190. The legislative intent shall be met by the following:

(1) Utilization of funds to augment and maintain existing levels of local police service.

(2) Utilization of funds for the procurement of law enforcement personnel, equipment or activities within the local police department which will be directly rendered in the control or curtailment of border related traffic and criminal problems. Funds are not appropriated for the purpose of increasing existing police personnel salaries, wages, or benefits, except that funds may be used to pay existing and/or new police personnel for overtime work.

[Statutory Authority: RCW 43.63A.190. 83-22-037 (Order 83-08), § 365-90-060, filed 10/27/83.]

WAC 365-90-070 Changes. The department, after consultation, discussion, or advisement, may modify or make minor adjustments to the formula for allocation of funds for the program. All decisions of the department under this program shall be final.

[Statutory Authority: RCW 43.63A.060. 91-04-017 (Order 91-01), § 365-90-070, filed 1/28/91, effective 2/28/91. Statutory Authority: RCW 43.63A.190. 83-22-037 (Order 83-08), § 365-90-070, filed 10/27/83.]

WAC 365-90-080 Unexpended funds. Any unspent funds may be reallocated by the department to other eligible jurisdictions.

[Statutory Authority: RCW 43.63A.060. 91-04-017 (Order 91-01), § 365-90-080, filed 1/28/91, effective 2/28/91. Statutory Authority: RCW 43.63A.190. 83-22-037 (Order 83-08), § 365-90-080, filed 10/27/83.]

WAC 365-90-090 Annual review. The bordertowns program shall be reviewed on an annual basis in the first quarter of each fiscal year with the eligible jurisdictions to discuss the allocation formula and any recent changes that may affect the purpose of the program or the allocation of funds.

[Statutory Authority: RCW 43.63A.060. 91-04-017 (Order 91-01), § 365-90-090, filed 1/28/91, effective 2/28/91. Statutory Authority: RCW 43.63A.190. 83-22-037 (Order 83-08), § 365-90-090, filed 10/27/83.]

Chapter 365-100 WAC**WINTER UTILITY MORATORIUM PROGRAM****WAC**

- | | |
|-------------|------------------------------|
| 365-100-010 | General purpose. |
| 365-100-020 | Definitions. |
| 365-100-030 | Applicant responsibilities. |
| 365-100-040 | Contractor responsibilities. |

DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER

365-100-050 Utility responsibilities. [Statutory Authority: RCW 43.63A.080. 84-21-087 (Order 84-02), § 365-100-050, filed 10/19/84.] Repealed by 85-05-017, Order 84-02, filed 2/13/85. Statutory Authority: RCW 43.63A.080.

WAC 365-100-010 General purpose. The following regulations are adopted pursuant to chapter 245, Laws of 1986 for the purpose of implementing a moratorium on utility shut-off's during the winter. The legislature has determined and declared that utilities that supply electricity or natural gas for home heating cannot discontinue service for low-income households between November 15 and March 15 for reasons of nonpayment provided the customer complies with the provisions of the act.

The purpose of this chapter is to outline the conditions and procedures under which the department of community development (DCD) and its contractors will implement this program pursuant to chapter 245, Laws of 1986.

[Statutory Authority: Chapter 43.63A RCW. 87-10-020 (Order 87-08), § 365-100-010, filed 5/1/87. Statutory Authority: RCW 43.63A.080. 85-05-017 (Order 84-02), § 365-100-010, filed 2/13/85; 84-21-087 (Order 84-02), § 365-100-010, filed 10/19/84.]

WAC 365-100-020 Definitions. The following definitions shall apply to terms in chapter 245, Laws of 1986, and/or this chapter:

"Applicant" refers to a client of a community action agency or other public or private nonprofit organization, or a current customer of a utility company, or an applicant for service of a utility company, who applies for the moratorium program or other energy assistance.

"Contractor" means community action agency or other public or private nonprofit organizations providing energy assistance and weatherization services under contract with the department of community development.

"Business days" means all days except Saturday, Sunday and legal holidays.

"Client income statement" means a statement the applicant signs that acknowledges household gross income, self-certified income, and seven percent of household's income. The statement acknowledges whether the income is verified or unverified, whether the applicant has applied for energy and weatherization assistance, and whether the utility company and the agency were properly notified by the applicant. The statement also acknowledges that the applicant agrees to enter into a payment plan, to pay the past due bill by October 15 even if they move, to pay for continued utility service, and to apply any assistance received to the bill.

"Date of application" means the day the applicant notifies the utility of their inability to pay the bill.

"Extenuating circumstances" means anything beyond the reasonable control of the applicant.

"Household income" means the total income of all household members considered for LIHEAP eligibility determination.

"LIHEAP" means low-income home energy assistance program, a federally-funded block grant.

"Low-income households" means households whose total income is no more than 125 percent of the federal poverty level.

"Overdue notice" means a written notice to disconnect service on a given date, unless payment is made.

"Utility" means regulated electric and gas companies, public utility districts, and municipal electric suppliers.

[Statutory Authority: Chapter 43.63A RCW. 87-10-020 (Order 87-08), § 365-100-020, filed 5/1/87. Statutory Authority: RCW 43.63A.080. 85-05-017 (Order 84-02), § 365-100-020, filed 2/13/85; 84-21-087 (Order 84-02), § 365-100-020, filed 10/19/84.]

WAC 365-100-030 Applicant responsibilities. (1) The applicant shall notify the utility of the inability to pay the bill, or the security deposit, within five business days. Notification may be made in person, in writing, or by telephone.

(2) The applicant shall contact the contractor within five business days from the date of notification to the utility to complete a client income statement. The applicant shall self-certify twelve months of household income.

(3) The applicant shall provide the utility with the completed client income statement of unverified income within twenty days from the date of application. Verified income, or acceptance of self-certification, must be supplied to the utility within forty-five days of application. (See WAC 365-100-040.)

(4) At the time the client income statement is submitted to the utility, the applicant shall enter an agreement to pay no less than seven percent of the applicant's household monthly income, plus one-twelfth of any billing accrued from the date application is made and thereafter through March 15, during the period of the utility moratorium.

(5) Prior to March 15, the applicant and the utility shall enter into an agreement with the specific terms for the repayment of any account balance. Such repayment agreement shall require full payment of the balance no later than October 15 of that year, unless other arrangements are provided by the utility.

[Statutory Authority: Chapter 43.63A RCW. 87-10-020 (Order 87-08), § 365-100-030, filed 5/1/87. Statutory Authority: RCW 43.63A.080. 85-05-017 (Order 84-02), § 365-100-030, filed 2/13/85; 84-21-087 (Order 84-02), § 365-100-030, filed 10/19/84.]

WAC 365-100-040 Contractor responsibilities. (1) The contractor may use the unverified client income statement to expedite the process for determining client eligibility for the moratorium program. The contractor may accept the applicant's self-certification of income in determining eligibility, or verify and document income in accordance with LIHEAP procedures. In either instance, the contractor shall notify the utility and the applicant of the applicant's eligibility no later than forty-five days from the date of application.

(2) The contractor shall provide the client income statement and assist the applicant in completing the statement when applying for the moratorium program. If the applicant contacts the contractor to apply for the moratorium program before notifying the utility of their inability to pay the bill, the contractor shall instruct the applicant to immediately contact the utility.

(3) The contractor shall interview the applicant for energy and weatherization assistance.

(4) The contractor shall provide the client income statement of unverified income to the applicant within twenty days from the date of application.

(5) The contractor shall inform the applicant that default on an agreed payment plan with the utility will remove moratorium protection until the past due bill is paid.

(6) The contractor shall advise the applicant that disconnection of services is possible if:

(a) Verified income is not supplied to the utility within forty-five days of application and no interim payment agreement has been made with the utility by the applicant.

(b) The applicant has been determined income ineligible.

(7) The contractor shall inform the applicant that the utility is required to offer a choice between a budget billing plan or equal payment plan.

[Statutory Authority: Chapter 43.63A RCW. 87-10-020 (Order 87-08), § 365-100-040, filed 5/1/87. Statutory Authority: RCW 43.63A.080. 85-05-017 (Order 84-02), § 365-100-040, filed 2/13/85; 84-21-087 (Order 84-02), § 365-100-040, filed 10/19/84.]

Chapter 365-110 WAC

STATE BUILDING CODE—BUILDING PERMIT SURCHARGES AND FEES

WAC

365-110-010	Authority.
365-110-020	Purpose.
365-110-035	Definitions.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

365-110-030	Sufficient federal funds not available. [Statutory Authority: RCW 19.27.085, 19.27A.040, 43.63A.060, 43.63A.065 and 1987 1st ex.s. c 7 § 217(14). 87-19-110 (Order 87-19), § 365-110-030, filed 9/18/87. Statutory Authority: 1985 c 144 and 360, 1985 1st ex.s. c 6, RCW 43.63A.060 and 43.63A.065. 85-19-042 (Order 85-10), § 365-110-030, filed 9/13/85.] Repealed by 90-09-008 (Order 90-01), filed 4/6/90, effective 5/7/90. Statutory Authority: Chapters 19.27 and 19.27A RCW.
365-110-040	Collection of energy studies surcharge. [Statutory Authority: 1985 c 144 and 360, 1985 1st ex.s. c 6, RCW 43.63A.060 and 43.63A.065. 85-19-042 (Order 85-10), § 365-110-040, filed 9/13/85.] Repealed by 90-09-008 (Order 90-01), filed 4/6/90, effective 5/7/90. Statutory Authority: Chapters 19.27 and 19.27A RCW.
365-110-050	Collection of State Building Code fee. [Statutory Authority: RCW 19.27.085, 19.27A.040, 43.63A.060, 43.63A.065 and 1987 1st ex.s. c 7 § 217(14). 87-19-110 (Order 87-19), § 365-110-050, filed 9/18/87. Statutory Authority: 1985 c 144 and 360, 1985 1st ex.s. c 6, RCW 43.63A.060 and 43.63A.065. 85-19-042 (Order 85-10), § 365-110-050, filed 9/13/85.] Repealed by 90-09-008 (Order 90-01), filed 4/6/90, effective 5/7/90. Statutory Authority: Chapters 19.27 and 19.27A RCW.
365-110-060	Transmittal of funds. [Statutory Authority: 1985 c 144 and 360, 1985 1st ex.s. c 6, RCW 43.63A.060 and 43.63A.065. 85-19-042 (Order 85-10), § 365-110-060, filed 9/13/85.] Repealed by 90-09-008 (Order 90-01), filed 4/6/90, effective 5/7/90. Statutory Authority: Chapters 19.27 and 19.27A RCW.
365-110-080	Termination. [Statutory Authority: RCW 19.27.085, 19.27A.040, 43.63A.060, 43.63A.065 and 1987 1st ex.s. c 7 § 217(14). 87-19-110 (Order 87-19), § 365-110-080, filed 9/18/87. Statutory Authority: 1985 c 144 and 360, 1985 1st ex.s. c 6, RCW 43.63A.060 and 43.63A.065. 85-

19-042 (Order 85-10), § 365-110-080, filed 9/13/85.] Repealed by 90-09-008 (Order 90-01), filed 4/6/90, effective 5/7/90. Statutory Authority: Chapters 19.27 and 19.27A RCW.

WAC 365-110-010 Authority. These rules are adopted under the authority of RCW 43.63A.060 which provides that the director shall make such rules and regulations and do all other things necessary and proper to carry out the purposes of chapter 43.63A RCW. RCW 43.63A.065(2) provides that among its functions and responsibilities the department shall administer state and federal grants and programs which are assigned to the department by the governor or the legislature.

[Statutory Authority: 1985 c 144 and 360, 1985 1st ex.s. c 6, RCW 43.63A.060 and 43.63A.065. 85-19-042 (Order 85-10), § 365-110-010, filed 9/13/85.]

WAC 365-110-020 Purpose. The purpose of these rules is to provide definitions to assist the collection of building permit fees as mandated by chapter 19.27 RCW.

[Statutory Authority: Chapters 19.27 and 19.27A RCW. 90-09-008 (Order 90-01), § 365-110-020, filed 4/6/90, effective 5/7/90. Statutory Authority: RCW 19.27.085, 19.27A.040, 43.63A.060, 43.63A.065 and 1987 1st ex.s. c 7 § 217(14). 87-19-110 (Order 87-19), § 365-110-020, filed 9/18/87. Statutory Authority: 1985 c 144 and 360, 1985 1st ex.s. c 6, RCW 43.63A.060 and 43.63A.065. 85-19-042 (Order 85-10), § 365-110-020, filed 9/13/85.]

WAC 365-110-035 Definitions. 1. **Department** shall mean the department of community development.

2. **State Building Code fee** shall mean a fee which is required to be collected by cities and counties pursuant to chapter 19.27 RCW. Funds collected shall be used exclusively to implement the provisions of chapters 19.27 and 19.27A RCW.

3. **Building permit** shall mean a permit issued by a city or a county to construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure regulated by the Uniform Building Code as set forth in the Uniform Building Code, section 301. This definition shall be subject to the exemptions contained in section 301 of the Uniform Building Code. Building permit shall include an installation permit or other permit issued by a city or county for a mobile/manufactured home, commercial coach, or factory built structure as defined and regulated by chapters 296-150A and 296-150B WAC. Building permits shall not include plumbing, electrical, mechanical permits, or permits issued pursuant to the Uniform Fire Code.

[Statutory Authority: Chapters 19.27 and 19.27A RCW. 90-09-008 (Order 90-01), § 365-110-035, filed 4/6/90, effective 5/7/90. Statutory Authority: RCW 19.27.085, 19.27A.040, 43.63A.060, 43.63A.065 and 1987 1st ex.s. c 7 § 217(14). 87-19-110 (Order 87-19), § 365-110-035, filed 9/18/87. Statutory Authority: 1985 c 144 and 360, 1985 1st ex.s. c 6, RCW 43.63A.060 and 43.63A.065. 85-19-042 (Order 85-10), § 365-110-035, filed 9/13/85.]

Chapter 365-120 WAC
STATE FUNDING OF LOCAL EMERGENCY
SHELTER PROGRAMS

WAC

365-120-010	Authority.
365-120-020	Purpose.
365-120-030	Definitions.
365-120-040	Contractor funding allocation.
365-120-050	Applicant eligibility criteria.
365-120-060	Financial support application process.

WAC 365-120-010 Authority. These rules are adopted under the authority of RCW 43.63A.060 which provides that the director shall make such rules and regulations and do all other things necessary and proper to carry out the purposes of chapter 43.63A RCW. RCW 43.63A.065(2) provides that among its functions and responsibilities the department shall administer state and federal grants and programs which are assigned to the department by the governor or the legislature.

[Statutory Authority: RCW 43.63A.060, 87-19-112 (Order 87-12), § 365-120-010, filed 9/18/87; 86-03-008 (Order 85-19), § 365-120-010, filed 1/6/86.]

WAC 365-120-020 Purpose. The purpose of this chapter is to set forth the conditions and procedures under which state funding will be made available to assist local emergency shelter programs.

[Statutory Authority: RCW 43.63A.060, 86-03-008 (Order 85-19), § 365-120-020, filed 1/6/86.]

WAC 365-120-030 Definitions. (1) "Department" means the department of community development.

(2) "Director" means the director of the department of community development.

(3) "Emergency shelter assistance program" means the statewide administrative activities carried out within the department of community development to allocate, award, and monitor state funds appropriated to assist local emergency shelter programs.

(4) "Emergency shelter program" means a program within a local agency or organization that provides emergency shelter services.

(5) "Applicant" means a public or private nonprofit organization including local government entities, or a combination thereof, which applies for state emergency shelter funds.

(6) "Contractor" means an applicant which has been awarded state funds under the emergency shelter assistance program and which has entered into a contract with the department of community development to provide emergency shelter services.

(7) "Lead agency contractor" means an applicant which has been awarded state funds under the emergency shelter assistance program and which has entered into a contract with the department of community development to administer subcontracts with one or more local agency providers of emergency shelter services.

(8) "Homeless" means persons, including families, who, on one particular day or night, do not have a decent and safe shelter nor sufficient funds to purchase a place to stay.

(9) "Voucher system" means a method of purchasing emergency shelter services by the night using a notification coupon.

(10) "Religious service" means any sectarian or non-denominational service, rite, or meeting that involves worship of a higher being.

(11) "Short-term" means one to thirty-one days.

(12) "Families" means one or more adults with dependent children under 18.

(13) "Congregate care facility" means a licensed boarding home or a licensed private establishment which has entered into a congregate care contract with the department of social and health services (WAC 388-15-560).

(14) "Group care facility" means an agency maintained and operated for the care of a group of children on a 24-hour basis (WAC 388-73-014(1)).

(15) "Crisis residential center" means an agency operated under contract with the department of social and health services to provide temporary protective care to children in a semi-secure residential facility in the performance of duties specified and in a manner provided in RCW 13.32A.010 through 13.32A.200 and 74.13.032 through 74.13.036 (WAC 388-73-014(6)).

(16) "Detoxification center" means a public or private agency or program of an agency which is operated for the purpose of providing residential detoxification services for those suffering from acute alcoholism.

(17) "Current or continuous provider" means an agency or organization that currently provides or has provided emergency shelter services for some period during the most recent fiscal year.

(18) "Participating agency" means a local public or private nonprofit organization which enters into a subcontract with a lead agency contractor to provide emergency shelter services.

(19) "Safe home" means a private home where short term emergency shelter is provided primarily to victims of domestic violence.

[Statutory Authority: RCW 43.63A.060, 87-19-112 (Order 87-12), § 365-120-030, filed 9/18/87; 86-20-011 (Order 86-15), § 365-120-030, filed 9/22/86; 86-03-008 (Order 85-19), § 365-120-030, filed 1/6/86.]

WAC 365-120-040 Contractor funding allocation. Each county of the state is allocated a portion of the total contractor appropriation by the legislature according to the following formula:

(1) Five thousand dollars minimum allocation to every county to offset the limited resources and higher costs of providing services in rural areas;

(2) Fifty percent of the remaining funds distributed proportionally based on each county's percent of the state's population with an income of one hundred percent of poverty using federal guidelines; and

(3) Fifty percent of the remaining funds distributed proportionally based on each county's percent of the unemployed population during the last state fiscal year.

(4) Any increases in appropriations to this program by the legislature will be allocated according to each county's percent of the total state appropriation which was determined in subsections (1), (2), and (3) of this section.

The department may award the combined allocation of two or more counties to a single applicant.

The department may award a contract to one lead agency contractor in each county with the exception of Pierce County, where there may be two lead agency contractors, and King County, where there may be five lead agency contractors to administer subcontracts with one or more local agency providers of emergency shelter services.

The department will give priority in the awarding of allocations to applicants who serve families and children in need of shelter.

In the event that funds are not claimed by an eligible organization in a county, or that a portion of the funds allocated to a county remain unspent, two thirds of those funds will be awarded to shelters serving the homeless mentally ill in King County and one third of the funds will be awarded to shelters serving the homeless mentally ill in Pierce County.

The department will pay for services provided under the state emergency shelter assistance program after the contractor submits a monthly report of expenditures incurred and a request for reimbursement.

[Statutory Authority: RCW 43.63A.060. 87-19-112 (Order 87-12), § 365-120-040, filed 9/18/87; 86-20-011 (Order 86-15), § 365-120-040, filed 9/22/86; 86-03-008 (Order 85-19), § 365-120-040, filed 1/6/86.]

WAC 365-120-050 Applicant eligibility criteria. (1)

The applicant for funding as a participating agency must have been a provider of emergency shelter for one year prior to the beginning date of the contract year.

(2) The applicant must not require participation in a religious service as a condition of receiving emergency shelter.

(3) The applicant must not require residency in the designated service area as a requirement for a homeless person to receive services.

(4) The applicant must practice nondiscrimination in providing services and employment.

(5) The applicant must not deny shelter to a homeless person because of his or her inability to pay.

(6) The applicant for funding as a participating agency must provide short-term emergency shelter services either directly through a shelter facility, through a voucher system, or through a safe home.

(7) The applicant for lead agency contractor must be authorized by the applicant participating agencies within each county for which funds are applied.

(8) The applicant for lead agency contractor may or may not actually provide emergency shelter program services.

(9) The applicant must be a public or private nonprofit organization, or a local government entity.

(10) Group care facilities, crisis residential centers, congregate care facilities, and detoxification centers are not eligible to receive emergency shelter assistance funding.

[Statutory Authority: RCW 43.63A.060. 87-19-112 (Order 87-12), § 365-120-050, filed 9/18/87; 86-20-011 (Order 86-15), § 365-120-050, filed 9/22/86; 86-03-008 (Order 85-19), § 365-120-050, filed 1/6/86.]

WAC 365-120-060 Financial support application process. (1) Potential applicants will be notified by the department that in order to be considered for state emergen-

cy shelter financial assistance, an application must be submitted to the department.

(2) An applicant must make formal application using forms issued and procedures established by the department. Such application shall be for the period July 1 - June 30. Failure of an applicant to make application in a timely manner, as specified by the department, will result in denial of the funding request.

