

[Statutory Authority: Chapter 41.06 RCW and RCW 41.06.150. 94-02-032, § 359-07-070, filed 12/29/93, effective 1/1/95.]

Chapter 359-48 WAC STATE INTERNSHIP PROGRAM

WAC

359-48-010	State internship program—Purpose.
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WAC 359-48-010 State internship program—

Purpose. The purpose of the state internship program is to assist students and state employees in gaining valuable work experience and knowledge in various areas of state government. The program shall be administered by the office of the governor.

[Statutory Authority: Chapter 41.06 RCW and RCW 41.06.150. 94-02-033, § 359-48-010, filed 12/29/93, effective 1/1/95.]

WAC 359-48-020 State internship program—

Application of rules. With the exceptions noted in chapter 359-48 WAC, the remainder of the merit system rules do not apply to positions in the state internship program.

[Statutory Authority: Chapter 41.06 RCW and RCW 41.06.150. 94-02-033, § 359-48-020, filed 12/29/93, effective 1/1/95.]

WAC 359-48-030 State internship program—

General provisions. (1) No agency or institution of higher education or related boards shall be deemed to exceed any limitation or full-time equivalent staff positions on the basis of intern positions established under the state internship program.

(2) The provisions of chapter 359-48 WAC shall not limit the authority of state agencies or institutions of higher education and related boards to continue or establish other internship programs or positions.

[Statutory Authority: Chapter 41.06 RCW and RCW 41.06.150. 94-02-033, § 359-48-030, filed 12/29/93, effective 1/1/95.]

WAC 359-48-040 State internship program—

Eligibility—Duration of internship. The state internship program shall consist of two individual internship programs:

(1) An undergraduate internship program for students working toward an undergraduate degree. In addition, any state employee, whether working toward a degree or not, shall be eligible to participate in the program upon the written recommendation of the head of the employee's agency or head of the employee's department at institutions of higher education. Persons selected to participate in the undergraduate internship program shall serve internships of three to six months.

(2) An executive fellows program for students who have successfully completed at least one year of graduate-level work and have demonstrated a substantial interest in public sector management. In addition, any state employee, whether working toward an advanced degree or not, shall be

eligible to participate in the program upon the written recommendation of the head of the employee's agency or head of the employee's department at an institution of higher education. Positions in this program shall be as assistants or analysts at the mid-management level or higher. Persons selected to participate in the executive fellows program shall serve internships for one to two years.

[Statutory Authority: Chapter 41.06 RCW and RCW 41.06.150. 94-02-033, § 359-48-040, filed 12/29/93, effective 1/1/95.]

WAC 359-48-050 State internship program—

Return rights—Benefits. (1) Employees leaving classified or exempt positions in state government or institutions of higher education and related boards to participate in the state internship program shall:

(a) Continue to receive all fringe benefits as if they had never left their classified or exempt position. In addition, employees leaving classified positions shall continue to accrue seniority while in the state internship program.

(b) Have the right to return to their previous position at any time during the internship or upon completion of the internship.

(2) Participants in the undergraduate internship program who were not state employees prior to accepting a position in the program shall accrue sick leave credits commensurate with other state employees.

(3) Participants in the executive fellows program who were not state employees prior to accepting a position in the program shall:

(a) Accrue sick leave and vacation leave credits commensurate with other state employees; and

(b) Receive insurance and retirement credit commensurate with other employees of the employing agency.

[Statutory Authority: Chapter 41.06 RCW and RCW 41.06.150. 94-02-033, § 359-48-050, filed 12/29/93, effective 1/1/95.]

WAC 359-48-060 State internship program—

Completion of internship. Successful completion of an internship in the undergraduate internship program or the executive fellows program shall be considered as employment experience at the level at which the intern was placed.

[Statutory Authority: Chapter 41.06 RCW and RCW 41.06.150. 94-02-033, § 359-48-060, filed 12/29/93, effective 1/1/95.]

Title 365 WAC COMMUNITY DEVELOPMENT, DEPARTMENT OF (Formerly: Planning and Community Affairs Agency)

Chapters

365-24 Uniform relocation assistance and real property acquisition.

365-135 Bond cap allocation.