(3) Department funds may not be substituted for other existing funding sources.

(4) The total amount of funds provided to a contractor under this program may not exceed the total funding received from other sources for emergency shelter services during the fiscal year.

(5) Administrative costs under this program are limited to ten percent of the total award for providing direct services. The administrative costs of a contractor that provides direct emergency shelter services and also serves as a lead agency contractor are limited to ten percent of the contractor award for providing direct services plus ten percent of the multi-agency service provider contract total. However, total administrative costs for a lead agency contractor may not exceed fifteen percent of a county's total allocation.

(6) The department shall notify successful applicants and shall provide to each of them a contract for signature. This contract must be signed by an official with authority to bind the applicant and must be returned to the department prior to the award of any funds under this program.

[Statutory Authority: RCW 43.63A.060. 87-19-112 (Order 87-12), § 365-120-060, filed 9/18/87; 86-20-011 (Order 86-15), § 365-120-060, filed 9/22/86; 86-03-008 (Order 85-19), § 365-120-060, filed 1/6/86.]

Chapter 365-130 WAC BOND USERS CLEARINGHOUSE

WAC

365-130-010	Purpose of the bond users clearinghouse.
365-130-020	Definitions.
365-130-030	Collection of municipal bond information.
365-130-040	Publication of municipal bond information.

WAC 365-130-010 Purpose of the bond users clearinghouse. In accordance with chapter 39.44 RCW, RCW 43.63A.155, and chapter 130, Laws of 1985, the department of community development will maintain records of bonds issued by local governments in the state of Washington. The purpose of the bond users clearinghouse is to collect information which identifies the amount, type, and cost of municipal bonds being issued. The bond users clearinghouse will serve as an information source for local governments regarding the municipal bond market and as a public record of municipal bond issues.

[Statutory Authority: RCW 43.63A.155. 86-06-024 (Order 85-18), § 365-130-010, filed 2/27/86.]

WAC 365-130-020 Definitions. (1) "Local government" means any county, city, town, special purpose district, political subdivision, municipal corporation, or quasi-municipal corporation, including any public corporation created by such an entity.

(2) "Bond" means any agreement which may or may not be represented by a physical instrument, including notes, warrants, or certificates of indebtedness, that evidences an indebtedness of a state or a local government or a fund thereof, where the state or local government agrees to pay a specified amount of money, with or without interest, at a designated time or times to either registered owners or bearers, and also including any other indebtedness that may be issued by the state or local government to fund private activities or purposes where the indebtedness is of a nonrecourse nature payable from private sources, except obligations subject to chapter 39.84 RCW.

[Statutory Authority: RCW 43.63A.155. 86-06-024 (Order 85-18), § 365-130-020, filed 2/27/86.]

WAC 365-130-030 Collection of municipal bond information. (1) The department of community development will supply to local governments and state agencies a form for reporting bond issue information. Information to be reported will be based on the requirements of RCW 39.44.210, 39.44.230, and chapter 130, Laws of 1985, and will include the names of the principals involved in the bond issue, in conjunction with the purpose of the bond users clearinghouse, as stated in WAC 365-130-010. Copies of the bond covenants and the official statement may also be required.

(2) Local governments, except those for whom the state fiscal agency acts as the bond registrar, must return the completed form and any other pertinent documents requested, including a copy of the bond covenants, to the department of community development within thirty days of the bond issuance.

(3) When the state fiscal agency acts as the bond registrar for a local government, the state fiscal agency will return the completed form and pertinent documents to the department of community development within thirty days of the bond issuance.

(4) State agencies issuing bonds are requested to voluntarily submit the completed form or the equivalent information to the department of community development within thirty days of the bond issuance.

[Statutory Authority: RCW 43.63A.155. 86-06-024 (Order 85-18), § 365-130-030, filed 2/27/86.]

WAC 365-130-040 Publication of municipal bond information. The department of community development will publish summaries of bond issues at least annually. Bond users clearinghouse summaries will be available to local governments, the legislature, state agencies, and the general public upon request.

[Statutory Authority: RCW 43.63A.155. 86-06-024 (Order 85-18), § 365-130-040, filed 2/27/86.]

**Chapter 365-135 WAC
BOND CAP ALLOCATION**

WAC

- 365-135-010 Purpose.
- 365-135-020 Definitions.
- 365-135-030 Initial allocations.

- 365-135-040 Procedure for obtaining an allocation, extension, or carryforward.
- 365-135-050 Fees.
- 365-135-060 Criteria for small issue (industrial revenue) bonds.

WAC 365-135-010 Purpose. The federal Tax Reform Act of 1986 imposes an annual ceiling on each state limiting the dollar volume of certain private activity bonds that can be issued. To allocate this ceiling among eligible issuers in Washington state, chapter 297, Laws of 1987 has been enacted. In accordance with the statute, the department of community development will allocate the state's private activity bond ceiling and establish by rule a fee schedule. The department will carry out such functions through the bond cap allocation program (BCAP).

[Statutory Authority: 1987 c 297. 87-19-082 (Order 87-18), § 365-135-010, filed 9/16/87.]

WAC 365-135-020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly provides otherwise.

Allocation assessment: The fee which is comprised of both the issuer's filing fee and approval fee and is assessed by the department upon an issuer, based upon the following formula: 1/40 of one percent (.00025) of the approved allocation amount or five hundred dollars, whichever is greater.

Approval fee: The amount of an issuer's allocation assessment less the filing fee.

Department: The Washington state department of community development.

Filing fee: A fee which is payable to the department in the amount of three hundred dollars and is due from the issuer upon filing an allocation request.

Reallocation: The assignment of an unused portion of the state ceiling from one bond use category to another or the provision of a certificate of approval to any issuer for an allocation amount which previously had been returned to the department.

Statute: Chapter 297, Laws of 1987.

[Statutory Authority: 1987 c 297. 87-19-082 (Order 87-18), § 365-135-020, filed 9/16/87.]

WAC 365-135-030 Initial allocations. Initial allocations shall be made in accordance with provisions of the statute. In addition, until September 1 of each calendar year, at least twenty-five percent of the initial allocation for the small issue bond use category shall be reserved for the community economic revitalization board's umbrella bond program, except that this amount may be reduced if the board indicates that a reduced amount is appropriate.

[Statutory Authority: 1987 c 297. 87-19-082 (Order 87-18), § 365-135-030, filed 9/16/87.]

WAC 365-135-040 Procedure for obtaining an allocation, extension, or carryforward. No issuer may receive an allocation of the state ceiling without a certificate of approval from the department.

Issuers may apply for a certificate of approval by submitting a completed allocation request form to the department and paying a three hundred dollar filing fee. An

allocation request form will be available from the department.

The department will respond to any such completed request in accordance with the statute. Each issuer that receives a certificate of approval for allocation will be concurrently notified of an approval fee due. The issuer must either confirm its intention to use its allocation by paying the approval fee in accordance with WAC 365-135-050 (3)(b) or lose the allocation approval. If an issuer does not issue private activity bonds or mortgage credit certificates in the amount and by the date for which it has received a certificate of approval, the unused amount shall revert to the department for reallocation, unless an extension or carryforward is granted.

An issuer may apply for an extension or carryforward of its allocation by submitting its request to the department and supplying any additional information required by the department. The department will promptly notify the issuer if any fees are due and respond to the request for extension or allocation in a timely manner.

[Statutory Authority: 1987 c 297. 87-19-082 (Order 87-18), § 365-135-040, filed 9/16/87.]

WAC 365-135-050 Fees. A fee schedule is hereby established, which will consist of:

(1) A filing fee, due at the time a request is filed with the department of community development; and

(2) An approval fee, due after the department approves an allocation amount for an issuer; and

(3) In certain cases, an extension or carryforward fee.

If an issuer's allocation request is denied, only the filing fee is due. The filing fee and the approval fee together comprise the issuer's allocation assessment, the total amount of which is based on the following formula:

1/40 of one percent (.00025) of the approved allocation amount or five hundred dollars, whichever is greater.

Annually, the department will determine if an adjustment of the fees is warranted by reviewing the account of BCAP revenues and expenses for the preceding fiscal year and by considering BCAP budget projections for the following fiscal year.

Payment of the fees will occur as indicated by the schedule below.

(a) Filing. Upon filing an allocation request, the issuer must submit a nonrefundable filing fee of three hundred dollars, which will count as part of the total allocation assessment if an allocation of the state ceiling is granted. The issuer may also elect to pay in advance any additional amount toward the balance of its anticipated allocation assessment.

(b) Approval. Any request that receives allocation approval will be concurrently notified of the approval fee amount due. The approval fee represents the unpaid balance of the allocation assessment. Within fifteen business days from the date the department of community development grants an allocation approval, the issuer must submit the approval fee or lose the allocation approval, except that any amount of the approval fee greater than one thousand dollars may be payable within ten business days from the date the

bond sale is closed or at such date as agreed upon by both the department and the issuer.

(c) Extensions and carryforwards. The department may assess an additional filing fee, not to exceed two hundred fifty dollars, upon any request for extension or carryforward. However, if the BCAP administrator determines that an issuer's allocation assessment includes a sufficient amount to pay for the additional administrative expenses associated with granting or denying such a request, the additional fee shall be waived.

(d) Refunds. If a requesting issuer pays any fee greater than the amount assessed by the department, that amount shall be refunded by the department.

[Statutory Authority: 1987 c 297. 87-19-082 (Order 87-18), § 365-135-050, filed 9/16/87.]

WAC 365-135-060 Criteria for small issue (industrial revenue) bonds. In addition to the statute, the following guidelines will be used as criteria for evaluating small issue requests:

(1) Until June 1 of each year, a minimum percentage of the ceiling available for small issues will be set aside for issuers in those locations which BCAP designates by certain geographic and distress indicators, as follows:

<u>Designation</u>	<u>Allocation set-aside</u>
East/distressed	15% or greater
West/distressed	15% or greater
East/nondistressed	10% or greater

(2) In evaluating the number of employment opportunities a project would offer in relationship to the dollars which would be allocated from the ceiling, priority will be given to those projects, relative to their appropriate designation, which do not exceed the following ratios for dollars allocated per job:

<u>Designation</u>	<u>\$ (in thousands) per job offered</u>
East/distressed	\$292.2/job
East/nondistressed	121.6/job
West/distressed	246.2/job
West/nondistressed	206.6/job
State-wide	216.8/job

(3) If the department finds that a particular project does not meet the guidelines in this section, but is nonetheless in the best interest of the state, the department may approve the request. Factors that may lead to such a finding include the following:

(a) The level of unemployment in a particular community within a county, to the extent that figures are available from the Washington state employment security department; and

(b) The number of secondary or spin-off jobs expected to be generated by the project.

(4) If demand for allocation exceeds the amount available, priority will be given to counties designated as distressed, using unemployment figures from the employment security department.

(5) The department will review these guidelines at least annually.

[Statutory Authority: 1987 c 297. 87-19-082 (Order 87-18), § 365-135-060, filed 9/16/87.]

Chapter 365-140 WAC

STATE FUNDING OF LOCAL EMERGENCY FOOD PROGRAMS

WAC

365-140-010	Authority.
365-140-020	Purpose.
365-140-030	Definitions.
365-140-040	Contractor funding allocation and award of contracts.
365-140-050	Applicant eligibility criteria.
365-140-060	Financial support application process.

WAC 365-140-010 Authority. These rules are adopted under the authority of RCW 43.63A.060 which provides that the director shall make such rules and regulations and do all other things necessary and proper to carry out the purposes of chapter 43.63A RCW. RCW 43.63A.065(2) provides that among its functions and responsibilities the department shall administer state and federal grants and programs which are assigned to the department by the governor or the legislature.

[Statutory Authority: RCW 43.63A.060, 87-19-113 (Order 87-11), § 365-140-010, filed 9/18/87; 86-08-043 (Order 85-15), § 365-140-010, filed 3/27/86.]

WAC 365-140-020 Purpose. The purpose of this chapter is to set forth the conditions and procedures under which state funding will be made available to assist local emergency food programs.

[Statutory Authority: RCW 43.63A.060, 86-08-043 (Order 85-15), § 365-140-020, filed 3/27/86.]

WAC 365-140-030 Definitions. (1) "Department" means the department of community development.

(2) "Director" means the director of the department of community development.

(3) "Food bank" means a site where food is collected and distributed to clients at no charge.

(4) "Food distribution center" means a site where food is collected, warehoused, and distributed to food banks without charge on a regional, county, or statewide basis.

(5) "Commodity program" means a program that primarily distributes USDA surplus commodities to clients.

(6) "Emergency food assistance program" means the statewide administrative activities carried out within the department of community development to allocate, award, and monitor state funds appropriated to assist local food banks and food distribution centers.

(7) "Applicant" means a public or private nonprofit organization, which applies for state emergency food assistance.

(8) "Contractor" means an applicant which has been awarded state funds under the emergency food assistance program, and which has entered into a contract with the department of community development to provide emergency food assistance to individuals.

(9) "Lead agency contractor" means a contractor which may subcontract with one or more local organizations to provide emergency food assistance to individuals.

(10) "Religious service" means any sectarian or non-denominational service, rite, or meeting that involves worship of a higher being.

(11) "Unmet need" means an area of the state, region, or county that is currently not being adequately served by existing emergency food assistance providers.

(12) "Participating agency" means a local public or private nonprofit organization which enters into a subcontract with a lead agency contractor to provide emergency food program services.

[Statutory Authority: RCW 43.63A.060, 87-19-113 (Order 87-11), § 365-140-030, filed 9/18/87; 86-20-010 (Order 86-14), § 365-140-030, filed 9/22/86; 86-08-043 (Order 85-15), § 365-140-030, filed 3/27/86.]

WAC 365-140-040 Contractor funding allocation and award of contracts. Each county of the state is allocated a portion of the total appropriation by the legislature.

(1) Sixty percent of total funds shall be provided by county to a public or private nonprofit organization for food banks.

(2) Forty percent of total funds shall be provided by county to a public or private nonprofit organization for food distribution centers.

(3) A formula for distributing the funds in proportion to need shall be established by the department in consultation with a committee appointed by the director or the director's designee. The formula shall address the following:

- (a) Poverty population in each county;
- (b) Unemployed population in each county; and
- (c) Unmet needs in each county.

(4) The department may award the combined allocation for two or more counties to a single applicant.

(5) The department shall award a food bank contract to one lead agency contractor in each county, with the exception of Pierce County, where there may be two lead agency contractors, and King County, where there may be five lead agency contractors to administer subcontracts with one or more local providers of emergency food bank services.

(6) The department shall award a contract to food distribution centers which are designated by the emergency food assistance program and the food bank lead agency contractors.

(7) The department shall pay for services provided under the emergency food assistance program after the contractor submits a monthly report of expenditures incurred and a request for reimbursement.

(8) In the event that funds are not claimed by an eligible organization in a county or that a portion of the funds allocated to a county remain unspent, the lead agency contractor may request permission from the department to reallocate funds to an area of unmet need.

[Statutory Authority: RCW 43.63A.060, 89-22-032, § 365-140-040, filed 10/27/89, effective 11/27/89; 87-19-113 (Order 87-11), § 365-140-040, filed 9/18/87; 86-20-010 (Order 86-14), § 365-140-040, filed 9/22/86; 86-08-043 (Order 85-15), § 365-140-040, filed 3/27/86.]

WAC 365-140-050 Applicant eligibility criteria. (1) The applicant must have a certified form from the IRS stating nonprofit status under section 501(c)3, have a sponsor providing 501(c)3 status, or be a public nonprofit agency.

(2) The applicant must not require participation in a religious service as a condition of receiving emergency food.

(3) The applicant must provide food to individuals in an emergency, regardless of residency.

(4) The applicant must practice nondiscrimination in providing services and employment.

(5) The applicant must not deny food to an individual because of his or her inability to pay.

(6) Applicants for funding as participating agency or food distribution center must have had a food bank program or food distribution center in operation for one year prior to the beginning date of the contract year, except in areas with unmet need.

(7) The applicant for lead agency contractor may or may not actually provide emergency food program services.

[Statutory Authority: RCW 43.63A.060, 87-19-113 (Order 87-11), § 365-140-050, filed 9/18/87; 86-20-010 (Order 86-14), § 365-140-050, filed 9/22/86; 86-08-043 (Order 85-15), § 365-140-050, filed 3/27/86.]

WAC 365-140-060 Financial support application process. (1) Potential applicants will be notified by the department that in order to be considered for state emergency food financial assistance, an application must be submitted to the department.

(2) An applicant must make formal application using forms issued and procedures established by the department. Such application shall be for the period July 1 - June 30. Failure of an applicant to make application in a timely manner, as specified by the department, may result in denial of the funding request.

(3) Department funds may not supplant other existing funding sources.

(4) The total amount of funds provided to a contractor under this program may not exceed the total funding received from other sources for emergency food services during the fiscal year.

(5) Administrative costs under this program are limited to ten percent of the total award for providing direct emergency food assistance services. The administrative costs of a lead agency contractor are limited to ten percent of the contractor's award for providing direct services plus ten percent of the multi-agency service provider contract total. Total administrative costs for a lead agency contractor may not exceed fifteen percent of a county's total allocation.

(6) The department shall notify successful applicants and shall provide to each of them a contract for signature. This contract must be signed by an official with authority to bind the applicant and must be returned to the department prior to the award of any funds under this program.

(7) Department funds may not be used to defray costs of distributing USDA commodities under the commodity program.

(8) Department funds may not be used to defray costs of meal programs.

[Statutory Authority: RCW 43.63A.060, 87-19-113 (Order 87-11), § 365-140-060, filed 9/18/87; 86-20-010 (Order 86-14), § 365-140-060, filed 9/22/86; 86-08-043 (Order 85-15), § 365-140-060, filed 3/27/86.]

Chapter 365-150 WAC

WASHINGTON STATE DEVELOPMENT LOAN FUND

WAC

365-150-010 Authority.
365-150-020 Purpose.

365-150-030 Definitions.
365-150-040 Committee meetings.
365-150-050 Financing conditioned upon completed application.
365-150-060 Criteria by which the committee will evaluate loan fund applications.
365-150-070 Public records.
365-150-080 Requests for reconsideration of committee decisions.
365-150-090 Address for communication and application package requests.

WAC 365-150-010 Authority. This chapter is promulgated pursuant to the authority granted in RCW 43.63A.060 and 43.168.060.

[Statutory Authority: RCW 43.63A.060, 86-15-067 (Order 86-05), § 365-150-010, filed 7/22/86.]

WAC 365-150-020 Purpose. The purpose of this chapter is to establish the department of community development rules for the Washington state development loan fund, hereinafter referred to as the "fund," and the Washington state development loan fund committee, hereinafter referred to as the "committee."

The purpose of the program is:

(a) To encourage investment by businesses and financial institutions in economically distressed areas, and

(b) To make revolving loan funds available through local governments for private sector enterprises which will create or retain jobs and promote economic development in areas of economic stagnation, unemployment and poverty.

[Statutory Authority: RCW 43.63A.060, 86-15-067 (Order 86-05), § 365-150-020, filed 7/22/86.]

WAC 365-150-030 Definitions. Whenever used in this chapter, unless the context clearly indicates otherwise, the definitions of terms in RCW 43.168.020 shall be considered the definition of terms used in this chapter.

[Statutory Authority: RCW 43.63A.060, 86-15-067 (Order 86-05), § 365-150-030, filed 7/22/86.]

WAC 365-150-040 Committee meetings. (1) Notice of the time and location of regular committee meetings will be published annually in a January edition of the Washington State Register. A copy of the schedule of regular meetings may also be obtained upon request from the committee at the address set out in WAC 365-150-090 herein.

(2) Special meetings of the committee may be called at any time by the chairperson of the committee or by a majority of the committee members. Notice of such special meetings will be as provided by law.

[Statutory Authority: RCW 43.63A.060, 86-15-067 (Order 86-05), § 365-150-040, filed 7/22/86.]

WAC 365-150-050 Financing conditioned upon completed application. An application shall be deemed ready for a final decision by the committee only when the manager of the fund certifies that the following events have occurred:

(a) A loan fund application has been submitted by an eligible local government sponsor, signed by all parties, and all required supporting documentation has been provided.

(b) A memorandum has been prepared by department staff which specifies how the application meets criteria set

out in the fund enabling legislation and the loan fund guidelines. Such memorandum must be prepared by department staff within a reasonable time from receipt of the completed application.

[Statutory Authority: RCW 43.63A.060. 86-15-067 (Order 86-05), § 365-150-050, filed 7/22/86.]

WAC 365-150-060 Criteria by which the committee will evaluate loan fund applications. Applications shall be evaluated pursuant to the conditions and limitations established in RCW 43.168.050, and in guidelines for project funding promulgated by and available from the committee.

[Statutory Authority: RCW 43.63A.060. 86-15-067 (Order 86-05), § 365-150-060, filed 7/22/86.]

WAC 365-150-070 Public records. After an application for financial assistance has been received, certain information in the department's possession may be required to be made available for public inspection by applicable law. Certain other information shall be designated by the committee as confidential for protection of privacy interests and shall not be available to the public for inspection.