Title 365

Title 365 WAC: Community Development, Department of

- 365-140 State funding of local emergency food programs.**
- 365-195 Growth management act—Procedural criteria for adopting comprehensive plans and development regulations.**
- 365-300 Enhanced 9-1-1 funding.**

Chapter 365-24 WAC

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION

WAC

365-24-010 through 365-24-960 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 365-24-010 General purpose and coverage. [Order 74-05, § 365-24-010, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-020 General responsibilities of relocating entities. [Order 74-05, § 365-24-020, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-030 State agencies and local public bodies policies and procedures. [Order 74-05, § 365-24-030, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-040 Review of activities for compliance with chapter 8.26 RCW. [Order 74-05, § 365-24-040, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-050 Public information. [Order 74-05, § 365-24-050, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-060 Payments not considered income or resource. [Order 74-05, § 365-24-060, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-100 Interpretation of definitions. [Order 74-05, § 365-24-100, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-110 Specific definitions. [Order 74-05, § 365-24-110, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-210 Determination or assurance of availability of housing. [Order 74-05, § 365-24-210, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-220 Data support for determination or assurance. [Order 74-05, § 365-24-220, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-230 Waiver of assurances. [Order 74-05, § 365-24-230, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-240 Housing provided as a last resort. [Order 74-05, § 365-24-240, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-310 Relocation assistance advisory program. [Order 74-05, § 365-24-310, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.

- 365-24-312 Other advisory services. [Order 74-05, § 365-24-312, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-320 Contracting for relocation services. [Order 74-05, § 365-24-320, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-330 Coordination of planned relocation activities. [Order 74-05, § 365-24-330, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-410 Eligibility. [Order 74-05, § 365-24-410, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-420 Allowable moving expenses for displaced persons. [Order 74-05, § 365-24-420, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-430 Limitations on allowable moving expenses for displaced persons. [Order 74-05, § 365-24-430, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-440 Nonallowable moving expenses and losses of displaced persons. [Order 74-05, § 365-24-440, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-450 Allowable expenses in searching for replacement business or farms. [Order 74-05, § 365-24-450, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-460 Limitations on allowable expenses in searching for replacement business or farms. [Order 74-05, § 365-24-460, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-510 For displacement from a dwelling. [Order 74-05, § 365-24-510, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-520 For displacement from a business. [Order 74-05, § 365-24-520, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-530 For displacement from a farm operation. [Order 74-05, § 365-24-530, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-540 Amount of business fixed payment. [Order 74-05, § 365-24-540, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-610 Eligibility. [Order 74-05, § 365-24-610, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-620 Computation of replacement housing payment. [Order 74-05, § 365-24-620, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-710 Eligibility. [Order 74-05, § 365-24-710, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-720 Computation of replacement housing payments for displaced tenants. [Order 74-05, § 365-24-720, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-730 Computation of replacement housing payment for certain others. [Order 74-05, § 365-24-730, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93,

- effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-810 Right of review. [Order 74-05, § 365-24-810, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-820 Initiation of appeal—Notice and statement. [Order 74-05, § 365-24-820, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-822 Form of statement. [Order 74-05, § 365-24-822, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-824 Correction or amendment of notice. [Order 74-05, § 365-24-824, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-830 Preliminary review authorized. [Order 74-05, § 365-24-830, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-832 Notice and time limitation on preliminary review. [Order 74-05, § 365-24-832, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-834 Effect of preliminary review. [Order 74-05, § 365-24-834, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-840 Applicability of Administrative Procedure Act. [Order 74-05, § 365-24-840, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-850 Appointment of hearing officer. [Order 74-05, § 365-24-850, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-852 Hearing officer powers and duties. [Order 74-05, § 365-24-852, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-854 Time and place of hearing. [Order 74-05, § 365-24-854, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-856 Evidence. [Order 74-05, § 365-24-856, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-858 Submission of proposed decision and orders. [Order 74-05, § 365-24-858, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-860 Exceptions—Time for filing. [Order 74-05, § 365-24-860, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-862 Reply to exceptions. [Order 74-05, § 365-24-862, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-870 Submission or record and issuance of final decision. [Order 74-05, § 365-24-870, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-880 Petitions for rule making. [Order 74-05, § 365-24-880, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-882 Requisites. [Order 74-05, § 365-24-882, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-884 Notice of disposition. [Order 74-05, § 365-24-884, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed

- 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-910 Acquisition procedures. [Order 74-05, § 365-24-910, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-920 Statement furnished to owner upon initiation of negotiations for acquisition of real property. [Order 74-05, § 365-24-920, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-930 Relocation costs and awards not to be considered in making appraisals. [Order 74-05, § 365-24-930, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-940 Consideration of relocation costs of outdoor advertising displays in making appraisals. [Order 74-05, § 365-24-940, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-950 Acquisition of mobile homes. [Order 74-05, § 365-24-950, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.
- 365-24-960 Appraisal standards. [Order 74-05, § 365-24-960, filed 10/9/74.] Repealed by 93-19-102 (Order 93-07), filed 9/16/93, effective 10/17/93. Statutory Authority: Chapter 43.63A RCW.