Criteria for determining what information shall be designated confidential as well as illustrative examples, are set out in the loan fund guidelines which are available upon request.

An applicant may request that specific information be kept confidential for protection of privacy interests. An applicant making such a request must provide the department with sufficient information to enable the department to independently determine the likelihood of invasion of privacy interests of a business or competitive detriment sufficient to justify confidentiality.

[Statutory Authority: RCW 43.63A.060. 86-15-067 (Order 86-05), § 365-150-070, filed 7/22/86.]

WAC 365-150-080 Requests for reconsideration of committee decisions. Any applicant whose completed proposal is denied financing by the committee shall have the opportunity to submit additional written materials to the committee for their reconsideration, upon terms and conditions established by the committee.

[Statutory Authority: RCW 43.63A.060. 86-15-067 (Order 86-05), § 365-150-080, filed 7/22/86.]

WAC 365-150-090 Address for communication and application package requests. All communications with the committee and its staff, including but not limited to, acquisition of program guidelines and application materials, submission of materials regarding participation in the development loan fund program, or inquiries regarding the operation and/or administration of the committee, including the inspection of public records, or other matters, should be addressed as follows: Development Loan Fund, Department of Community Development, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151, 1-800-562-5677 or (206) 753-4900.

[Statutory Authority: RCW 43.63A.060. 86-15-067 (Order 86-05), § 365-150-090, filed 7/22/86.]

Chapter 365-170 WAC

STATE FUNDING FOR LOCAL EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAMS

WAC

365-170-010	Authority.
365-170-020	Purpose.
365-170-030	Definitions.
365-170-040	Determination of funding.
365-170-050	Eligibility criteria for applicants.
365-170-060	Process for allocating or awarding funds.
365-170-070	Use of funds.
365-170-080	Eligibility criteria for clients.
365-170-090	Program design.
365-170-100	Administrative component.

WAC 365-170-010 Authority. These rules are adopted under the authority of RCW 43.63A.060 which provides that the director shall make such rules and regulations and do all other things necessary and proper to carry out the purposes of chapter 43.63A RCW. RCW 43.63A.065(2) provides that among its functions and responsibilities the department shall administer state and federal grants and programs which are assigned to the department by the governor or the legislature. These rules are also adopted under the specific authority delegated to the department under RCW 28A.34A.060 to adopt rules for the administration of the program. The program which these rules are designed to implement is found in chapter 28A.34A RCW.

[Statutory Authority: RCW 28A.34A.060. 88-18-039 (Order 88-04), § 365-170-010, filed 8/31/88. Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-010, filed 1/23/87.]

WAC 365-170-020 Purpose. The purpose of this chapter is to set forth the conditions and procedures under which state funding will be made available to assist local early childhood education and assistance programs.

[Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-020, filed 1/23/87.]

WAC 365-170-030 Definitions. (1) "Applicant" means a public or private nonsectarian organization which applies for state early childhood education and assistance program assistance.

(2) "At risk" means children residing in low income families who are by virtue of their socio-economic status at risk of failure in the common school system.

(3) "Contract year" means the period July 1 through June 30 in which the program must operate.

(4) "Department" means the department of community development.

(5) "Direct service" means any educational, health, or social service for children which is designed to meet the program standards.

(6) "Director" means the director of the department of community development.

(7) "Early childhood education and assistance program" means the state-wide administrative activities carried out within the department of community development to allocate, award, and monitor state funds appropriated to assist local early childhood education and assistance programs.

(8) "Family" means all persons living in the same household who are (a) supported by the income of the parent(s) or guardian(s) of the child enrolling in the early childhood education and assistance program, and (b) related to the parent(s) or guardian(s) by blood, marriage, adoption, or legal obligation to provide support.

(9) "Contractor" means an applicant which has been awarded state funds under the early childhood education and assistance program, and which has entered into a contract with the department of community development to provide an early childhood education and assistance program. Contractors may be local public or private organizations which are nonsectarian in their delivery of services.

(10) "Like educational services" means comprehensive programs providing educational, social, parent involvement, and health services funded by other sources.

(11) "Low-income family" means a family whose total income before taxes for the twelve months or full calendar year, whichever period better reflects the current income of the family, prior to the enrollment of their child in the early childhood education and assistance program is equal to, or less than, federally established poverty guidelines as defined by the Department of Health and Human Services. The term also includes a family receiving aid to families with dependent children or participating in the family independence program under chapter 74.21 RCW.

(12) "Nonsectarian" means that no aspect of early childhood education and assistance services will include any religious orientation.

[Statutory Authority: RCW 28A.34A.060. 88-18-039 (Order 88-04), § 365-170-030, filed 8/31/88. Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-030, filed 1/23/87.]

WAC 365-170-040 Determination of funding. Funds shall be allocated or awarded by the department consistent with the legislature's determination of the amount of funding available to award state-wide to early childhood education and assistance programs and any conditions imposed by the legislature on the use of such funds. Funds received from other sources will be administered according to the terms of the grant or award, if not inconsistent with the terms of this chapter, chapter 28A.34A RCW, and other applicable laws or rules.

[Statutory Authority: RCW 28A.34A.060. 88-18-039 (Order 88-04), § 365-170-040, filed 8/31/88. Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-040, filed 1/23/87.]

WAC 365-170-050 Eligibility criteria for applicants.

(1) Public or private nonsectarian organizations are eligible to apply for funding as early childhood education and assistance programs.

(2) A consortium of public or private nonsectarian organizations, or both, are eligible to apply.

(3) Organizations must have established appropriate internal fiscal controls and fund accounting procedures to assure the proper disbursement of, and accounting for, all funds provided.

(4) Using a form provided by the department, organizations must obtain acknowledgement of their application from local school districts within the proposed service area.

(5) Programs shall neither deny service to, nor otherwise discriminate in the delivery of services against, any person who otherwise meets the eligibility criteria for the program on the basis of race, color, religion, sex, age, national origin, citizenship, ancestry, physical or mental handicap or because such person is a recipient of federal, state, or local public assistance.

(6) Not less than ten percent of the available slots state-wide shall be reserved for children of migrant families, seasonal farmworker families, and Native American families living on or off reservation.

[Statutory Authority: RCW 28A.34A.060. 88-18-039 (Order 88-04), § 365-170-050, filed 8/31/88. Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-050, filed 1/23/87.]

WAC 365-170-060 Process for allocating or awarding funds. (1) Funds shall be awarded on a competitive basis or allocated by the department.

(2) An applicant shall use forms issued and procedures established by the department.

(3) The department shall notify all applicants of funding decisions. All recipients of funds shall be provided with a contract for signature. This contract must be signed by an official with authority to bind the recipient and must be returned to the department prior to the award or allocation of any funds under this program.

[Statutory Authority: RCW 28A.34A.060. 88-18-039 (Order 88-04), § 365-170-060, filed 8/31/88. Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-060, filed 1/23/87.]

WAC 365-170-070 Use of funds. (1) Department funds shall not be used to supplant other existing funding sources.

(2) Administrative costs under this program are limited to fifteen percent of the total award.

[Statutory Authority: RCW 28A.34A.060. 88-18-039 (Order 88-04), § 365-170-070, filed 8/31/88. Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-070, filed 1/23/87.]

WAC 365-170-080 Eligibility criteria for clients.

(1) A child is eligible if:

(a) The child is not eligible for kindergarten as of August 31 of the contract year; and

(b) The child would benefit from a preschool program designed to help prepare children to enter the school system. Consistent with the intent to prepare children for the common school system, priority shall be given on a state-wide basis to serving eligible four year old children.

(2) A child must be a member of a low-income family as defined under WAC 365-170-030(11).

(3) A child may not otherwise be a participant in a federal or state program providing like educational services as defined under WAC 365-170-030(10).

(4) As many as ten percent of the available funded enrollment slots may be filled with children who do not meet the eligibility requirements under subsection (2) or (3) of this section but due to circumstances in their environment or in their performance need the program and would benefit from the program.

(5) Participants in the early childhood education and assistance program will not be charged fees for any services provided.

[Statutory Authority: RCW 28A.34A.060, 88-18-039 (Order 88-04), § 365-170-080, filed 8/31/88. Statutory Authority: RCW 43.63A.060, 87-04-007 (Order 87-02), § 365-170-080, filed 1/23/87.]

WAC 365-170-090 Program design. Standards for program design are based on a model of comprehensive services to participating children. These include educational services, health services (including medical, dental, nutrition, and mental health), and social services to families. Parents shall be given the opportunity to be involved in every aspect of the planning and implementation of services. Specific program requirements are contained in the program standards publication available from the department.

(1) Education component:

(a) Activities in the classroom, home visits, and group experiences will be planned and implemented to ensure that a supportive social and emotional climate exists, intellectual skills are developed, and physical growth is promoted.

(b) Activities in the classroom, home visits, or group experience will be individualized through the development of a curriculum which is developmentally appropriate and is relevant to and reflective of the needs of the population served.

(c) At a minimum, when the majority of the children speak a common language other than English, at least one teacher or aide who speaks their language must be available when children participate in classroom or group experiences.

(d) There will be a mental health professional to advise and assist in developmental screenings and assessments and observe children in the classroom setting and consult with teachers and other appropriate staff at least twice a year.

(e) The program will provide methods for enhancing the knowledge and understanding of both staff and parents of the educational and developmental needs and activities of children in the program.

(f) Staff and parents participating in the program shall be trained for and will use positive techniques of guidance, including redirection, anticipation, elimination of potential problems, positive reinforcement and encouragement during the actual hours of program operation while the child is participating in program activities supervised by program staff.

(g) Corporal punishment or other humiliating or frightening discipline techniques shall not be used during the actual hours of program operation while the child is participating in program activities supervised by program staff.

(2) Health component:

(a) There will be a health advisory committee composed of local medical, dental, and nutrition providers, program parents and staff to advise in program planning, implementing, and evaluating program procedures and operations for medical, dental, mental health, and nutrition services. Existing committees may be modified or combined to carry out these activities.

(b) There will be informed prior written parent consent prior to the provision of any health (medical, dental, nutrition, or mental health) services.

(c) The program will provide for an organized health education program for staff, parents, and children which will be integrated into instructional activities in home based and center based programs.

(d) Food will be provided which will help meet a portion of the child's daily nutritional needs, recognizing individual differences and cultural patterns. The food service system, including the menus, shall be approved by a certified dietician or nutritionist as defined in chapter 18.138 RCW. The certified dietician or nutritionist shall be available to provide consultation and education on the nutritional needs of enrolled children.

Programs will participate in the United States Department of Agriculture Child Food and Nutrition Program and shall comply with applicable local, state, and federal sanitation laws and regulations for storage, preparation, and service of food and health of food handlers.

(3) Social services component:

(a) Age and income-eligible children will be recruited for enrollment taking into account the demographic make-up of the community and the needs of the children and families according to approved written recruitment procedures that address both the identification of age and income-eligible children and local priorities within that same population.

(b) Needs will be assessed to assist families in identifying and using appropriate and available community resources.

(c) Programs will coordinate with existing community resources, including existing head start and other preschool programs.

(4) Parent involvement component:

(a) The program will provide for parental involvement at a level not less than that provided under the federal head start program criteria which includes, but is not limited to, parents working with children in cooperation with staff, parents participating in the program, and parents planning for the operation of the program.

(b) The program will install a policy council composed of parents of children who are enrolled in the program, at a level not less than fifty percent and community representatives.

[Statutory Authority: RCW 28A.34A.060, 88-18-039 (Order 88-04), § 365-170-090, filed 8/31/88. Statutory Authority: RCW 43.63A.060, 87-04-007 (Order 87-02), § 365-170-090, filed 1/23/87.]

WAC 365-170-100 Administrative component. (1) Services to children and their families will be delivered through one or more of the following options:

(a) Center base option: Children will participate in center activities ten or more hours per week distributed over three or more days. One and one-half hours of contact between parents and staff will be completed each month. At least two education-related home visits to families will be completed during the year. Class unit size will not exceed eighteen children with an adult:child ratio of 1:6. There shall be a lead teacher for every class unit.

(b) Home base option: Children will participate in weekly group experiences not to exceed four hours per session. Families will receive weekly one and one-half hour home visits by a home base educator. The case load for

home base educators will not exceed twelve children. The adult:child ratio for group experiences will not exceed 1:6.

(c) Locally designed option: Local programs may elect to design and propose other program options which would better meet the needs of individual children and families in their communities. A locally designed option must: Contain rationale as to why the center based and home based options in (a) and (b) of this subsection would not be practicable; must represent a more effective approach to meeting the needs of children in the specific community; be consistent with sound child development practices; and be consistent with described standards to ensure that all components of the early childhood education and assistance program are delivered. The department will determine whether the locally designed option is acceptable on a case-by-case basis.

(2) The following staff qualifications are required for lead teachers in a center based program:

(a) For lead teachers, experience with low-income families is desirable. Lead teachers shall meet the following qualifications except as provided in (b) of this subsection:

(i) At least a four-year degree in the field of early childhood education or child development from an accredited public or private institution of higher education and a minimum of one year of successful experience working in a preschool or kindergarten; or

(ii) A two-year degree in the field of early childhood education or child development from an accredited public or private institution of higher education with a minimum of two years of successful experience working in a preschool or kindergarten; or

(iii) A valid Washington state elementary teaching certificate with an endorsement in early childhood education or early childhood special education or a person with a valid Washington state teaching certificate who would meet the qualifications for an endorsement in early childhood education or early childhood special education.

(b) If the organization is unable to find a lead teacher with the qualifications required under (a)(i), (ii), or (iii) of this subsection due to a local labor pool shortage documented by the organization, the organization may employ a lead teacher with the following qualifications:

(i) A teaching certificate and a minimum of one year of successful experience working with preschool age children; or

(ii) A minimum of a two-year degree from an accredited public or private institution of higher education and a minimum of two years successful experience working with preschool age children; or

(iii) A child development associate credential.

(c) The organization shall establish a written professional development plan for each lead teacher who does not meet the qualifications under (a) of this subsection. The plan shall also provide for observation of such lead teacher by a person meeting the qualifications of (a) of this subsection for a minimum of one class period a month, consultation, and advice and assistance regarding the observation and consultation as needed. The plan shall be completed within three years. Implementation of the plan and progress made towards completion of the plan will be reviewed by the organization.

(3) The following staff qualifications are required for home base educators in a home base program:

(a) For home base educators, successful experience pertinent to direct involvement with low-income families is desirable. Home base educators shall meet the following qualifications except as provided in (b) of this subsection:

(i) At least a four-year degree in the field of adult education or development, social work, psychology, early childhood education, or child development from an accredited public or private institution of higher education and a minimum of one year of successful relevant experience; or

(ii) A two-year degree in the field of adult education or development, social work, psychology, early childhood education, or child development from an accredited public or private institution of higher education and demonstrated ability to work with groups of preschool age children and a minimum of two years of successful relevant experience; or

(iii) A valid Washington state elementary teaching certificate with an endorsement in early childhood education or early childhood special education or a person with a valid Washington state teaching certificate who would meet the qualifications for an endorsement in early childhood education or early childhood special education.

(b) If the organization is unable to find a home base educator with the qualifications required under (a)(i), (ii), or (iii) of this subsection due to a local labor pool shortage documented by the organization, the organization may employ a home base educator with the following qualifications:

(i) A teaching certificate and demonstrated experience in working with preschool age children; or

(ii) A minimum of a two-year degree from an accredited public or private institution of higher education and a minimum of two years of successful relevant experience; or

(iii) A child development associate credential.

(c) The organization shall establish a written professional development plan for each home base educator who does not meet the qualifications under (a) of this subsection. The plan shall also provide for observation of such home base educator by a person meeting the qualifications of (a) of this subsection for a minimum of one home visit or peer group experience period a month, consultation, and advice and assistance regarding the observation and consultation as needed. The plan shall be completed within three years. Implementation of the plan and progress made towards completion of the plan will be reviewed by the local organization.

(4) Criminal history checks including fingerprinting will be performed for all staff hired after January 1, 1988, and having unsupervised contact with children.

(5) Facility:

(a) Facilities will provide for a physical environment conducive to learning and reflective of the needs of children.

(b) Facilities will comply with an annual fire, health, and safety inspection by local officials.

(c) The outdoor play area of the facility will be fenced to prevent children from leaving the premises unless the organization can demonstrate that the outdoor play area does not present a hazard to children's welfare and that adequate supervision will be provided when children are in the outdoor play area.

(d) The facility will contain a minimum of thirty-five square feet of indoor space per child available for the care of children (exclusive of bathroom, hall, kitchen, and

storage). There will be a minimum of seventy-five square feet per child outdoors.

(e) Adequate provision will be made to ensure the facility provides for accessibility, safety, and comfort of handicapped children.

(6) Transportation: Vehicles owned and/or operated by the program for the purposes of transporting children to and from program activities will meet all applicable local ordinances and state and federal laws, rules, and regulations.

(7) Suspected abuse: Suspected incidents of child abuse and/or neglect by parents, staff, or others must be reported by program staff within forty-eight hours to an appropriate law enforcement agency or the department of social and health services in accordance with RCW 26.44.030.

(8) The department may grant waivers for any of the provisions under subsections (1) through (3) and (5) of this section if a contractor can demonstrate that the intent of subsections (1) through (3) and (5) of this section will be met and can demonstrate that the requested waiver is consistent with the purposes of this chapter and chapter 28A.34A RCW. All requests for waivers shall be in writing and be granted on a case-by-case basis.

[Statutory Authority: RCW 28A.34A.060. 88-18-039 (Order 88-04), § 365-170-100, filed 8/31/88. Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-100, filed 1/23/87.]

Chapter 365-180 WAC ENERGY MATCHMAKERS

WAC

365-180-010	Authority.
365-180-020	Purpose.
365-180-030	Definitions.
365-180-040	Program funding.
365-180-050	Proposal for use of funding.
365-180-060	Sponsor match.
365-180-070	Local coordinated plan—Funding proposal process— Award of contracts.
365-180-080	Eligibility criteria for clients.
365-180-090	Program services.

WAC 365-180-010 Authority. These rules are adopted under the authority of chapter 70.164 RCW.

[Statutory Authority: 1987 c 36. 88-02-042 (Order 88-01), § 365-180-010, filed 1/4/88.]

WAC 365-180-020 Purpose. To set forth the conditions and procedures under which funding will be made available to be used in combination with contributions to support local low-income weatherization programs.

[Statutory Authority: 1987 c 36. 88-02-042 (Order 88-01), § 365-180-020, filed 1/4/88.]

WAC 365-180-030 Definitions. (1) "Department" means the department of community development.

(2) "Energy matchmakers local coordinated plan" means a proposal(s) for use of funding for local low-income weatherization programs in a specific geographical area.

(3) "Low-income" means household income that is at or below one hundred twenty-five percent of the federally established poverty level.

(4) "Nonutility sponsor" means an organization that is not an energy supplier and that submits a local coordinated plan.

(5) "Residence" means a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters; but excluding institutional buildings such as: A university, group care facility, nursing home, half-way residence, hospital, hotel, motel, etc.

(6) "Sponsor" means an organization that submits a match proposal as part of the energy matchmakers local coordinated plan.

(7) "Sponsor match" means the share, if any, of the cost of weatherization to be paid by the sponsor.

(8) "Weatherization" means materials or measures, including the education of the low-income household about energy saving behaviors in the home, and their installation or application, that are used to improve the thermal efficiency of a residence.

(9) "Weatherizing agency" means a public or nonprofit private organization, approved by the department, responsible for doing all aspects of the weatherization work.

[Statutory Authority: Chapter 70.164 RCW. 92-03-019 (Order 92-01), § 365-180-030, filed 1/7/92, effective 2/7/92. Statutory Authority: 1987 c 36. 88-02-042 (Order 88-01), § 365-180-030, filed 1/4/88.]

WAC 365-180-040 Program funding. The legislature determines the amount of funding available during a specific biennium for low-income weatherization. Each county receives a "planning estimate" based on the number of low-income households and the climatic conditions of the county. This "planning estimate" is available for low-income weatherization in each county if matching requirements are met. Contingent on the availability of funds, the department may award funds in an amount that exceeds the county's "planning estimate."

[Statutory Authority: 1987 c 36. 88-02-042 (Order 88-01), § 365-180-040, filed 1/4/88.]

WAC 365-180-050 Proposal for use of funding. (1) Any public or private organization in Washington, Idaho, or Oregon that conducts business in Washington state may propose funding for a geographical area(s) by submitting an energy matchmakers local coordinated plan.

(2) Plans submitted to the department shall be the result of local coordination and cooperation.

(3) Plans shall identify weatherizing agencies.

[Statutory Authority: 1987 c 36. 88-02-042 (Order 88-01), § 365-180-050, filed 1/4/88.]

WAC 365-180-060 Sponsor match. (1) Plans submitted by energy suppliers shall include a commitment of a matching contribution. Matching contributions can be either cash, in-kind contributions, or both. The match must cover half of the total cost of the low-income weatherization being proposed in the local area.

(2) Only resources that would not otherwise have been used for low-income weatherization will be considered as match.

(3) A sponsor may pay the sponsor match as lump sum at the time of weatherization, or make yearly payments over

a period not to exceed ten years. When the sponsor elects to make yearly payments, the value of the payments shall be determined by the department, but shall not be less than the value of the lump sum that would have been made.

- (4) All match committed shall result in:
 - (a) Increasing the number of residences weatherized;
 - (b) Increasing weatherization measures installed on or in the residence; or
 - (c) Otherwise increasing the thermal efficiency of the residence.

(5) The department may place a cap on the amount of match it will accept under subsection (4)(c) of this section.

(6) Match waivers may be granted by the department for plans submitted by nonutility sponsors.

[Statutory Authority: Chapter 70.164 RCW. 92-03-019 (Order 92-01), § 365-180-060, filed 1/7/92, effective 2/7/92. Statutory Authority: 1987 c 36. 88-02-042 (Order 88-01), § 365-180-060, filed 1/4/88.]

WAC 365-180-070 Local coordinated plan—Funding proposal process—Award of contracts. (1) A sponsor shall make a formal proposal using forms issued by the department.

(2) A review team will evaluate the energy matchmakers local coordinated plans, and will be composed of persons with knowledge of energy conservation and of community-based public and private service organizations.

(3) Plans which include a commitment of matching resources will be given priority for funding.

(4) The department shall have the final discretion to award funds.

(5) The department will enter into a contract with weatherizing agencies identified in successful local coordinated plans. This contract shall be signed by an official with authority to bind the weatherizing agency and returned to the department prior to the release of any funds under this program.

[Statutory Authority: 1987 c 36. 88-02-042 (Order 88-01), § 365-180-070, filed 1/4/88.]

WAC 365-180-080 Eligibility criteria for clients.

(1) Total income of all household members shall be at or below one hundred twenty-five percent of the federally established poverty level; or households shall meet other qualifications established by the department for its low-income weatherization program.

(2) Residences shall meet the qualifications established by the department for its low-income weatherization programs.

[Statutory Authority: 1987 c 36. 88-02-042 (Order 88-01), § 365-180-080, filed 1/4/88.]

WAC 365-180-090 Program services.

(1) Weatherizing agencies shall provide weatherization services to eligible low-income households in accordance with the "Washington state low-income weatherization assistance program procedures and guidelines" established by the department.

(2) No contribution may be required from the eligible household.

(3) Full levels of all cost-effective structurally feasible measures, as determined by the department, shall be installed when a residence is weatherized.

(4) No undue or excessive enhancement to a residence shall occur as a result of weatherization provided under this chapter.

(5) Before a leased or rented residence is weatherized, the department's "property owner/agency weatherization agreement" form, or subsequent special conditions established by the department when necessary to comply with applicable state or federal law, must be signed by the owner of the building or the owner's authorized agent. Through this form the landlord ensures that, at a minimum, during a period extending through one year following the date of completion of the weatherization work, the amount of rent will not be raised for any reason and during the period extending through three years following the date of completion of the weatherization work performed, rent will not be increased, nor the tenant evicted, as a result of the weatherization provided.

(6) Benefits of weatherization work performed on behalf of a low-income tenant shall accrue primarily to the low-income tenant.

[Statutory Authority: Chapter 70.164 RCW. 92-03-019 (Order 92-01), § 365-180-090, filed 1/7/92, effective 2/7/92. Statutory Authority: 1987 c 36. 88-02-042 (Order 88-01), § 365-180-090, filed 1/4/88.]

Chapter 365-190 WAC

MINIMUM GUIDELINES TO CLASSIFY AGRICULTURE, FOREST, MINERAL LANDS AND CRITICAL AREAS

WAC

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**PART ONE
PURPOSE/AUTHORITY**

WAC 365-190-010 Authority. This chapter is established pursuant to RCW 36.70A.050.

[Statutory Authority: RCW 36.70A.050. 91-07-041, § 365-190-010, filed 3/15/91, effective 4/15/91.]

WAC 365-190-020 Purpose. The intent of this chapter is to establish minimum guidelines to assist all counties and cities state-wide in classifying agricultural lands, forest lands, mineral resource lands, and critical areas.

These guidelines shall be considered by counties and cities in designating these lands.

Growth management, natural resource land conservation, and critical areas protection share problems related to governmental costs and efficiency. Sprawl and the unwise development of natural resource lands or areas susceptible to natural hazards may lead to inefficient use of limited public resources, jeopardize environmental resource functions and values, subject persons and property to unsafe conditions, and affect the perceived quality of life. It is more costly to remedy the loss of natural resource lands or critical areas than to conserve and protect them from loss or degradation. The inherent economic, social, and cultural values of natural resource lands and critical areas should be considered in the development of strategies designed to conserve and protect lands.

In recognition of these common concerns, classification and designation of natural resource lands and critical areas is intended to assure the long-term conservation of natural resource lands and to preclude land uses and developments which are incompatible with critical areas. There are qualitative differences between and among natural resource lands and critical areas. Not all areas and ecosystems are critical for the same reasons. Some are critical because of the hazard they present to public health and safety, some because of the values they represent to the public welfare. In some cases, the risk posed to the public by use or development of a critical area can be mitigated or reduced by engineering or design; in other cases that risk cannot be effectively reduced except by avoidance of the critical area. Hence, classification and designation of critical areas is intended to lead counties and cities to recognize the differences among these areas, and to develop appropriate regulatory and nonregulatory actions in response.

Counties and cities required or opting to plan under the Growth Management Act of 1990 should consider the definitions and guidelines in this chapter when preparing development regulations which preclude uses and development incompatible with critical areas (see RCW 36.70A.060). Precluding incompatible uses and development does not mean a prohibition of all uses or development. Rather, it means governing changes in land uses, new activities, or development that could adversely affect critical areas. Thus for each critical area, counties and cities planning under the act should define classification schemes and prepare development regulations that govern changes in land uses and new activities by prohibiting clearly inappropriate actions and restricting, allowing, or conditioning other activities as appropriate.

It is the intent of these guidelines that critical areas designations overlay other land uses including designated natural resource lands. That is, if two or more land use designations apply to a given parcel or a portion of a parcel, both or all designations shall be made. Regarding natural resource lands, counties and cities should allow existing and ongoing resource management operations, that have long-term commercial significance, to continue. Counties and cities should encourage utilization of best management practices where existing and ongoing resource management operations that have long-term commercial significance include designated critical areas. Future operations or

expansion of existing operations should be done in consideration of protecting critical areas.

[Statutory Authority: RCW 36.70A.050. 91-07-041, § 365-190-020, filed 3/15/91, effective 4/15/91.]

PART TWO GENERAL REQUIREMENTS

WAC 365-190-030 Definitions. (1) Agricultural land is land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and that has long-term commercial significance for agricultural production.

(2) Areas with a critical recharging effect on aquifers used for potable water are areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water.

(3) City means any city or town, including a code city.

(4) Critical areas include the following areas and ecosystems:

(a) Wetlands;

(b) Areas with a critical recharging effect on aquifers used for potable water;

(c) Fish and wildlife habitat conservation areas;

(d) Frequently flooded areas; and

(e) Geologically hazardous areas.

(5) Erosion hazard areas are those areas containing soils which, according to the United States Department of Agriculture Soil Conservation Service Soil Classification System, may experience severe to very severe erosion.

(6) Forest land is land primarily useful for growing trees, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, for commercial purposes, and that has long-term commercial significance for growing trees commercially.

(7) Frequently flooded areas are lands in the floodplain subject to a one percent or greater chance of flooding in any given year. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and the like.

(8) Geologically hazardous areas are areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns.

(9) Habitats of local importance include, a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alteration, such as cliffs, talus, and wetlands.

(10) Landslide hazard areas are areas potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

(11) Long-term commercial significance includes the growing capacity, productivity, and soil composition of the

land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of land.

(12) Minerals include gravel, sand, and valuable metallic substances.

(13) Mine hazard areas are those areas directly underlain by, adjacent to, or affected by mine workings such as adits, tunnels, drifts, or air shafts.

(14) Mineral resource lands means lands primarily devoted to the extraction of minerals or that have known or potential long-term commercial significance for the extraction of minerals.

(15) Natural resource lands means agricultural, forest and mineral resource lands which have long-term commercial significance.

(16) Public facilities include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(17) Public services include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(18) Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, or soil liquefaction.

(19) Species of local importance are those species that are of local concern due to their population status or their sensitivity to habitat manipulation or that are game species.

(20) Urban growth refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(21) Volcanic hazard areas shall include areas subject to pyroclastic flows, lava flows, and inundation by debris flows, mudflows, or related flooding resulting from volcanic activity.

(22) Wetland or wetlands means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted by the county or city.

[Statutory Authority: RCW 36.70A.050. 91-07-041, § 365-190-030, filed 3/15/91, effective 4/15/91.]

PART THREE GUIDELINES

WAC 365-190-040 Process. The classification and designation of natural resource lands and critical areas is an important step among several in the overall growth management process. Together these steps comprise a vision of the future, and that vision gives direction to the steps in the form of specific goals and objectives. Under the Growth Management Act, the timing of the first steps coincides with development of the larger vision through the comprehensive planning process. People are asked to take the first steps, designation and classification of natural resource lands and critical areas, before the goals, objectives, and implementing policies of the comprehensive plan are finalized. Jurisdictions planning under the Growth Management Act must also adopt interim regulations for the conservation of natural resource lands and protection of critical areas. In this way, the classification and designation help give shape to the content of the plan, and at the same time natural resource lands are conserved and critical areas are protected from incompatible development while the plan is in process.

Under the Growth Management Act, preliminary classifications and designations will be completed in 1991. Those planning under the act must also enact interim regulations to protect and conserve these lands by September 1, 1991. By July 1, 1992, counties and cities not planning under the act must bring their regulations into conformance with their comprehensive plans. By July 1, 1993, counties and cities planning under the act must adopt comprehensive plans, consistent with the goals of the act. Implementation of the plans will occur by the following year.

(1) Classification is the first step in implementing RCW 36.70A.050. It means defining categories to which natural resource lands and critical areas will be assigned.

Pursuant to RCW 36.70A.170, natural resource lands and critical areas will be designated based on the defined classifications. Designation establishes, for planning purposes: The classification scheme; the general distribution, location, and extent of the uses of land, where appropriate, for agriculture, forestry, and mineral extraction; and the general distribution, location, and extent of critical areas. Inventories and maps can indicate designations of natural resource lands. In the circumstances where critical areas (e.g., aquifer recharge areas, wetlands, significant wildlife habitat, etc.) cannot be readily identified, these areas should be designated by performance standards or definitions, so they can be specifically identified during the processing of a permit or development authorization. Designation means, at least, formal adoption of a policy statement, and may include further legislative action. Designating inventoried lands for comprehensive planning and policy definition may be less precise than subsequent regulation of specific parcels for conservation and protection.

Classifying, inventorying, and designating lands or areas does not imply a change in a landowner's right to use his or her land under current law. Land uses are regulated on a parcel basis and innovative land use management techniques should be applied when counties and cities adopt regulations to conserve and protect designated natural resource lands and critical areas. The department of community development

will provide technical assistance to counties and cities on a wide array of regulatory options and alternative land use management techniques.

These guidelines may result in critical area designations that overlay other critical area or natural resource land classifications. That is, if two or more critical area designations apply to a given parcel, or portion of a given parcel, both or all designations apply. For counties and cities required or opting to plan under chapter 36.70A RCW, reconciling these multiple designations will be the subject of local development regulations adopted pursuant to RCW 36.70A.060.

(2) Counties and cities shall involve the public in classifying and designating natural resource lands and critical areas.

(a) Public participation:

(i) Public participation should include at a minimum: Landowners; representatives of agriculture, forestry, mining, business, environmental, and community groups; tribal governments; representatives of adjacent counties and cities; and state agencies. The public participation program should include early and timely public notice of pending designations and regulations.

(ii) Counties and cities should consider using: Technical and citizen advisory committees with broad representation, press releases, news conferences, neighborhood meetings, paid advertising (e.g., newspaper, radio, T.V., transit), newsletters, and other means beyond the required normal legal advertising and public notices. Plain, understandable language should be used. The department of community development will provide technical assistance in preparing public participation plans, including: A pamphlet series, workshops, and a list of agencies available to provide help.

(b) Adoption process. Statutory and local processes already in place governing land use decisions are the minimum processes required for designation and regulation pursuant to RCW 36.70A.060 and 36.70A.170. At least these steps should be included in the process:

(i) Accept the requirements of chapter 36.70A RCW, especially definitions of agricultural lands, forest lands, minerals, long-term commercial significance, critical areas, geologically hazardous areas, and wetlands as mandatory minimums.

(ii) Consider minimum guidelines developed by department of community development under RCW 36.70A.050.

(iii) Consider other definitions used by state and federal regulatory agencies.

(iv) Consider definitions used by the county and city and other counties and cities.

(v) Determine recommended definitions and check conformance with minimum definitions of chapter 36.70A RCW.

(vi) Adopt definitions, classifications, and standards.

(vii) Apply definitions to the land by mapping designated natural resource lands.

(viii) Establish designation amendment procedures.

(c) Intergovernmental coordination. The Growth Management Act requires coordination among communities and jurisdictions to reconcile conflicts and strive for consistent definitions, standards, and designations within regions. The minimum coordination process required under these guidelines may take one of two forms:

(i) Adjacent cities (or those with overlapping or adjacent planning areas); counties and the cities within them; and adjacent counties would provide each other and all adjacent special purpose districts and special purpose districts within them notice of their intent to classify and designate natural resource lands and critical areas within their jurisdiction. Counties or cities receiving notice may provide comments and input to the notifying jurisdiction. The notifying jurisdiction specifies a comment period prior to adoption. Within forty-five days of the jurisdiction's date of adoption of classifications or designations, affected jurisdictions are supplied a copy of the proposal. The department of community development may provide mediation services to counties and cities to help resolve disputed classifications or designations.

(ii) Adjacent jurisdictions; all the cities within a county; or all the cities and several counties may choose to cooperatively classify and designate natural resource lands and critical areas within their jurisdictions. Counties and cities by interlocal agreement would identify the definitions, classification, designation, and process that will be used to classify and designate lands within their areas. State and federal agencies or tribes may participate in the interlocal agreement or be provided a method of commenting on designations and classifications prior to adoption by jurisdictions.

Counties and/or cities may begin with the notification option ((c)(i) of this subsection) and choose to change to the interlocal agreement method ((c)(ii) of this subsection) prior to completion of the classification and designations within their jurisdictions. Approaches to intergovernmental coordination may vary between natural resource land and critical area designation. It is intended that state and federal agencies with land ownership or management responsibilities, special purpose districts, and Indian tribes with interests within the jurisdictions adopting classification and designation be consulted and their input considered in the development and adoption of designations and classifications. The department of community development may provide mediation services to help resolve disputes between counties and cities that are using either the notification or interlocal agreement method of coordinating between jurisdictions.

(d) Mapping. Mapping should be done to identify designated natural resource lands and to identify known critical areas. Counties and cities should clearly articulate that the maps are for information or illustrative purposes only unless the map is an integral component of a regulatory scheme.

Although there is no specific requirement for inventorying or mapping either natural resource lands or critical areas, chapter 36.70A RCW requires that counties and cities planning under chapter 36.70A RCW adopt development regulations for uses adjacent to natural resource lands. Logically, the only way to regulate adjacent lands is to know where the protected lands are. Therefore, mapping natural resource lands is a practical way to make regulation effective.

For critical areas, performance standards are preferred, as any attempt to map wetlands, for example, will be too inexact for regulatory purposes. Standards will be applied upon land use application. Even so, mapping critical areas for information but not regulatory purposes, is advisable.

(e) Reporting. Chapter 36.70A RCW requires that counties and cities annually report their progress to department of community development. Department of community development will maintain a central file including examples of successful public involvement programs, interjurisdictional coordination, definitions, maps, and other materials. This file will serve as an information source for counties and cities and a planning library for state agencies and citizens.

(f) Evaluation. When counties and cities adopt a comprehensive plan, chapter 36.70A RCW requires that they evaluate their designations and development regulations to assure they are consistent with and implement the comprehensive plan. When considering changes to the designations or development regulations, counties and cities should seek interjurisdictional coordination and public participation.

(g) Designation amendment process. Land use planning is a dynamic process. Procedures for designation should provide a rational and predictable basis for accommodating change.

Land use designations must provide landowners and public service providers with the information necessary to make decisions. This includes: Determining when and where growth will occur, what services are and will be available, how they might be financed, and what type and level of land use is reasonable and/or appropriate. Resource managers need to know where and when conversions of rural land might occur in response to growth pressures and how those changes will affect resource management.

Designation changes should be based on consistency with one or more of the following criteria:

(i) Change in circumstances pertaining to the comprehensive plan or public policy.

(ii) A change in circumstances beyond the control of the landowner pertaining to the subject property.

(iii) An error in designation.

(iv) New information on natural resource land or critical area status.

(h) Use of innovative land use management techniques. Resource uses have preferred and primary status in designated natural resource lands of long-term commercial significance. Counties and cities must determine if and to what extent other uses will be allowed. If other uses are allowed, counties and cities should consider using innovative land management techniques which minimize land use incompatibilities and most effectively maintain current and future natural resource lands.

Techniques to conserve and protect agricultural, forest lands, and mineral resource lands of long-term commercial significance include the purchase or transfer of development rights, fee simple purchase of the land, less than fee simple purchase, purchase with leaseback, buffering, land trades, conservation easements or other innovations which maintain current uses and assure the conservation of these natural resource lands.

Development in and adjacent to agricultural and forest lands of long-term commercial significance shall assure the continued management of these lands for their long-term commercial uses. Counties and cities should consider the adoption of right-to-farm provisions. Covenants or easements that recognize that farming and forest activities will occur should be imposed on new development in or adjacent to agricultural or forest lands. Where buffering is used it

should be on land within the development unless an alternative is mutually agreed on by adjacent landowners.

Counties and cities planning under the act should define a strategy for conserving natural resource lands and for protecting critical areas, and this strategy should integrate the use of innovative regulatory and nonregulatory techniques.

[Statutory Authority: RCW 36.70A.050. 91-07-041, § 365-190-040, filed 3/15/91, effective 4/15/91.]

WAC 365-190-050 Agricultural lands. (1) In classifying agricultural lands of long-term significance for the production of food or other agricultural products, counties and cities shall use the land-capability classification system of the United States Department of Agriculture Soil Conservation Service as defined in Agriculture Handbook No. 210. These eight classes are incorporated by the United States Department of Agriculture into map units described in published soil surveys. These categories incorporate consideration of the growing capacity, productivity and soil composition of the land. Counties and cities shall also consider the combined effects of proximity to population areas and the possibility of more intense uses of the land as indicated by:

(a) The availability of public facilities;

(b) Tax status;

(c) The availability of public services;

(d) Relationship or proximity to urban growth areas;

(e) Predominant parcel size;

(f) Land use settlement patterns and their compatibility with agricultural practices;

(g) Intensity of nearby land uses;

(h) History of land development permits issued nearby;

(i) Land values under alternative uses; and

(j) Proximity of markets.

(2) In defining categories of agricultural lands of long-term commercial significance for agricultural production, counties and cities should consider using the classification of prime and unique farmland soils as mapped by the Soil Conservation Service. If a county or city chooses to not use these categories, the rationale for that decision must be included in its next annual report to department of community development.

(3) Counties and cities may further classify additional agricultural lands of local importance. Classifying additional agricultural lands of local importance should include consultation with the board of the local conservation district and the local agriculture stabilization and conservation service committee.

These additional lands may also include bogs used to grow cranberries. Where these lands are also designated critical areas, counties and cities planning under the act must weigh the compatibility of adjacent land uses and development with the continuing need to protect the functions and values of critical areas and ecosystems.

[Statutory Authority: RCW 36.70A.050. 91-07-041, § 365-190-050, filed 3/15/91, effective 4/15/91.]

WAC 365-190-060 Forest land resources. In classifying forest land, counties and cities should use the private forest land grades of the department of revenue (WAC 458-40-530). This system incorporates consideration

of growing capacity, productivity and soil composition of the land. Forest land of long-term commercial significance will generally have a predominance of the higher private forest land grades. However, the presence of lower private forest land grades within the areas of predominantly higher grades need not preclude designation as forest land.

Each county and city shall determine which land grade constitutes forest land of long-term commercial significance, based on local and regional physical, biological, economic, and land use considerations.

Counties and cities shall also consider the effects of proximity to population areas and the possibility of more intense uses of the land as indicated by:

(1) The availability of public services and facilities conducive to the conversion of forest land.

(2) The proximity of forest land to urban and suburban areas and rural settlements: Forest lands of long-term commercial significance are located outside the urban and suburban areas and rural settlements.

(3) The size of the parcels: Forest lands consist of predominantly large parcels.