WAC 365-24-010 through 365-24-960 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 365-135 WAC BOND CAP ALLOCATION

WAC

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|-------------|--|
| 365-135-020 | Definitions. |
| 365-135-040 | Procedure for obtaining an allocation, extension, or carryforward. |
| 365-135-050 | Fees. |
| 365-135-070 | Criteria for exempt facility bonds. |

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

Allocation fee: The total fee paid by the issuer to the department for receiving allocation from the BCAP. It is assessed by the department based on the following formula: 1/40 of one percent (.00025) of the approved allocation amount or five hundred dollars, whichever is greater. The allocation fee, which includes the nonrefundable five hundred dollar filing fee, is due from the issuer upon filing an application.

Department: The Washington state department of community development.

Extension fee: The fee the department may assess when an issuer requests and is granted an extension for issuing the allocation or carryforward of the allocation. The amount of the fee will not exceed two hundred fifty dollars and is nonrefundable.

Filing fee: The nonrefundable five hundred dollar portion of the allocation fee.

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 39.86 RCW.

[Statutory Authority: Chapter 39.86 RCW. 93-13-012 (Order 93-05), § 365-135-020, filed 6/7/93, effective 1/1/94. Statutory Authority: 1987 c 297. 87-19-082 (Order 87-18), § 365-135-020, 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 an allocation 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. 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 carryforward in a timely manner.

[Statutory Authority: Chapter 39.86 RCW. 93-13-012 (Order 93-05), § 365-135-040, filed 6/7/93, effective 1/1/94. Statutory Authority: 1987 c 297. 87-19-082 (Order 87-18), § 365-135-040, filed 9/16/87.]

WAC 365-135-050 Fees. (1) A fee schedule is hereby established, which will consist of:

(a) An allocation fee, due at the time a request is filed with the department of community development; and

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

If an issuer's allocation request is denied, the allocation fee, less the five hundred dollar filing fee, will be refunded.

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.

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

(a) Filing. Upon filing an allocation request, the issuer must submit the total allocation fee, of which the five hundred dollar filing fee is nonrefundable.

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

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

If the allocation request is denied or a partial allocation is approved, the issuer will receive either a full or partial refund of the allocation fee, less the five hundred dollar filing fee. Once the allocation amount is approved, the allocation fee is not refundable, even if the issuer does not issue all or any of the approved allocation.

[Statutory Authority: Chapter 39.86 RCW. 93-13-012 (Order 93-05), § 365-135-050, filed 6/7/93, effective 1/1/94. Statutory Authority: 1987 c 297. 87-19-082 (Order 87-18), § 365-135-050, filed 9/16/87.]

WAC 365-135-070 Criteria for exempt facility bonds. (1) In addition to the state statute, the following guidelines will be used as criteria for evaluating exempt facility requests:

(a) Until September 1st of each year, any one exempt facility project may not receive more than thirty percent of the initial allocation amount available in the exempt facility category.

(b) 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.

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

(d) The environmental benefit of the project to the particular community, the county or the state.

(e) Exempt facility applications will not be considered for allocation until:

(i) The department receives:

(A) A list of all permits required to complete the project and the date each permit application was submitted to and/or granted by the appropriate authority;

(B) A copy of any environmental impact statements; and

(ii) Significant progress is demonstrated in securing project financing.

(2) After September 1st of each year, the department may approve an allocation amount prior to the issuer completing all of the criteria listed above.

[Statutory Authority: Chapter 39.86 RCW. 93-13-012 (Order 93-05), § 365-135-070, filed 6/7/93, effective 1/1/94.]

Chapter 365-140 WAC

STATE FUNDING OF LOCAL EMERGENCY FOOD PROGRAMS

WAC

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

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

(3) "Food bank" means an emergency food program that distributes food and other products on a regular basis without a charge.

(4) "Food distributor" means a food distribution agency that collects, warehouses, and distributes food and other products to emergency food programs and other charities on a county, regional, or state-wide basis.

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

(6) "Emergency food assistance program" means the multifaceted state-wide 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 distributors, tribes or tribal organizations, and other food programs.

(7) "Applicant" means a public or private nonprofit organization, tribe or tribal 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) "Tribal food voucher 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 tribes or tribal organizations in issuing food vouchers to clients.