(4) The compatibility and intensity of adjacent and nearby land use and settlement patterns with forest lands of long-term commercial significance.

(5) Property tax classification: Property is assessed as open space or forest land pursuant to chapter 84.33 or 84.34 RCW.

(6) Local economic conditions which affect the ability to manage timberlands for long-term commercial production.

(7) History of land development permits issued nearby.

[Statutory Authority: RCW 36.70A.050. 91-07-041, § 365-190-060, filed 3/15/91, effective 4/15/91.]

WAC 365-190-070 Mineral resource lands. (1)

Counties and cities shall identify and classify aggregate and mineral resource lands from which the extraction of minerals occurs or can be anticipated. Other proposed land uses within these areas may require special attention to ensure future supply of aggregate and mineral resource material, while maintaining a balance of land uses.

(2) Classification criteria. Areas shall be classified as mineral resource lands based on geologic, environmental, and economic factors, existing land uses, and land ownership. The areas to be studied and their order of study shall be specified by counties and cities.

(a) Counties and cities should classify lands with long-term commercial significance for extracting at least the following minerals: Sand, gravel, and valuable metallic substances. Other minerals may be classified as appropriate.

(b) In classifying these areas, counties and cities should consider maps and information on location and extent of mineral deposits provided by the Washington state department of natural resources and the United States Bureau of Mines. Additionally, the department of natural resources has a detailed minerals classification system counties and cities may choose to use.

(c) Counties and cities should consider classifying known and potential mineral deposits so that access to mineral resources of long-term commercial significance is not knowingly precluded.

(d) In classifying mineral resource lands, counties and cities shall also consider the effects of proximity to population areas and the possibility of more intense uses of the land as indicated by:

(i) General land use patterns in the area;

(ii) Availability of utilities;

(iii) Availability and adequacy of water supply;

(iv) Surrounding parcel sizes and surrounding uses;

(v) Availability of public roads and other public services;

(vi) Subdivision or zoning for urban or small lots;

(vii) Accessibility and proximity to the point of use or market;

(viii) Physical and topographic characteristics of the mineral resource site;

(ix) Depth of the resource;

(x) Depth of the overburden;

(xi) Physical properties of the resource including quality and type;

(xii) Life of the resource; and

(xiii) Resource availability in the region.

[Statutory Authority: RCW 36.70A.050. 91-07-041, § 365-190-070, filed 3/15/91, effective 4/15/91.]

WAC 365-190-080 Critical areas. (1) Wetlands.

The wetlands of Washington state are fragile ecosystems which serve a number of important beneficial functions. Wetlands assist in the reduction of erosion, siltation, flooding, ground and surface water pollution, and provide wildlife, plant, and fisheries habitats. Wetlands destruction or impairment may result in increased public and private costs or property losses.

In designating wetlands for regulatory purposes, counties and cities shall use the definition of wetlands in RCW 36.70A.030(22). Counties and cities are requested and encouraged to make their actions consistent with the intent and goals of "protection of wetlands," Executive Orders 89-10 and 90-04 as they exist on September 1, 1990. Additionally, counties and cities should consider wetlands protection guidance provided by the department of ecology including the model wetlands protection ordinance.

(a) Counties and cities that do not now rate wetlands shall consider a wetlands rating system to reflect the relative function, value and uniqueness of wetlands in their jurisdictions. In developing wetlands rating systems, counties and cities should consider the following:

(i) The Washington state four-tier wetlands rating system;

(ii) Wetlands functions and values;

(iii) Degree of sensitivity to disturbance;

(iv) Rarity; and

(v) Ability to compensate for destruction or degradation.

If a county or city chooses to not use the state four-tier wetlands rating system, the rationale for that decision must be included in its next annual report to department of community development.

(b) Counties and cities may use the National Wetlands Inventory as an information source for determining the approximate distribution and extent of wetlands. This inventory provides maps of wetland areas according to the definition of wetlands issued by the United States Depart-

ment of Interior - Fish and Wildlife Service, and its wetland boundaries should be delineated for regulation consistent with the wetlands definition in RCW 36.70A.030(22).

(c) Counties and cities should consider using the methodology in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, cooperatively produced by the United States Army Corps of Engineers, United States Environmental Protection Agency, United States Department of Agriculture Soil Conservation Service, and United States Fish and Wildlife Service, that was issued in January 1989, and regulatory guidance letter 90-7 issued by the United States Corps of Engineers on November 29, 1990, for regulatory delineations.

(2) Aquifer recharge areas. Potable water is an essential life sustaining element. Much of Washington's drinking water comes from ground water supplies. Once ground water is contaminated it is difficult, costly, and sometimes impossible to clean up. Preventing contamination is necessary to avoid exorbitant costs, hardships, and potential physical harm to people.

The quality of ground water in an aquifer is inextricably linked to its recharge area. Few studies have been done on aquifers and their recharge areas in Washington state. In the cases in which aquifers and their recharge areas have been studied, affected counties and cities should use this information as the base for classifying and designating these areas.

Where no specific studies have been done, counties and cities may use existing soil and surficial geologic information to determine where recharge areas are. To determine the threat to ground water quality, existing land use activities and their potential to lead to contamination should be evaluated.

Counties and cities shall classify recharge areas for aquifers according to the vulnerability of the aquifer. Vulnerability is the combined effect of hydrogeological susceptibility to contamination and the contamination loading potential. High vulnerability is indicated by land uses that contribute contamination that may degrade ground water, and hydrogeologic conditions that facilitate degradation. Low vulnerability is indicated by land uses that do not contribute contaminants that will degrade ground water, and by hydrogeologic conditions that do not facilitate degradation.

(a) To characterize hydrogeologic susceptibility of the recharge area to contamination, counties and cities may consider the following physical characteristics:

- (i) Depth to ground water;
- (ii) Aquifer properties such as hydraulic conductivity and gradients;
- (iii) Soil (texture, permeability, and contaminant attenuation properties);
- (iv) Characteristics of the vadose zone including permeability and attenuation properties; and
- (v) Other relevant factors.

(b) The following may be considered to evaluate the contaminant loading potential:

- (i) General land use;
- (ii) Waste disposal sites;
- (iii) Agriculture activities;
- (iv) Well logs and water quality test results; and
- (v) Other information about the potential for contamination.

(c) Classification strategy for recharge areas should be to maintain the quality of the ground water, with particular attention to recharge areas of high susceptibility. In recharge areas that are highly vulnerable, studies should be initiated to determine if ground water contamination has occurred. Classification of these areas should include consideration of the degree to which the aquifer is used as a potable water source, feasibility of protective measures to preclude further degradation, availability of treatment measures to maintain potability, and availability of alternative potable water sources.

(d) Examples of areas with a critical recharging effect on aquifers used for potable water, may include:

(i) Sole source aquifer recharge areas designated pursuant to the Federal Safe Drinking Water Act.

(ii) Areas established for special protection pursuant to a ground water management program, chapters 90.44, 90.48, and 90.54 RCW, and chapters 173-100 and 173-200 WAC.

(iii) Areas designated for wellhead protection pursuant to the Federal Safe Drinking Water Act.

(iv) Other areas meeting the definition of "areas with a critical recharging effect on aquifers used for potable water" in these guidelines.

(3) Frequently flooded areas. Floodplains and other areas subject to flooding perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas should include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

Counties and cities should consider the following when designating and classifying frequently flooded areas:

(a) Effects of flooding on human health and safety, and to public facilities and services;

(b) Available documentation including federal, state, and local laws, regulations, and programs, local studies and maps, and federal flood insurance programs;

(c) The future flow floodplain, defined as the channel of the stream and that portion of the adjoining floodplain that is necessary to contain and discharge the base flood flow at build out without any measurable increase in flood heights;

(d) The potential effects of tsunami, high tides with strong winds, sea level rise resulting from global climate change, and greater surface runoff caused by increasing impervious surfaces.

(4) Geologically hazardous areas.

(a) Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible commercial, residential, or industrial development is sited in areas of significant hazard. Some geological hazards can be reduced or mitigated by engineering, design, or modified construction or mining practices so that risks to health and safety are acceptable. When technology cannot reduce risks to acceptable levels, building in geologically hazardous areas is best avoided. This distinction should be considered by counties and cities that do not now classify geological hazards as they develop their classification scheme.

(a) Areas that are susceptible to one or more of the following types of hazards shall be classified as a geologically hazardous area:

(i) Erosion hazard;
 (ii) Landslide hazard;
 (iii) Seismic hazard; or
 (iv) Areas subject to other geological events such as coal mine hazards and volcanic hazards including: Mass wasting, debris flows, rockfalls, and differential settlement.

(b) Counties and cities should classify geologically hazardous area as either:

(i) Known or suspected risk;
 (ii) No risk;
 (iii) Risk unknown - data are not available to determine the presence or absence of a geological hazard.

(c) Erosion hazard areas are at least those areas identified by the United States Department of Agriculture Soil Conservation Service as having a "severe" rill and inter-rill erosion hazard.

(d) Landslide hazard areas shall include areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include any areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Example of these may include, but are not limited to the following:

(i) Areas of historic failures, such as:

(A) Those areas delineated by the United States Department of Agriculture Soil Conservation Service as having a "severe" limitation for building site development;

(B) Those areas mapped as class u (unstable), uos (unstable old slides), and urs (unstable recent slides) in the department of ecology coastal zone atlas; or

(C) Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published as the United States Geological Survey or department of natural resources division of geology and earth resources.

(ii) Areas with all three of the following characteristics:

(A) Slopes steeper than fifteen percent; and

(B) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

(C) Springs or ground water seepage;

(iii) Areas that have shown movement during the holocene epoch (from ten thousand years ago to the present) or which are underlain or covered by mass wastage debris of that epoch;

(iv) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

(v) Slopes having gradients steeper than eighty percent subject to rockfall during seismic shaking;

(vi) Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action;

(vii) Areas that show evidence of, or are at risk from snow avalanches;

(viii) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding;

(ix) Any area with a slope of forty percent or steeper and with a vertical relief of ten or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

(e) Seismic hazard areas shall include areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:

(i) The magnitude of an earthquake;

(ii) The distance from the source of an earthquake;

(iii) The type of thickness of geologic materials at the surface; and

(iv) The type of subsurface geologic structure.

Settlement and soil liquefaction conditions occur in areas underlain by cohesionless soils of low density, typically in association with a shallow ground water table.

(f) Other geological events:

(i) Volcanic hazard areas shall include areas subject to pyroclastic flows, lava flows, debris avalanche, inundation by debris flows, mudflows, or related flooding resulting from volcanic activity.

(ii) Mine hazard areas are those areas underlain by, adjacent to, or affected by mine workings such as adits, gangways, tunnels, drifts, or air shafts. Factors which should be considered include: Proximity to development, depth from ground surface to the mine working, and geologic material.

(5) Fish and wildlife habitat conservation areas. Fish and wildlife habitat conservation means land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean cooperative and coordinated land use planning is critically important among counties and cities in a region. In some cases, intergovernmental cooperation and coordination may show that it is sufficient to assure that a species will usually be found in certain regions across the state.

(a) Fish and wildlife habitat conservation areas include:

(i) Areas with which endangered, threatened, and sensitive species have a primary association;

(ii) Habitats and species of local importance;

(iii) Commercial and recreational shellfish areas;

(iv) Kelp and eelgrass beds; herring and smelt spawning areas;

(v) Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;

(vi) Waters of the state;

(vii) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; or

(viii) State natural area preserves and natural resource conservation areas.

(b) Counties and cities may consider the following when classifying and designating these areas:

(i) Creating a system of fish and wildlife habitat with connections between larger habitat blocks and open spaces;

(ii) Level of human activity in such areas including presence of roads and level of recreation type (passive or active recreation may be appropriate for certain areas and habitats);

(iii) Protecting riparian ecosystems;

(iv) Evaluating land uses surrounding ponds and fish and wildlife habitat areas that may negatively impact these areas;

(v) Establishing buffer zones around these areas to separate incompatible uses from the habitat areas; and

(vi) Restoring of lost salmonid habitat.

(c) Sources and methods

(i) Counties and cities should classify seasonal ranges and habitat elements with which federal and state listed endangered, threatened and sensitive species have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

(ii) Counties and cities should determine which habitats and species are of local importance. Habitats and species may be further classified in terms of their relative importance.

Counties and cities may use information prepared by the Washington department of wildlife to classify and designate locally important habitats and species. Priority habitats and priority species are being identified by the department of wildlife for all lands in Washington state. While these priorities are those of the department, they and the data on which they are based may be considered by counties and cities.

(iii) Shellfish areas. All public and private tidelands or bedlands suitable for shellfish harvest shall be classified as critical areas. Counties and cities should consider both commercial and recreational shellfish areas. Counties and cities should at least consider the Washington department of health classification of commercial and recreational shellfish growing areas to determine the existing condition of these areas. Further consideration should be given to the vulnerability of these areas to contamination. Shellfish protection districts established pursuant to chapter 90.72 RCW shall be included in the classification of critical shellfish areas.

(iv) Kelp and eelgrass beds; herring and smelt spawning areas. Counties and cities shall classify kelp and eelgrass beds, identified by department of natural resources aquatic lands division and the department of ecology. Though not an inclusive inventory, locations of kelp and eelgrass beds are compiled in the *Puget Sound Environmental Atlas, Volumes 1 and 2*. Herring and smelt spawning times and locations are outlined in WAC 220-110-240 through 220-110-260 and the *Puget Sound Environmental Atlas*.

(v) Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat.

Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farmponds, temporary construction ponds (of less than three years duration) and landscape amenities. However, naturally occurring ponds may include those artificial ponds intentionally created from dry areas in order to mitigate conversion of ponds, if permitted by a regulatory authority.

(vi) Waters of the state. Waters of the state are defined in Title 222 WAC, the forest practices rules and regulations. Counties and cities should use the classification system established in WAC 222-16-030 to classify waters of the state.

Counties and cities may consider the following factors when classifying waters of the state as fish and wildlife habitats:

(A) Species present which are endangered, threatened or sensitive, and other species of concern;

(B) Species present which are sensitive to habitat manipulation;

(C) Historic presence of species of local concern;

(D) Existing surrounding land uses that are incompatible with salmonid habitat;

(E) Presence and size of riparian ecosystems;

(F) Existing water rights; and

(G) The intermittent nature of some of the higher classes of waters of the state.

(vii) Lakes, ponds, streams, and rivers planted with game fish.

This includes game fish planted in these water bodies under the auspices of a federal, state, local, or tribal program or which supports priority fish species as identified by the department of wildlife.

(viii) State natural area preserves and natural resource conservation areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by department of natural resources.

[Statutory Authority: RCW 36.70A.050, 91-07-041, § 365-190-080, filed 3/15/91, effective 4/15/91.]

Chapter 365-195 WAC

GROWTH MANAGEMENT ACT—PROCEDURAL CRITERIA FOR ADOPTING COMPREHENSIVE PLANS AND DEVELOPMENT REGULATIONS

WAC

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PART ONE
GENERAL CONSIDERATIONS

WAC 365-195-010 Background. Through the Growth Management Act, the legislature provided a new framework for land use planning and the regulation of development in Washington state in response to challenges posed to the quality of life by rapid growth. Major features of this framework include:

(1) A requirement that counties with specified populations and rates of growth and the cities within them adopt comprehensive plans and development regulations under the act. Other counties can choose to be covered by this requirement, thereby including the cities they contain.

(2) A set of common goals to guide the development of comprehensive plans and development regulations.

(3) The concept that the process should be a "bottom up" effort, involving early and continuous public participation, with the central locus of decision-making at the local level.

(4) Requirements for the locally developed plans to be consistent internally, consistent with county-wide planning policies and consistent with the plans of other counties and cities where there are common borders or related regional issues.

(5) A requirement that development regulations adopted to implement the comprehensive plans be consistent with such plans.

(6) The principle that development and the providing of public facilities and services needed to support development should occur concurrently.

(7) A determination that planning and plan implementation actions should address difficult issues that have resisted resolution in the past, such as:

(a) The timely financing of needed infrastructure;

(b) Providing adequate and affordable housing for all economic segments of the population;

(c) Concentrating growth in urban areas, provided with adequate urban services;

(d) The siting of essential public facilities;

(e) The designation and conservation of agricultural, forest, and mineral resource lands;

(f) The designation and protection of environmentally critical areas.

(8) An intention that economic development be encouraged and fostered within the planning and regulatory scheme established for managing growth.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-010, filed 11/17/92, effective 12/18/92.]

WAC 365-195-020 Purpose. Within the framework established by the act, a wide diversity of local visions of the future can be accommodated. Moreover, there is no exclusive method for accomplishing the planning and development regulation requirements of the act. However, in light of the complexity and difficulty of the task, the legislature assigned the department of community development the function of establishing a program of technical assistance. As part of that program, the department is directed to adopt by rule procedural criteria to assist counties and cities in adopting comprehensive plans and development regulations that meet the goals and requirements of the act. The purpose of this chapter is to carry out that directive.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-020, filed 11/17/92, effective 12/18/92.]

WAC 365-195-030 Applicability. (1) This chapter makes recommendations for meeting the requirements of the act. The recommendations set forth are intended as a listing of possible choices, but compliance with the requirements of the act can be achieved without using all of the suggestions made here or by adopting other approaches.

(2) These criteria are not meant to represent a minimum list of actions which must be taken for comprehensive plans and development regulations to meet the goals and requirements of the act.

(3) The growth planning hearings boards are authorized to determine, in cases brought before them, whether comprehensive plans or development regulations are in compliance with the goals and requirements of the act. In making such determinations, the boards are required to consider the procedural criteria contained in this chapter. However, compliance with these criteria is not a prerequisite to a finding of compliance with the act.

(4) Nothing in this chapter is intended to affect planning decisions and actions made pursuant to the act before this chapter became effective, including but not limited to the adoption of county-wide planning policies.

(5) This chapter does not apply to jurisdictions not required to plan or not choosing to plan under RCW 36.70A.040.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-030, filed 11/17/92, effective 12/18/92.]

WAC 365-195-040 General method. (1) This chapter identifies the act's mandatory provisions for creating comprehensive plans and development regulations. These statutory mandates are listed under headings labeled "requirements." Courses of action the department recommends in order to comply with the act's mandates are set forth under headings labeled "recommendations for meeting requirements."

(2) Definitions and interpretations made in this chapter by the department, but not expressly set forth in the act, are identified as such. The department's purpose is to provide assistance in interpreting the act, not to add provisions and meanings beyond those intended by the legislature.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-040, filed 11/17/92, effective 12/18/92.]

WAC 365-195-050 Presumption of validity. Comprehensive plans and development regulations adopted under the act are presumed valid upon adoption. Nevertheless, jurisdictions whose plans are challenged will be obliged to furnish a record for the review process. Although the presumption of validity should discourage meritless appeals, if the presumption is overcome in any case, the county or city will be required to demonstrate compliance with the act. Such a demonstration will be aided by a record which documents deliberations, shows data relied upon, and explains how conclusions were reached.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-050, filed 11/17/92, effective 12/18/92.]

WAC 365-195-060 Regional and local variations.

(1) Regional and local variations and the diversity that exist among different counties and cities are to be reflected in the use and application of these procedural criteria. Local jurisdictions are expected to use a pick and choose approach. Following these criteria is appropriate, in any case, only to the extent necessary to fairly meet the intent of the act in the particular situation.

(2) To a major extent, recognition of variations and diversity is implicit in the framework of the act itself, with its emphasis on a "bottom up" planning process and on public participation. Such recognition is also inherent in the listing of goals without assignment of priority. Accordingly, this chapter seeks to accommodate regional and local differences by focusing on an analytical process, instead of on specific outcomes.

(3) Local plans and development regulations are expected to vary in complexity and in level of detail provided in the supporting record, depending on population size, growth rates, resources available for planning and scale of public facilities, and services provided.

(4) In general, smaller jurisdictions will not be expected to engage in extensive original research, but will be able to rely upon reasonable assumptions derived from available

data of a state-wide or regional nature or representative of jurisdictions of comparable size and growth rates.

(5) In commenting on plans and regulations proposed for adoption, state agencies including the department should be guided by a common-sense appreciation of the size of the jurisdiction involved and the magnitude of the problems addressed. It is anticipated that the growth planning hearings boards will be informed by the same awareness.

(6) The department has developed a model comprehensive plan for smaller jurisdictions which may be used to help guide local planning where local resources are limited.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-060, filed 11/17/92, effective 12/18/92.]

WAC 365-195-070 Interpretations. The following represent the department's interpretation of several critical concepts about which the express terms of the act are not clear. While not necessarily the only appropriate way to view the concepts involved, these interpretations appear to be supported by the overall statutory context.

(1) **Goals.** The act lists thirteen overall goals in RCW 36.70A.020. Comprehensive plans and development regulations are to be designed to meet these goals. The list of thirteen goals is not exclusive. Local governments may adopt additional goals. However, these additional goals must be supplementary. They may not conflict with the thirteen statutory goals. Comprehensive plans must show how each of the goals is to be pursued consistent with the planning entity's vision of its future. Differences in emphasis are expected from jurisdiction to jurisdiction. In some cases meeting certain of these goals may involve support for activities beyond jurisdictional boundaries. In most cases, if a comprehensive plan meets the statutory goals, development regulations consistent with the comprehensive plan will meet the goals.

(2) **Economic development.** The act lists economic development as one of the overall goals, but does not mandate an economic development element within comprehensive plans. This should not be read as a downgrading of the importance of economic development as a feature of the growth management planning and implementation process. Planning under the act in connection with all mandatory elements should be undertaken with the goal of economic development in mind. Whether the jurisdiction elects to develop a separate economic development element or not, desired levels of job growth, and of commercial and industrial expansion should be identified and supporting strategies should be integrated with the land use, housing, utilities transportation, and other features of the comprehensive plan.

(3) **Concurrency.** The achievement of concurrency should be sought with respect to public facilities in addition to transportation facilities. The list of such additional facilities should be locally defined. The department recommends that at least domestic water systems and sanitary sewer systems be added to concurrency lists applicable within urban growth areas, and that at least domestic water systems be added for lands outside urban growth areas. Concurrency describes the situation in which adequate facilities are available when the impacts of development occur, or within a specified time thereafter. With respect to facilities other than transportation facilities and water

systems, local jurisdictions may fashion their own regulatory responses and are not limited to imposing moratoria on development during periods when concurrency is not maintained.

(4) **Essential public facilities.** The term "essential public facilities" is a specialized term applicable in the context of siting, and refers to facilities that are typically difficult to site. "Essential public facilities" do not necessarily include everything within the statutory definitions of "public facilities" and "public services," and should include additional items not listed in those definitions. Consistent with county-wide planning policies, local governments should create their own lists of "essential public facilities," guided by the examples set forth in RCW 36.70A.200, but not necessarily bound by those examples. For the purposes of identifying facilities to be subject to the "essential public facilities" siting process, it is not necessary that the facilities be publicly owned. If the services involved meet a locally accepted definition of public service, the supporting facilities for the services may be included on the list, regardless of ownership.

(5) **Urban growth areas.** The adoption of urban growth areas by counties should reflect a cooperative effort among jurisdictions to accomplish the requirements of the act on a regional basis. As growth occurs, most lands within urban growth areas should ultimately be provided with local urban services by cities, either directly or by contract. Other service providers are appropriate within urban growth areas for regional or county-wide services, or for isolated unincorporated pockets characterized by urban growth. Provisions should be made for the phasing of development within each urban growth area to ensure that services are provided as growth occurs. In proposing urban growth areas, cities should endeavor to accommodate projected urban growth through infill within existing municipal boundaries. But in some cases expansion will be logical. Interlocal agreements should be negotiated regarding land use management and the provision of services to such potential expansion areas so that such growth can occur in a manner consistent with the cities' comprehensive plans and development regulations.

(6) **Affordable housing.** This is a term which applies to the adequacy of housing stocks to fulfill the housing needs of all economic segments of the population. The underlying assumption is that the market place will guarantee adequate housing for those in the upper economic brackets but that some combination of appropriately zoned land, regulatory incentives, financial subsidies, and innovative planning techniques will be necessary to make adequate provisions for the needs of middle and lower income persons. Each jurisdiction should incorporate a regional perspective into the identification of its housing planning area, with the understanding that the population to be planned for is county-wide. All jurisdictions should share in the responsibility for achieving a reasonable and equitable distribution of affordable housing to meet the needs of middle and lower income persons. While government policies and programs alone cannot ensure that everyone is adequately housed, attention should be given to removing regulatory barriers to affordable housing where such action is otherwise consistent with the act. In the overall implementation of the act an effort should be made to avoid an

escalation of costs which will defeat the achievement of the act's housing aims.

(7) **Consistency.** The act calls for "consistency" in a number of contexts. In general, the phrase "not incompatible with" conveys the meaning of "consistency" most suited to preserving flexibility for local variations. An important example of the use of the term is the requirement that comprehensive plans be internally consistent. This requirement appears to mean that the parts of the plan must fit together so that no one feature precludes the achievement of any other. (E.g., the densities selected and the wetlands to be protected can both be achieved on the available land base.) A second significant example is the requirement that each comprehensive plan be consistent with other comprehensive plans of jurisdictions with common borders or related regional issues. Determining consistency in this interjurisdictional context is complicated by the differences in timing which will occur in the adoption of plans. Initially interjurisdictional consistency should be met by plans which are consistent with and carry out the relevant county-wide planning policies.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-070, filed 11/17/92, effective 12/18/92.]

PART TWO DEFINITIONS

WAC 365-195-200 Statutory definitions. For the convenience of persons using these criteria the definitions contained in RCW 36.70A.030 are set forth below:

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock and that has long-term commercial significance for agricultural production.

(3) "City" means any city or town, including a code city.

(4) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(5) "Critical areas" include the following areas and ecosystems:

(a) Wetlands;

(b) Areas with a critical recharging effect on aquifers used for potable water;

(c) Fish and wildlife habitat conservation areas;

(d) Frequently flooded areas; and

(e) Geologically hazardous areas.

(6) "Department" means the department of community development.

(7) "Development regulations" means any controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, subdivision ordinances, and binding site plan ordinances.

(8) "Forest land" means land primarily useful for growing trees, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, for commercial purposes, and that has long-term commercial significance for growing trees commercially.

(9) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(10) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(11) "Minerals" include gravel, sand, and valuable metallic substances.

(12) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(13) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(14) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(15) "Urban growth area" means those areas designated by a county pursuant to RCW 36.70A.110.

(16) "Urban governmental services" include those governmental services historically and typically delivered by cities, and include storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with nonurban areas.

(17) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted by the county or city.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-200, filed 11/17/92, effective 12/18/92.]

(1992 Ed.)

WAC 365-195-210 Definitions of terms as used in this chapter. The following are definitions of terms which are not defined in RCW 36.70A.030 but which are defined here for purposes of these procedural criteria. The department recommends that counties and cities planning under the act adopt these definitions in their plans:

(1) "Act" means the Growth Management Act as enacted in chapter 17, Laws of 1990 1st ex. sess., and chapter 32, Laws of 1991 sp. sess., state of Washington.

(2) "Adequate public facilities" means facilities which have the capacity to serve development without decreasing levels of service below locally established minimums.

(3) "Available public facilities" means that facilities or services are in place or that a financial commitment is in place to provide the facilities or services within a specified time. In the case of transportation, the specified time is six years from the time of development.

(4) "Concurrency" means that adequate public facilities are available when the impacts of development occur. This definition includes the two concepts or "adequate public facilities" and of "available public facilities" as defined above.

(5) "Consistency" means that no feature of a plan or regulation is incompatible with any other feature of a plan or regulation. Consistency is indicative of a capacity for orderly integration or operation with other elements in a system.

(6) "Coordination" means consultation and cooperation among jurisdictions.

(7) "Contiguous development" means development of areas immediately adjacent to one another.

(8) "Demand management strategies," or "transportation demand management strategies (TDM)" means strategies aimed at changing travel behavior rather than at expanding the transportation network to meet travel demand. Such strategies can include the promotion of work hour changes, ride-sharing options, parking policies, telecommuting.

(9) "Domestic water system" means any system providing a supply of potable water which is deemed adequate pursuant to RCW 19.27.097 for the intended use of a development.

(10) "Financial commitment" means that sources of public or private funds or combinations thereof have been identified which will be sufficient to finance public facilities necessary to support development and that there is reasonable assurance that such funds will be timely put to that end.

(11) "Growth Management Act" - see definition of "Act."

(12) "Level of service" means an established minimum capacity of public facilities or services that must be provided per unit of demand or other appropriate measure of need.

(13) "Master planned resort" means a self-contained and fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities.

(14) "New fully contained community" is a development proposed for location outside of the existing designated urban growth areas which is characterized by urban densities, uses, and services, and meets the criteria of RCW 36.70A.350.

(15) "Planning period" means the twenty-year period following the adoption of a comprehensive plan or such longer period as may have been selected as the initial planning horizon by the planning jurisdiction.

(16) "Public service obligations" means obligations imposed by law on utilities to furnish facilities and supply service to all who may apply for and be reasonably entitled to service.

(17) "Regional transportation plan" means the transportation plan for the regionally designated transportation system which is produced by the regional transportation planning organization.

(18) "Regional transportation planning organization (RTPO)" means the voluntary organization conforming to RCW 47.80.020, consisting of local governments within a region containing one or more counties which have common transportation interests.

(19) "Rural lands" means all lands which are not within an urban growth area and are not designated as natural resource lands having long term commercial significance for production of agricultural products, timber, or the extraction of minerals.

(20) "Sanitary sewer systems" means all facilities, including approved on-site disposal facilities, used in the collection, transmission, storage, treatment, or discharge of any waterborne waste, whether domestic in origin or a combination of domestic, commercial, or industrial waste.

(21) "Solid waste handling facility" means any facility for the transfer or ultimate disposal of solid waste, including land fills and municipal incinerators.

(22) "Transportation facilities" includes capital facilities related to air, water, or land transportation.

(23) "Transportation level of service standards" means a measure which describes the operational condition of the travel stream and acceptable adequacy requirements. Such standards may be expressed in terms such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, convenience, geographic accessibility, and safety.

(24) "Transportation system management (TSM)" means the use of low capital expenditures to increase the capacity of the transportation system. TSM strategies include but are not limited to signalization, channelization, and bus turn-outs.

(25) "Utilities" or "public utilities" means enterprises or facilities serving the public by means of an integrated system of collection, transmission, distribution, and processing facilities through more or less permanent physical connections between the plant of the serving entity and the premises of the customer. Included are systems for the delivery of natural gas, electricity, telecommunications services, and water, and for the disposal of sewage.

(26) "Visioning" means a process of citizen involvement to determine values and ideals for the future of a community and to transform those values and ideals into manageable and feasible community goals.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-210, filed 11/17/92, effective 12/18/92.]

WAC 365-195-220 Additional definitions to be adopted locally. In addition to adopting definitions of terms set forth in the preceding section, planning jurisdictions

should consider developing local definitions of the following, to the extent such terms are used in local plans. The definitions should in every case be consistent with county-wide planning policies:

- (1) "Affordable housing."
- (2) "Development rights."
- (3) "Essential public facilities."
- (4) "Rural governmental services."
- (5) "Objectives, principles, and standards."
- (6) "Related regional issues."

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-220, filed 11/17/92, effective 12/18/92.]

PART THREE FEATURES OF THE COMPREHENSIVE PLAN

WAC 365-195-300 Mandatory elements. (1) **Requirements.** The comprehensive plan shall consist of a map or maps and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map.

(a) Each comprehensive plan shall include a plan, scheme, or design for each of the following:

- (i) A land use element.
- (ii) A housing element.
- (iii) A capital facilities plan element.
- (iv) A utilities element.
- (v) A transportation element.

Counties shall also include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources.

(b) Additionally each plan shall contain a process for identifying and siting essential public facilities.

(2) **Recommendations for overall design.**

(a) The planning horizon for the comprehensive plan should be at least the twenty-year period following the adoption of the plan.

(b) Planning jurisdictions should consider including at the outset a separate section addressing the statutory goals and how the plan deals with each of them. This section should also identify any supplementary goals adopted.

(c) County-wide planning policies establish a county-wide framework from which county and city comprehensive plans are to be developed. How the applicable county-wide policies have been integrated into the plans should be made apparent.

(d) Each plan should contain a future land use map or maps, showing the proposed physical distribution and location of the various land uses during the planning period. This map should provide a graphic display of how and where development is expected to occur.

(e) The descriptive text covering objectives, principles, and standards used to develop the comprehensive plan will be expressive of the vision of the future of the planning entity. The text should articulate community values derived from the visioning and other citizen participation processes. The terms objectives, principles, and standards relate to methods chosen to meet planning goals or measurable steps

on the path toward achieving such goals. The precise meaning of these terms should be locally defined.

(f) Jurisdictions are encouraged to include at the beginning of their comprehensive plans a section which summarizes, with graphics and a minimum of text, how the various pieces of the plan fit together. Plans may include overlay maps and other graphic displays depicting development patterns, phasing of development, neighborhoods or subarea definitions, and other plan features.

(g) A suggested detailed approach of how each element of the comprehensive plan may be prepared is provided through assistance manuals produced by the department.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-300, filed 11/17/92, effective 12/18/92.]

WAC 365-195-305 Land use element. (1) Requirements. This element shall contain at least the following features:

(a) Designation of the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, public utilities, public facilities, and other land uses.

(b) Population densities, building intensities, and estimates of future population growth.

(c) Provisions for protection of the quality and quantity of ground water used for public water supplies.

(d) Where applicable, a review of drainage, flooding, and storm water runoff in the area covered by the plan and nearby jurisdictions, and guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) **Recommendations for meeting requirements.** The following steps are recommended in preparing the land use element:

(a) Integration of relevant county-wide planning policies (and, where applicable, multicounty planning policies) into the local planning process.

(b) Identification of the existing general distribution and location of various land uses.

(c) Identification of the approximate acreage and general range of density or intensity of existing uses.

(d) Estimation using available data of the future population growth for the planning area and a projection of the level of commercial, industrial, and residential development likely to be experienced over at least the next twenty years.

(e) Selection of commercial, industrial, and residential densities sought to be achieved and their distribution for the purposes of accommodating the anticipated growth.

(f) Inventory of vacant, partially used and under-utilized land. Analysis of the extent to which existing buildings and housing, together with vacant, partially used and under-utilized land can support anticipated growth at the densities selected.

(g) Preparation of an implementation strategy for accomplishing the densities and distribution sought. To the extent that greater intensity of development is proposed, the strategy should include a description of the general range of physical forms contemplated for structures which will accommodate the new growth.

(h) Identification of the approximate spatial requirements for capital facilities (including transportation facilities) and utilities needed to support the planned level of development.

(i) Generalized location and estimation of quantity of land needed for utility corridors, open space corridors, critical areas, and natural resource lands to be included within the planning area.

(j) Preparation of the future land use map on the basis of the total analysis performed.

(k) Reevaluation of this scheme in light of:

(i) The projected capacity for financing the needed capital facilities over the planning period; and

(ii) An assessment of whether the densities and distribution of growth contemplated can be achieved within the capacity of available land and water resources and without environmental degradation.

(l) Creation of a ground water protection strategy, integrating the relevant planning requirements of other statutes, consistent with the designation of areas with a critical recharging effect on aquifers used for potable water. Consideration should be given to the adoption of nondegradation as a ground water protection goal.

(m) Consultation with neighboring jurisdictions and state agencies to formulate a cooperative, integrated, watershed based approach to identified pollution problems caused by drainage, flooding, storm water runoff, failing septic systems, agricultural runoff, and other nonpoint sources, taking advantage of existing plans dealing with these subjects. To the extent that county-wide planning policies are relevant, they should followed in arriving at interjurisdictional solutions.

(n) A schedule for the phasing of the development contemplated consistent with the availability of capital facilities as provided in the capital facilities element.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-305, filed 11/17/92, effective 12/18/92.]

WAC 365-195-310 Housing element. (1) Requirements. This element shall contain at least the following features:

(a) An inventory and analysis of existing and projected housing needs.

(b) A statement of the goals, policies, and objectives for the preservation, improvement, and development of housing.

(c) Identification of sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities.

(d) Adequate provisions for existing and projected housing needs of all economic segments of the community.

(2) **Recommendations for meeting requirements.** The following steps are recommended in preparing the housing element:

(a) Preparation of an inventory and analysis of the condition of existing housing stocks, using currently available data to the extent possible.

(b) An assessment of the needs for housing in the planning area, including both present needs and needs anticipated as a result of planned growth over the planning period.

(c) Evaluation of the extent to which the existing and projected market can provide housing at various costs and for various income levels.

(d) Estimation of the present and future extent of populations in the planning area which require assistance to obtain housing they can afford.

(e) Identification of existing programs and policies to promote adequate housing for population segments which cannot afford housing in the existing market and evaluation of their effectiveness.

(f) Incorporation of county-wide planning policies on affordable housing and parameters for the distribution of such housing. This should include identification of the share of affordable housing to be provided by the planning jurisdiction and how it will be achieved. In some cases, it may be appropriate for a jurisdiction to provide assistance for the location of affordable housing elsewhere.

(g) Planning jurisdictions should use the following ranges for various economic groupings in the planning area:

(i) Extremely low income - below thirty percent of median income.

(ii) Very low income - between thirty-one percent and fifty percent of median income.

(iii) Low income - between fifty-one percent and eighty percent of median income.

(iv) Moderate income - between eighty-one percent and ninety-five percent of median income.

(v) Middle income - between ninety-six percent and one hundred twenty percent of median income.

The parameters to be used in planning for affordable housing should be those adopted and annually adjusted for household size by the United States Department of Housing and Urban Development (HUD).

(h) Determination of housing goals, policies, and objectives in light of the needs identified. This process should include consideration of the locational needs of various types of housing in light of proximity to employment and of access to transportation and services.

(i) Identification of new programs and policies which can be instituted to promote adequate housing for all economic segments of the population.

(j) Preparation of a strategy for preserving, improving, and developing housing which will attempt to meet the needs identified for all economic segments of the population in the planning area. The strategy should include:

(i) Consideration of the range of housing choices to be encouraged, including but not limited to, multifamily housing, mixed uses, manufactured homes, accessory living units, and detached homes.

(ii) Consideration of various lot sizes and densities, and of clustering and other design configurations.

(iii) Identification of sufficient appropriately zoned land to accommodate the identified housing needs over the planning period.

(iv) Evaluation of the capacity of local public and private entities and the availability of financing to produce housing to meet the identified need.

(k) Emphasis should be placed on adequately providing for group homes, foster care facilities, and facilities for other special populations, while maintaining an equitable distribution of these facilities among neighboring jurisdictions.

(l) In developing the housing element attention should be directed to working with the desires of residents to preserve the character and vitality of existing neighborhoods, along with the rights of people to live in the neighborhood of their choice.

(m) The provisions of the housing element should be integrated with the provisions of the land use element.

(n) Provision for a program of ongoing review to monitor the performance of the housing strategy and for making adjustments and revisions as needed to achieve the goals, policies, and objectives. Such a program could include the collection and maintenance of information about the housing market, and where reasonably available from existing sources, data on the supply of developable residential building lots at various land-use densities and the supply of rental and for-sale housing at various price levels.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-310, filed 11/17/92, effective 12/18/92.]

WAC 365-195-315 Capital facilities element. (1) Requirements. This element shall contain at least the following features:

(a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities.

(b) A forecast of the future needs for such capital facilities.

(c) The proposed locations and capacities of expanded or new capital facilities.

(d) At least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes.

(e) A requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.

(2) **Recommendations for meeting requirements.** The capital facilities element should serve as a check on the practicality of achieving other elements of the plan. The following steps are recommended in preparing the capital facilities element:

(a) Inventory of existing capital facilities showing locations and capacities, including an inventory of the extent to which existing facilities possess presently unused capacity. Capital facilities involved should include water systems, sanitary sewer systems, storm water facilities, schools, parks and recreational facilities, police and fire protection facilities.

(b) The selection of levels of service or planning assumptions for the various facilities to apply during the planning period (twenty years or more) and which reflect community goals.

(c) A forecast of the future needs for such capital facilities based on the levels of service or planning assumptions selected and consistent with the growth, densities and distribution of growth anticipated in the land use element.

(d) The creation of a six-year capital facilities plan for financing capital facilities needed within that time frame. Projected funding capacities, are to be evaluated, followed by the identification of sources of public or private funds for which there is reasonable assurance of availability. The six-

year plan should be updated at least biennially so that financial planning remains sufficiently ahead of the present for concurrency to be evaluated.

(e) The needs for capital facilities should be dictated by the phasing schedule set forth in the land use element.

(f) Provision should be made to reassess the land use element and other elements of the plan periodically in light of the evolving capital facilities plan. If the probable funding for capital facilities at any time is insufficient to meet existing needs, the land use element must be reassessed. At the same time funding possibilities and levels of service might also be reassessed. The plan should require that as a result of such reassessment, appropriate action must be taken to ensure the internal consistency of the land use and capital facilities portions of the plan. The plan should set forth how, if at all, pending applications for development will be affected while such a reassessment is being undertaken.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-315, filed 11/17/92, effective 12/18/92.]

WAC 365-195-320 Utilities element. (1) Requirements. This element shall contain at least the following features: The general location, proposed location, and capacity or all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(2) **Recommendations for meeting requirements.** The following steps are recommended in preparing the utilities element:

(a) Integration of the general location and capacity of existing and proposed utility facilities with the land use element of the plan. For the purposes of this step, proposed utilities are understood to be those awaiting approval when the comprehensive plan is adopted.

(b) An analysis of the capacity needs for various utilities over the planning period to serve the growth anticipated at the locations and densities proposed within the jurisdiction's planning area. The analysis of capacity needs should be developed in consultation with serving utilities, including consideration of comprehensive utility plans, least-cost plans, load forecasts, and other planning efforts.

(c) The general location of utility lines and facilities required to furnish anticipated capacity needs for the planning period within the jurisdiction's planning area. This should be developed in consultation with serving utilities as a part of the process of identifying lands useful for public purposes to be carried out by planning jurisdictions.

(d) Evaluation of whether any utilities should be identified and classified as essential public facilities, subject in cases of siting difficulty to the separate siting process established under the comprehensive plan for such facilities.

(e) Evaluation of whether any utilities within the planning area are subject to county-wide planning policies for siting public facilities of a county-wide or state-wide nature and if so, the integration of those policies into the local plan for application as relevant.

(f) Creation of local criteria for siting utilities over the planning period, involving:

(i) Consideration of whether any siting proposal is consistent with the locations and densities for growth contemplated in the land use element.

(ii) Consideration of any public service obligations of the utility involved.

(iii) Evaluation of whether the siting decision will adversely affect the ability of the utility to provide service throughout its system.

(iv) Balancing of local design considerations against articulated needs for system-wide uniformity.

(g) Policies should be adopted which call for:

(i) Joint use of transportation rights of way and utility corridors, where possible.

(ii) Timely and effective notification of interested utilities of road construction, and of maintenance and upgrades of existing roads to facilitate coordination of public and private utility trenching activities.

(iii) Consideration of utility permits simultaneously with the proposals requesting service and, when possible, approval of utility permits when the project to be served is approved.

(h) Coordination among adjacent planning jurisdictions to ensure the consistency of each jurisdiction's utilities element and regional utility plans, and to develop a coordinated process for siting regional utility facilities in a timely manner.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-320, filed 11/17/92, effective 12/18/92.]

WAC 365-195-325 Transportation element. (1) Requirements. This element shall contain at least the following subelements:

(a) Land use assumptions used in estimating travel;

(b) Facilities and services needs, including:

(i) An inventory of air, water, and land transportation facilities and services, including transit alignments, to define existing capital facilities and travel levels as a basis for future planning;

(ii) Level of service standards for all arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(iii) Specific actions and requirements for bringing into compliance any facilities or services that are below an established level of service standard;

(iv) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(v) Identification of system expansion needs and transportation system management needs to meet current and future demands;

(c) Finance, including:

(i) An analysis of funding capability to judge needs against probable funding resources;

(ii) A multi-year financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems;

(iii) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised

or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(d) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(e) Demand-management strategies.

(2) **Recommendations for meeting requirements.** The following steps are recommended in preparing the transportation element:

(a) Local and regional transportation goals and policies for the following transportation modes, where applicable:

(i) Roadways;

(ii) Transit: Fixed route and demand response;

(iii) Nonmotorized travel: Bicycle and pedestrian;

(iv) Port and intermodal facilities: Water, rail, air, and industrial;

(v) Rail: Passenger and freight;

(vi) Freight mobility: Truck, rail, and barge.

(b) A discussion of how the transportation element implements the land use element, how the transportation and land use elements are consistent, and how the transportation element is consistent with the regional transportation plan. Discussion concerning regional development strategies which promote the regional transportation plan and an efficient transportation system should be included.

(c) Inventories, incorporating the level of detail appropriate for the planning jurisdiction:

(i) Air transportation facilities inventory can include but not necessarily be limited to: A description of the services provided by the facilities and location of the air transportation facilities; a capacity analysis to compare current and projected airport needs; a capacity analysis of roads, rail, and navigational routes to assess freight and passenger access to airport facilities. Consideration of the current and projected surrounding land uses should be made with respect to uses that are compatible and available for projected airport needs.

(ii) Inventory of water transportation can include but not necessarily be limited to:

(A) A description of the ferry service, ownership, a map of the routes, the number of vessels, frequency of the service, passenger capacity, and vehicle capacity impacting the planning area; a capacity analysis of ferry service compared to current and projected needs. Consideration of the current and projected surrounding land use should be made with respect to uses that are compatible and available for current and projected ferry needs.

(B) A description of the port facilities, service and location of the facilities; an analysis of freight movement showing the proportion of freight which is moved by rail and by truck to determine access adequacy. Consideration of the current and projected surrounding land use should be made in terms of compatibility and availability for current and projected port needs.

(iii) Inventory of land transportation can include but not necessarily be limited to:

(A) A map of arterials and limited access facilities; a description of the general travel market (i.e., commuter, tourist, farm to market, etc.) served by the transportation network; traffic volumes, functional classification, ownership and physical and operational condition. Consideration of current and projected surrounding land use should be made

with respect to uses that are compatible and available for current and projected transportation needs.

(B) A map of the rail lines and intermodal facilities; a description of ownership, condition, and identification of whether the rail lines are for passenger and/or freight movement. Consideration of current and projected surrounding land use should be made with respect to uses that are compatible and available for current and future projected land transportation needs.

(iv) Inventory of transit facilities and services within the planning area can include but not necessarily be limited to, a description of the service, service area, routes, major transfer centers, population base, passengers carried, number of vehicles including seating capacity, miles of route and vehicle hours within the local jurisdiction's boundaries. Analysis of projected transit needs should be made based on projected land use assumptions. For example, transit improvements should be planned in areas of projected residential and/or employment centers. Consideration of current and projected surrounding land use should be made with respect to uses that are compatible and available for current and projected transit needs.

(d) If the planning area is within a National Ambient Air Quality Standards nonattainment area, compliance with the Clean Air Act Amendments of 1990 is required. The following should be included in the transportation element of the comprehensive plan as applicable to locally generated mobile sources of pollutants: A map of the area designated as the nonattainment area for ozone, carbon monoxide, and particulate matter (PM10); a discussion of the severity of the violation(s) contributed by transportation-related sources causing nonattainment and a description of measures that will be implemented consistent with the state implementation plan for air quality, in order to comply with the national standards for the air, land, water, and transit sections of the transportation element. Local jurisdictions should refer to local air quality agencies and metropolitan planning organizations for assistance.

(e) Provide a definition of the level of service (LOS) to be adopted for the transportation system that includes at least arterials and transit routes. The definition of level of service is not restricted to the traditional Highway Capacity Manual approach, but could include district, area-wide, corridor, or other nontraditional level of service standards. Provide an inventory of the current level of service of at least arterial and transit routes. Adopted level of service standards should reflect access, mobility, mode-split, or capacity goals for the transportation facility depending upon the surrounding development density and community goals, and should be developed in consultation with transit agencies serving the planning area.

(f) System expansion needs should include considerations for: Repair, replacement, or enhancement, and/or expansion.

(g) Transportation system management (TSM) and Transportation Demand Management (TDM) implementation measures can include, but not necessarily be limited to: Signal coordination, channelization, high occupancy vehicle (HOV) lanes, ridesharing, trip substitution, trip shifting, increased public transportation, parking policies and high occupancy subsidy programs. Provision should be made for

evaluating the effectiveness of these strategies, and funding sources should be identified.

(h) The finance subelement should include, but not necessarily be limited to:

(i) Results of the identification study of current and projected deficiencies;

(ii) Development of cost estimates to alleviate deficiencies;

(iii) Assessment of revenue forecasts/shortfalls;

(iv) Development of financing policies; and

(v) Development of a financing schedule which matches projects and funding availability.

If sufficient public and/or private funding cannot be found, land use assumptions will be reassessed to ensure that level of service standards will be met, or level of service standards will be adjusted.

(i) Intergovernmental coordination.

(i) Jurisdictions should assess the impacts of their transportation and land use decisions on adjacent jurisdictions. Impacts of those decisions should be identified and discussion of strategies to address inconsistencies should be included.

(A) A discussion of how the local transportation and land use goals relate to adjacent jurisdictions' transportation and land use goals, county-wide policies, regional land use and transportation strategies, and state-wide goals outlined in the act.

(B) Local jurisdictions should refer to the Washington state transportation policy plan for guidance on state-wide transportation policy.

(C) Local jurisdictions should refer to the regional transportation plan produced by the regional transportation planning organization for guidance concerning the designated regional transportation system. Local jurisdictions should also define their community's role in the regional transportation and land use strategy and produce transportation and land use plans, and development regulations which promote that role.

(D) Local jurisdictions should refer to the responsible transportation agencies for information concerning current and projected plans for air, land, and water transportation facilities and services. Local jurisdictions and agencies responsible for air, land, and water transportation facilities and services should cooperate in identifying and resolving land use and transportation linkage issues.

(ii) All transportation projects which have an impact on the regional transportation system must be consistent with the regional transportation plan as defined by RCW 47.80.030. A regional transportation planning organization shall certify that the transportation elements of the adopted county, city, and town comprehensive plans within the region conform with RCW 36.70A.070. Regional transportation plans, state transportation plans, and county and city comprehensive plans shall be consistent with one another.

(iii) Traffic forecasts should be based on adopted regional growth strategies, the regional transportation plan, and comprehensive plans within the region to ensure consistency between jurisdictions. The forecast of at least ten years of travel demand should include vehicular, transit, and nonmotorized modes of transportation.

(iv) The state department of transportation and the transportation commission will develop a state transportation

plan as required by RCW 47.01.071, and identify and jointly plan improvements and strategies within corridors of regional or state-wide significance coordinated and consistent with the RTPO's.

Local jurisdictions should refer to the *Systems Plan* produced by the department of transportation for service objectives on state-owned transportation facilities, proposed improvements, and identification of deficiencies for the state-owned transportation facilities.

The department of transportation should be involved with the regionally coordinated effort to set level of service standards for arterials and transit routes.

(v) Key coordination efforts between interested public, private, and citizen groups should include: Transportation plan development; identification of needs; land use coordination; capital program development; prioritization of projects, financial plan, LOS standards development; capacity accounting procedures; development review process; timing of concurrency review; analysis methods; legal requirements (vesting, appeals); concurrency management system ordinance; LOS monitoring.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-325, filed 11/17/92, effective 12/18/92.]

WAC 365-195-330 Rural element. (1) Requirements. This element is required only of counties. This element shall include lands that are not designated for urban growth, agriculture, forest, or mineral resources. The rural element shall permit land uses that are compatible with the rural character of such lands and provide for a variety of rural densities.

(2) **Recommendations for meeting requirements.** The following steps are recommended in preparing the rural element:

(a) Identification of rural lands.

(b) Identification of the amount of population growth within the twenty-year planning period which will be permitted to live or work on rural lands. This population should be consistent with an area of low-density where the full array of urban governmental services is not available.

(c) Adoption of policies for the development of such lands, including:

(i) Identification of the general type of uses to be permitted;

(ii) Provision for a variety of densities for residential, commercial, and industrial development consistent with maintenance of the rural character of the area. Consideration should be given to policies allowing the approval of planned unit developments, density averaging, cluster housing, and innovative techniques of managing development within overall parameters of rural density.

(iii) Establishment of a definition of rural governmental services which identifies the limited public facilities and services which should be provided to persons living or working in rural areas.

(iv) Determination of appropriate buffers between agricultural, forest, and mineral resource lands of long-term commercial significance and rural lands.

(v) Provisions regulating development at the boundary of urban growth areas so as not to foreclose the possible

eventual orderly inclusion of such areas within urban growth areas.

(d) Adoption of policies for preservation of the rural character of such lands, including:

(i) Preservation of critical areas, consistent with private property rights;

(ii) Continuation of agricultural uses, the cultivation of timber, and excavation of mineral resources on lands not designated as possessing long-term commercial significance for such uses;

(iii) Encouragement of the use of rural lands for recreational pursuits which preserve open space and are environmentally benign;

(iv) Adoption of strategies for the acquisition of natural areas of high scenic value;

(v) Establishment of criteria for environmental protection, including programs to control nonpoint sources of water pollution and to preserve and enhance habitat for fish and wildlife.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-330, filed 11/17/92, effective 12/18/92.]

WAC 365-195-335 Urban growth areas. (1) Requirements.

(a) Each county planning under the Act shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature.

(b) Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city.

(c) An urban growth area may include territory that is located outside a city if such territory already is characterized by urban growth or is adjacent to territory already characterized by urban growth.

(d) Based upon the population growth management planning population projection made for the county by the office of financial management, the urban growth areas in the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county for the succeeding twenty-year period. Each urban growth area shall permit urban densities and shall include greenbelt and open space areas.

(e) Urban growth should be located first in areas already characterized by urban growth that have existing public facility and service capacities to serve such development.

(f) Urban growth should be located second in areas already characterized by urban growth that will be served by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources.

(g) It is appropriate that urban government services be provided by cities and urban government services should not be provided in rural areas.

(2) General procedure.

(a) The designation process shall include consultation by the county with each city located within its boundaries.

(b) Each city shall propose the location of an urban growth area.

(c) The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located.

(d) If an agreement is not reached with each city located within the urban growth area, the county shall justify in writing why it so designated an urban growth area.

(3) Recommendations for meeting requirements. The following steps are recommended in developing urban growth areas:

(a) County-wide planning policies. In adopting urban growth areas, each county should be guided by the applicable county-wide (and in some cases multicounty) planning policies. To the maximum extent possible, the creation of urban growth areas should result from a cooperative effort among the jurisdictions involved.

(b) General considerations. For all jurisdictions planning under the act, the urban growth area should represent the physical area within which that jurisdiction's vision of urban development can be realized over the next twenty years. The urban growth area should be based on densities selected to promote goals of the act - densities which accommodate urban growth served by adequate public facilities and discourage sprawl.

(c) Development of city proposals. In developing the proposal for its urban growth area, each city should engage in a process of analysis which involves the steps set forth in (d), (e), and (f) of this subsection.

(d) Determination of the amount of land necessary to accommodate likely growth. This process should involve at least:

(i) A forecast of the likely future growth of employment and population in the community, utilizing the twenty-year population projection for the county in conjunction with data on current community population, recent trends in population, and employment in and near the community and assumptions about the likelihood of continuation of such trends. Where available, regional population and employment forecasts should be used.

(ii) Selection of community growth goals with respect to population, commercial and industrial development and residential development.

(iii) Selection of the densities the community seeks to achieve in relation to its growth goals.

(iv) Estimation of the amount of land needed to accommodate the likely level of development at the densities selected.

(v) Identification of the amount of land needed for the public facilities, public services, and utilities necessary to support the likely level of development.

(vi) Identification of the appropriate amount of greenbelt and open space to be preserved or created in connection with the overall growth pattern.

(e) Determination of the geographic area to be encompassed to provide the necessary land. This process should involve at least:

(i) An inventory of lands within existing municipal boundaries which is available for development, including vacant land, partially used land, and land where redevelopment is likely.

(ii) An estimate of lands within existing municipal boundaries which are potentially available for public capital

facilities and utilities necessary to support anticipated growth.

(iii) An estimate of lands which should be allocated to greenbelts and open space and lands which should be protected as critical areas.

(iv) If the lands within the existing municipal boundaries are not sufficient to provide the land area necessary to accommodate likely growth, similar inventories and estimates should be made of lands in adjacent unincorporated territory already characterized by urban growth, if any such territory exists.

(v) The community's proposed urban growth area should encompass a geographic area which matches the amount of land necessary to accommodate likely growth. If there is physically no territory available into which a city might expand, it may need to revise its proposed densities or population levels in order to accommodate growth on its existing land base.

(f) Evaluation of the determination of geographic requirements. The community should perform a check on the realism of the area proposed by evaluating:

(i) The anticipated ability to finance by all means the public facilities, public services, and open space needed in the area over the planning period.

(ii) The effect that confining urban growth within the areas defined is likely to have on the price of property and the impact thereof on the ability of residents of all economic strata to obtain housing they can afford.

(iii) Whether the level of population and economic growth contemplated can be achieved within the capacity of available land and water resources and without environmental degradation.

(iv) The extent to which the plan of the county and of other communities will influence the area needed.

If, as a result of these evaluations, the area appears to have been drawn too small or too large, the city's proposal should be adjusted accordingly.

(g) County actions in adopting urban growth areas. The designation of urban growth areas should ultimately be incorporated into the comprehensive plan of each county that plans under the act. However, every effort should be made to complete the urban growth area designation process earlier, so that the comprehensive plans of both the county and the cities can be completed in reliance upon it. Before completing the designation process, counties should engage in a process which involves the steps set forth in (h) through (j) of this subsection.

(h) The county should determine how much of its twenty-year population projection is to be allocated to rural areas and other areas outside urban growth areas and how much should be allocated to urban growth.

(i) The county should attempt to define urban growth areas so as to accommodate the growth plans of the cities, while recognizing that physical location or existing patterns of service make some unincorporated areas which are characterized by urban growth inappropriate for inclusion in any city's potential growth area. The option of incorporation should be preserved for some unincorporated communities upon the receipt of additional growth.

(j) The total area designated as urban growth area in any county should be sufficient to permit the urban growth that is projected to occur in the county for the succeeding

twenty-year period, unless some portion of that growth is allocated to a new community reserve established in anticipation of a proposal for one or more new fully contained communities.

(k) Actions which should accompany designation of urban growth areas. Consistent with county-wide planning policies, cities and counties consulting on the designation of urban growth areas should make every effort to address the following as a part of the process:

(i) Establishment of agreements regarding land use regulations and the providing of services in that portion of the urban growth area outside of an existing city into which it is eventually expected to expand.

(ii) Negotiation of agreements for appropriate allocation of financial burdens resulting from the transition of land from county to city jurisdiction.

(iii) Provision for an ongoing collaborative process to assist in implementing county-wide planning policies, resolving regional issues, and adjusting growth boundaries.

(l) Urbanized areas outside of urban growth areas.

(i) New fully contained communities. A county may establish a process, as part of its urban growth area designation, for reviewing proposals to authorize new fully contained communities located outside the initially designated urban growth areas. If such a process is established, the criteria for approval are as set forth in RCW 36.70A.350. The approval procedures shall be adopted as a development regulation. However, such communities may be approved only if a county reserves a portion of the twenty-year population projection for allocation to such communities. When a county establishes a new community reserve it shall reduce the urban growth area accordingly. The approval of an application for a new fully contained community shall have the effect of amending the comprehensive plan to include the new community as an urban growth area.

(ii) Master planned resorts. A county may establish procedures for approving master planned resorts constituting urban growth outside of an urban growth area. Such a resort may be authorized only if the comprehensive plan and development regulations of the county comply with the requirements of RCW 36.70A.360.

[Statutory Authority: RCW 36.70A.190 (4)(b), 92-23-065, § 365-195-335, filed 11/17/92, effective 12/18/92.]

WAC 365-195-340 Siting essential public facilities.

(1) **Requirements.** Each comprehensive plan shall include a process for identifying and siting essential public facilities.

(a) Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities, state and local correctional facilities, state or regional transportation facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, and group homes.

(b) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. Facilities may be added to this list at any time.

(c) No local comprehensive plan may preclude the siting of essential public facilities.

(2) **Recommendations for meeting requirements.** Each comprehensive plan should include a process for siting

essential public facilities. Where such facilities are of a county-wide or state-wide nature this process should conform to the applicable county-wide planning policy.

(a) Identifying facilities.

(i) In the identification of essential public facilities, the broadest view should be taken of what constitutes a public facility, involving the full range of services to the public provided by government, substantially funded by government, contracted for by government, or provided by private entities subject to public service obligations.

(ii) The comprehensive plans should contain local criteria for the identification of essential public facilities, focusing on the public need for the services involved. There are three sources from which local lists of essential public facilities should be drawn:

(A) The state list. This is the list of essential state public facilities that are required or likely to be built within the next six years maintained by the office of financial management.

(B) The county-wide list. This is a list of essential public facilities of a county-wide or regional nature, made part of or pursuant to the county-wide planning policies adopted by counties in consultation with cities.

(C) The city or county list. This is a list of locally essential facilities, adopted by each planning jurisdiction. It is irrelevant to this listing that a facility may be funded by or operated by the state or another public or private entity other than the planning jurisdiction. The critical concern is that the facility be needed locally.

(iii) Not all essential public facilities are always difficult to site. Conversely, sometimes essential public facilities of a type usually easy to site will present siting difficulties. The initial step in the siting process should be a determination as a threshold matter of whether the essential public facility in question presents siting difficulties.

(A) If the facility does not present siting difficulties, it should be relegated to the normal siting process otherwise applicable to a facility of its type.

(B) If the facility does present siting difficulties, it should be subjected to the siting process called for below.

(b) Siting process.

(i) The comprehensive plan should describe the components of a siting process for essential public facilities which are difficult to site to be implemented on a case-by-case basis through development regulations.

(ii) The process should provide for a cooperative interjurisdictional approach to siting of essential public facilities of a county-wide, regional, or state-wide nature, consistent with county-wide planning policies.

(iii) Agreements among jurisdictions should be sought to mitigate any disproportionate financial burden which may fall on the jurisdiction which becomes the site of a facility of a state-wide, regional, or county-wide nature.

(iv) Where essential public facilities may be provided by special districts, the plans under which those districts operate must be consistent with the comprehensive plan of the city or county. Cities and counties should adopt provisions for consultation to ensure that such districts exercise their powers in a way that does not conflict with the relevant comprehensive plan.

(v) The siting process should take into consideration the need for county-wide, regional, or state-wide uniformity in connection with the kind of facility under review.

(vi) The siting process should include criteria which address the issues which make essential public facilities difficult to site, and involve a public participation component. Consideration should be given to the extent to which design conditions can be used to make a facility compatible with its surroundings, and to adoption of provisions for amenities or incentives for neighborhoods or jurisdictions in which facilities are sited.

(c) No preclusion. While it is clear that essential public facilities of a county-wide or state-wide nature will not be sited within the jurisdictional boundaries of every jurisdiction planning under the act, no comprehensive plan may directly or indirectly preclude the siting of essential public facilities. Provision therefore should be made to establish a general use category which will provide for the siting of such facilities, should the occasion arise.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-340, filed 11/17/92, effective 12/18/92.]

WAC 365-195-345 Optional elements. (1) A comprehensive plan may include additional elements, items, or studies dealing with other subjects relating to the physical development within its jurisdiction, including, but not limited to:

(a) Conservation;

(b) Solar energy;

(c) Recreation.

(2) A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.

(3) The department recommends that strong consideration be given to including elements on the following within comprehensive plans:

(a) Economic development;

(b) Environmental protection (including critical areas);

(c) Natural resource lands (where applicable);

(d) Design.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-345, filed 11/17/92, effective 12/18/92.]

PART FOUR INVENTORIES AND REVIEWS

WAC 365-195-400 Natural resource lands. (1) **Requirements.** Prior to the development of comprehensive plans, cities and counties planning under the act ought to have designated natural resource lands of long-term commercial significance and adopted development regulations to assure their conservation. Such lands include agricultural lands, forest lands, and mineral resource lands. The previous designations and development regulations shall be reviewed in connection with the comprehensive plan adoption process and where necessary be altered to ensure consistency. Forest land and agricultural land located within urban growth areas shall not be designated as forest land or agricultural land of long-term commercial significance unless the city or county has enacted a program authorizing transfer or purchase of development rights.

(2) Recommendations for meeting requirements.

Much of the analysis which is the basis for the comprehensive plan will come later than the initial identification and regulation of natural resource lands. The result may be plan features which conflict with previous natural resource land provisions.

(a) The department has issued guidelines for the classification of natural resource lands which are contained in chapter 365-190 WAC.

(b) Generally natural resource lands should be located beyond the boundaries of urban growth areas. In most cases, the designated purposes of such lands are incompatible with urban densities.

(c) The review of existing designations should, in most cases, be limited to the question of consistency with the comprehensive plan, rather than a revisiting the entire prior designation and regulation process. However, to the extent that new information is available or errors have been discovered, the review process should take this information into account.

(d) Review for consistency in this context should include whether the planned use of lands adjacent to agricultural, forest, or mineral resource lands will interfere with the continued use in an accustomed manner and in accordance with the best management practices of the designated lands for the production of food, agricultural products, or timber or for the extraction of minerals.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-400, filed 11/17/92, effective 12/18/92.]

WAC 365-195-410 Critical areas. (1) Requirements. Prior to the development of comprehensive plans, cities and counties ought to have designated critical areas and adopted regulations protective of them. Such areas are defined to include:

- (a) Wetlands;
- (b) Areas of critical recharging effect on aquifers used for potable water;
- (c) Fish and wildlife habitat conservation areas;
- (d) Frequently flooded areas; and
- (e) Geologically hazardous areas.

The previous designations and regulations shall be reviewed in the comprehensive plan process to ensure consistency.

(2) Recommendations for meeting requirements.

Much of the analysis which is the basis for the comprehensive plan will come later than the initial identification and regulation of critical areas. The result may be plan features which conflict with the previous critical area provisions.

(a) The department has issued guidelines for the classification of critical areas which are contained in chapter 365-190 WAC.

(b) Critical areas should be designated and protected wherever the applicable natural conditions exist, whether within or outside of urban growth areas.

(c) The review of existing designations should, in most cases, be limited to the question of consistency with the comprehensive plan, rather than a revisiting of the entire prior designation and regulation process. However, to the extent that new information is available or errors have been

discovered, the review process should take this information into account.

(d) In connection with critical area protection, the department recommends that planning jurisdictions identify the policies by which decisions are made on when and how police powers will be used (regulation) and when and how other means will be employed (purchases, development rights, etc.).

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-410, filed 11/17/92, effective 12/18/92.]

WAC 365-195-420 Identification of open space corridors. (1) Requirements.

(a) Each county or city planning under the act shall identify open space corridors within and between urban growth areas. They shall include lands useful for recreation, wildlife habitat, trails, and connection of critical areas as defined in RCW 36.70A.030.

(b) The city or county may seek to acquire by purchase the fee simple or lesser interests in these open space corridors using funds authorized by RCW 84.34.230 or other sources.

(2) Recommendations for meeting requirements. The data for meeting this requirement should be acquired by the analysis which goes into developing the urban growth area designation and the land use element of comprehensive plans.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-420, filed 11/17/92, effective 12/18/92.]

WAC 365-195-430 Identification of lands useful for public purposes. (1) Requirements. Each county and city planning under the act shall identify land useful for public purposes such as utility corridors, transportation corridors, landfills, sewage treatment facilities, storm water management facilities, recreation, schools, and other public uses. The county shall work with the state and with the cities within the county's borders to identify areas of shared need for public facilities. The jurisdictions within the county shall prepare a prioritized list of lands necessary for the identified public uses including an estimated date by which the acquisition will be needed. The respective capital acquisition budgets for each jurisdiction shall reflect the jointly agreed upon priorities and time schedule.

(2) Recommendations for meeting requirements. The data for meeting this requirement should be acquired by the analysis which goes into developing the urban growth area designations and the land use, utilities and transportation elements of comprehensive plans. The department recommends that the information derived in meeting this requirement be made generally available only to the extent necessary to meet the requirements of the public disclosure laws.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-430, filed 11/17/92, effective 12/18/92.]

PART FIVE CONSISTENCY

WAC 365-195-500 Internal consistency. Each comprehensive plan shall be an internally consistent docu-

ment and all elements shall be consistent with the future land use map. This means that each part of the plan should be integrated with all other parts and that all should be capable of implementation together. Internal consistency involves at least two aspects:

(1) Ability of physical aspects of the plan to coexist on the available land.

(2) Ability of the plan to provide that adequate public facilities are available when the impacts of development occur (concurrency).

Each plan should provide mechanisms for ongoing review of its implementation and adjustment of its terms whenever internal conflicts become apparent.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-500, filed 11/17/92, effective 12/18/92.]

WAC 365-195-510 Concurrency. (1) Transportation. The aim of transportation planning for local jurisdictions is to achieve concurrency for transportation facilities. If concurrency for transportation facilities is not achieved, development may not be approved.

(2) Other public facilities. Each comprehensive plan should designate those public facilities in addition to transportation facilities for which concurrency is required.

(3) Levels of service. The concept of concurrency is based on the maintenance of specified levels of service with respect to each of the public facilities to which concurrency applies. For all such facilities, planning jurisdictions should designate appropriate levels of service.

(a) Transportation. The designation of levels of service in the transportation area will be influenced by regional considerations. For transportation facilities subject to regional transportation plans under RCW 47.80.030, local levels of service should conform to the regional plan. Other transportation facilities, however, may reflect local priorities.

(b) Levels of service should be set to reflect realistic expectations consistent with the achievement of growth aims. Setting such levels too high could, under some regulatory strategies, result in no growth. As a deliberate policy, this would be contrary to the act.

(4) Regulatory response to the absence of concurrency. The plan should provide a strategy for what happens when approval of any particular development would cause levels of service for concurrency to fall below the locally adopted standards. Denial of approval is statutorily required only in the area of transportation facilities. To the extent that any jurisdiction uses denial of development as its regulatory response to the absence of concurrency, consideration should be given to defining this as an emergency for the purposes of the ability to amend or revise the comprehensive plan.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-510, filed 11/17/92, effective 12/18/92.]

WAC 365-195-520 Interjurisdictional consistency. Adopted county-wide planning policies are designed to ensure that city and county comprehensive plans are consistent. Each local comprehensive plan should demonstrate that such policies have been followed in its development.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-520, filed 11/17/92, effective 12/18/92.]

WAC 365-195-530 Coordination with other plans. Each planning jurisdiction should circulate its proposed comprehensive plan to other jurisdictions with which it shares a common border or has related regional issues. The proposed plan should be accompanied by the environmental documents concerning it. Reviewing jurisdictions should be considered to have concurred in the provisions of a plan, unless within a reasonable period of time, they provide written comment identifying plan features which will preclude or interfere with the achievement of any features of their own plans. All jurisdictions should attempt to resolve conflicts over interjurisdictional consistency through consultation and negotiation.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-530, filed 11/17/92, effective 12/18/92.]

WAC 365-195-540 Analysis of cumulative effects. It is recognized that the growth of each jurisdiction will have ripple effects which will reach across jurisdictional boundaries. Each city or county planning under the act should analyze what such effects are likely to be if the development it anticipates occurs. This analysis should be made as a part of the process of complying with the State Environmental Policy Act (SEPA) in connection with comprehensive plan adoption. Affected jurisdictions should be given an opportunity to comment on this analysis.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-540, filed 11/17/92, effective 12/18/92.]

PART SIX ADOPTION PROCEDURES

WAC 365-195-600 Public participation. (1) **Requirements.** Each county and city planning under the act shall establish procedures for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans. The procedures shall provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, communication programs, information services, and consideration of and response to public comments. Errors in exact compliance with the established procedures shall not render the comprehensive plan or development regulations invalid if the spirit of the procedures is observed.

(2) **Recommendations for meeting requirements.** The recommendations made in this subsection are intended as a list of possible choices, but it is recognized that meaningful public participation can be accomplished without using all of the suggestions made here or by adopting other methods.

(a) Public involvement in plan and regulation development.

(i) In designing its public participation program, each planning jurisdiction should endeavor to involve the broadest cross-section of the community, so that groups not previously involved in planning become involved. The programs should include efforts to explain that citizen input is an essential part of the planning process and provide a framework for advising citizens about timelines for steps in the process and when citizen input will be sought.

(ii) Visioning. The public should be involved at the earliest possible time in the process of comprehensive planning under the act. This should begin with a visioning process in which the public is invited to participate in a broad definition of the kind of future to be sought for the community. The results of this process should then be incorporated into the plan features, including, but not limited to, locally adopted levels of service and densities selected for commercial, industrial, and residential development.

(iii) Planning commission. In the process of plan development, full use should be made of the planning commission as a liaison with the public.

(iv) Public meetings on draft plan. Once the plan is completed in draft form, or as parts of it are drafted, a series of public meetings or workshops should be held at various locations throughout the jurisdiction to obtain public reaction and suggestions.

(v) Public hearings. When the final draft of the plan has been completed, at least one public hearing should be held prior to the presentation of the final draft to the legislative authority of the jurisdiction adopting it. When the plan is proposed for adoption, the legislative authority should conduct another public hearing prior to voting on adoption.

(vi) Written comment. At each stage of the process when public input is sought, opportunity should be provided to make written comment.

(vii) Communication programs and information services. Each jurisdiction should make every effort to collect and disseminate public information explaining the act and the process involved in complying with it. In addition, locally relevant information packets and brochures should be developed and disseminated. Planners should actively seek to appear before community groups to explain the act and the plan development process.

(viii) Proposals and alternatives. Whenever public input is sought on proposals and alternatives, the relevant drafts should be reproduced and made available to interested persons.

(ix) Notice. Notice of all events at which public input is sought should be broadly disseminated in advance through all available means, including flyers and press releases to print and broadcast media. Notice should be published in a newspaper of general circulation at least one week in advance of any public hearing. When appropriate, notices should announce the availability of relevant draft documents on request.

(x) All meetings and hearings to which the public is invited should be free and open. At hearings all persons desiring to speak should be allowed to do so, consistent with time constraints.

(xi) Consideration of and response to public comments. All comments and recommendations of the public should be reviewed. Adequate time should be provided between the time of any public hearing and the date of adoption of all or any part of the comprehensive plan to evaluate and respond to public comments. The proceedings and all public hearings should be recorded. A summary of public comments and an explanation of what action was taken in response to them should be made in writing and included in the record of adoption of the plan.

(xii) Every effort should be made to incorporate public involvement efforts into the SEPA process.

(xiii) Except for the visioning effort, the same steps should precede the adoption of development regulations as was used for the comprehensive plan.

(b) Continuous public involvement. The planning commission should monitor development of both the plan and the development regulations. After these are adopted, the commission should monitor compliance. The commission should report to the city or county at least annually on possible amendments to the plan or development regulations. In addition at least annually, the commission should convene a public meeting to provide information on how implementation is progressing and to receive public input on changes that may be needed. When any amendments are proposed for adoption, the same public hearing procedure should be followed as attended initial adoption.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-600, filed 11/17/92, effective 12/18/92.]

WAC 365-195-610 State Environmental Policy Act (SEPA). Adoption of comprehensive plans and development regulations are "actions" as defined under SEPA. This means that SEPA compliance is necessary. When a complete new plan is being written, in most instances, the preparation of an environmental impact statement (EIS) will be required prior to its adoption. SEPA compliance should be considered as part of the planning process rather than as a separate exercise. Indeed, the SEPA analysis and documentation can serve, in significant part, to fulfill the need to compile a record showing the considerations which went into the plan and why one alternative was chosen over another. SEPA compliance for development regulations should concentrate on the impact difference among alternative means of successfully implementing the plan. Detailed discussion of SEPA compliance is contained in Department of Ecology Publication No. 92-07, *"The Growth Management Act and the State Environmental Policy Act, A Guide to Interrelationships."*

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-610, filed 11/17/92, effective 12/18/92.]

WAC 365-195-620 Submissions to state. (1) Each county or city proposing adoption of a comprehensive plan or development regulations shall notify the department of its intent at least sixty days prior to final adoption. Notification shall be made by filing with the department two complete copies of the plan or one copy and a computer disc containing the plan. State agencies including the department may provide comments, during the public review process prior to adoption.

(2) Each county or city planning under the act shall transmit a complete and accurate copy of its comprehensive plan or development regulations to the department within ten days after final adoption.

(3) Any proposed amendments for permanent changes to a comprehensive plan or development regulation shall be submitted to the department in the same manner as initial plans and development regulations. Adopted amendments shall be transmitted to the department in the same manner as the initial plans and regulations.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-620, filed 11/17/92, effective 12/18/92.]

WAC 365-195-630 Amendment. (1) Each plan should provide for an ongoing process of evaluation to ensure internal and interjurisdictional consistency of comprehensive plans and continuous consistency of development regulations with such plans. This evaluation should be an integral part of the amendment process.

(2) Each comprehensive plan shall contain provisions governing its amendment. Amendments to the plan shall not be considered more frequently than once every year, except in cases of emergency. The amendment process shall include a requirement that all proposed amendments in any year be considered concurrently so that the cumulative effect of the various proposals can be ascertained.

(3) Each county that designates urban growth areas shall review, at least every ten years, its designated urban growth areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review, each city located within the county shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within its urban growth area has located within its boundaries and the extent to which such growth has located within the unincorporated portions of the urban growth area. The urban growth areas and densities permitted in urban growth areas shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-630, filed 11/17/92, effective 12/18/92.]

WAC 365-195-640 Record of process. (1) Whenever a provision of the comprehensive plan or development regulations is based on factual data, that data or a clear reference to its source should be made a part of the record of adoption.

(2) The record should contain a complete exposition of how the public participation requirements were met.

(3) All public hearings should be recorded and tape recordings kept of the proceedings.

(4) The record which accompanies any amendment to the comprehensive plan or development regulations should conform to the same requirements as the initial plan and regulations.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-640, filed 11/17/92, effective 12/18/92.]

PART SEVEN RELATIONSHIP OF GMA PLANNING TO OTHER LAWS

WAC 365-195-700 Analysis of preemption. (Reserved.)

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-700, filed 11/17/92, effective 12/18/92.]

WAC 365-195-710 Takings analysis. (Reserved.)

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-710, filed 11/17/92, effective 12/18/92.]

WAC 365-195-720 State agency compliance. (Reserved.)

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-720, filed 11/17/92, effective 12/18/92.]

PART EIGHT DEVELOPMENT REGULATIONS

WAC 365-195-800 Consistency with plans. (Reserved.)

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-800, filed 11/17/92, effective 12/18/92.]

WAC 365-195-810 Concurrency regulations. (Reserved.)

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-810, filed 11/17/92, effective 12/18/92.]

WAC 365-195-820 Alternative control mechanisms. (Reserved.)

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-820, filed 11/17/92, effective 12/18/92.]

WAC 365-195-830 Impact fees. (Reserved.)

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-830, filed 11/17/92, effective 12/18/92.]

WAC 365-195-840 Method for adjusting regulations when comprehensive plan is amended. (Reserved.)

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-840, filed 11/17/92, effective 12/18/92.]

Chapter 365-200 WAC THE AFFORDABLE HOUSING PROGRAM

WAC

365-200-010	Authority.
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365-200-060	Notice.
365-200-070	Advice and input of the low-income assistance advisory committee.

WAC 365-200-010 Authority. These rules are adopted under the authority of chapter 43.185 RCW which provide that the department shall have the authority to promulgate rules governing the award of grants and loans.

[Statutory Authority: Chapter 43.185 RCW. 92-06-005 (Order 92-02), § 365-200-010, filed 2/20/92, effective 3/22/92.]

WAC 365-200-020 Purpose. The purpose of the affordable housing program is to provide financial assistance, and develop and coordinate public and private resources to meet the affordable housing needs of low-income households in the state.

[Statutory Authority: Chapter 43.185 RCW. 92-06-005 (Order 92-02), § 365-200-020, filed 2/20/92, effective 3/22/92.]

WAC 365-200-030 Definitions. (1) "Affordable housing" means residential housing for rental or private individual ownership which, as long as the same is occupied by low-income households, requires payment of monthly housing costs, including utilities other than telephone, of no more than thirty percent of the family's income.

(2) "Low-income" means a family or household earning eighty percent or lower of county median income.

(3) "Very low income" means a family or household earning fifty percent or lower of county median income.

(4) "Department" means the department of community development.

(5) "Director" means the director of the department of community development.

[Statutory Authority: Chapter 43.185 RCW. 92-06-005 (Order 92-02), § 365-200-030, filed 2/20/92, effective 3/22/92.]

WAC 365-200-040 Eligible applicants. Eligible applicants for funding include local governments, local housing authorities, nonprofit community or neighborhood-based organizations, and regional or state-wide nonprofit housing assistance organizations.

[Statutory Authority: Chapter 43.185 RCW. 92-06-005 (Order 92-02), § 365-200-040, filed 2/20/92, effective 3/22/92.]

WAC 365-200-050 Content and criteria for approval of the needs assessment. The department shall not approve a request for assistance unless it has received and approved a housing needs assessment. The affordable housing needs assessment shall:

(1) Describe the jurisdiction's current needs for housing assistance for very low-income households, low-income households, and special-needs populations;

(2) Estimate the need for a five-year period; and

(3) Contain a strategy to meet the need.

The needs assessment shall:

(a) Contain population demographics including age, race, household income, and household type;

(b) Provide a ten-year summary of population changes and a projection of population changes for the next ten years;

(c) State the number and percentage of persons and households at eighty percent and lower of county median income;

(d) Identify the gap between the number of households at eighty percent of median and the number of affordable rental and for-sale units which are needed;

(e) Identify the amount of average assistance required to close the gap for a household at eighty percent of county median income with not more than thirty percent of household income to be used for housing costs including utilities; and

(f) Contain a description of local existing housing conditions including vacancy rates, average rents, average for-sale house prices, units in need of rehabilitation, units in need of weatherization, and the number of new units in the past five years and their type.

The department may accept a local housing element, a certified comprehensive housing affordability strategy, or a housing assistance plan, if consistent with the provisions of this section. To be approved a plan must contain the

number of households at eighty percent or lower of county median income and state the average amount of assistance required per household to enable access to affordable housing at fair market rents or to average sales prices with no more than thirty percent of the household's income, including utilities, and comply with the above requirements.

[Statutory Authority: Chapter 43.185 RCW. 92-06-005 (Order 92-02), § 365-200-050, filed 2/20/92, effective 3/22/92.]

WAC 365-200-060 Notice. During each calendar year in which funds are available for use by the department for the affordable housing program the department shall announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days duration. This announcement shall be made as often as the director deems appropriate for proper utilization of resources.

[Statutory Authority: Chapter 43.185 RCW. 92-06-005 (Order 92-02), § 365-200-060, filed 2/20/92, effective 3/22/92.]

WAC 365-200-070 Advice and input of the low-income assistance advisory committee. With the advice and input of the low-income assistance advisory committee appointed by the director, the department shall develop criteria to evaluate applications for assistance.

[Statutory Authority: Chapter 43.185 RCW. 92-06-005 (Order 92-02), § 365-200-070, filed 2/20/92, effective 3/22/92.]