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

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

[Statutory Authority: RCW 43.63A.060 and 1992 c 232 § 222(5). 93-18-021 (Order 93-06), § 365-140-030, filed 8/25/93, effective 9/25/93. 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. At least sixty-five percent of the total allocation appropriated by the legislature shall be contracted for food banks and food distributors. The specific appropriation for timber-dependent communities shall be contracted to food banks in those communities. Of the remainder of the total allocation, not including department administration costs, allocations shall be contracted to the tribal food voucher program, special dietary needs foods, special dietary needs training and a discretionary program. Allocations shall be contracted to food banks and food distributors on the following basis:

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

(2) Forty percent of funds allocated for food banks and food distributors 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; and
- (b) Unemployed population 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 contract to no more than one food bank lead agency contractor in each county, with the exception of Pierce County, where there may be two food bank lead agency contractors, and King County, where there may be five food bank lead agency contractors to administer subcontracts with one or more local providers of emergency food bank services.

(6) The department shall award contracts to food distributors which are designated jointly 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 remains unspent, the contractor may request authorization from the department to reallocate funds, within its service area, to an area of unmet need.

[Statutory Authority: RCW 43.63A.060 and 1992 c 232 § 222(5). 93-18-021 (Order 93-06), § 365-140-040, filed 8/25/93, effective 9/25/93. 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 or a food voucher.

(3) The applicant must provide food or food vouchers 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 or food vouchers to an individual because of his or her inability to pay.

(6) Applicants for funding as participating agency or food distributor 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.

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

[Statutory Authority: RCW 43.63A.060 and 1992 c 232 § 222(5). 93-18-021 (Order 93-06), § 365-140-050, filed 8/25/93, effective 9/25/93. 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 indicated on the contract face sheet. 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 funds received by a food bank or food distributor contractor from the department for the emergency food assistance program must be equally matched by funds from other sources during the fiscal year. No more than fifty percent of that match may be documented in-kind contributions; other emergency food assistance contractors are not required to meet such a match.

(5) Administrative costs for food bank and food distributor contractors under this program are limited to ten percent of the total contract award. Administrative costs for food bank lead agency contractors who also provide direct emergency food assistance services are limited to ten percent of the contractor's allocation for providing direct services as a participating food bank, and ten percent of the total contract award as food bank lead agency contractor; total administrative costs, however, may not exceed fifteen percent of the total contract award.

(6) Of their total contract award, tribal contractors may not spend more than ten percent on administrative costs and five percent on operational expenditures. The balance of funds is to be used for food vouchers issued to clients.

(7) 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.

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

[Statutory Authority: RCW 43.63A.060 and 1992 c 232 § 222(5). 93-18-021 (Order 93-06), § 365-140-060, filed 8/25/93, effective 9/25/93. 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 365-195 WAC

GROWTH MANAGEMENT ACT—PROCEDURAL CRITERIA FOR ADOPTING COMPREHENSIVE PLANS AND DEVELOPMENT REGULATIONS

WAC

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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:

"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.

"Adequate public facilities" means facilities which have the capacity to serve development without decreasing levels of service below locally established minimums.

"Affordable housing" means residential housing that is rented or owned by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income.

"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.

"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.

"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.

"Coordination" means consultation and cooperation among jurisdictions.

"Contiguous development" means development of areas immediately adjacent to one another.

"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.

"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.

"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.

"Growth Management Act" - see definition of "Act."

"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.

"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.

"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.

"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.

"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.

"Regional transportation plan" means the transportation plan for the regionally designated transportation system which is produced by the regional transportation planning organization.

"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.

"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.

"Sanitary sewer systems" means all facilities, including approved on-site disposal facilities, used in the collection, transmission, storage, treatment, or discharge of any water-borne waste, whether domestic in origin or a combination of domestic, commercial, or industrial waste.

"Solid waste handling facility" means any facility for the transfer or ultimate disposal of solid waste, including land fills and municipal incinerators.

"Transportation facilities" includes capital facilities related to air, water, or land transportation.

"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.

"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.

"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.

"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). 93-17-040, § 365-195-210, filed 8/11/93, effective 9/11/93; 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:

"Development rights."

"Essential public facilities."

"Rural governmental services."

"Objectives, principles, and standards."

"Related regional issues."

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-220, filed 8/11/93, effective 9/11/93; 92-23-065, § 365-195-220, 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 five complete copies of the plan or development regulation(s). In addition, copies shall be provided to other state agencies identified on a list distributed by the department to planning jurisdictions. 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). 93-17-040, § 365-195-620, filed 8/11/93, effective 9/11/93; 92-23-065, § 365-195-620, filed 11/17/92, effective 12/18/92.]

WAC 365-195-700 Background. For local jurisdictions subject to its terms, the Growth Management Act mandates the development of comprehensive plans and development regulations that meet statutory goals and requirements. These plans and regulations will take their

place among existing laws relating to resource management, environmental protection, regulation of land use, utilities and public facilities. Many of these existing laws were neither repealed nor amended by the act.

This circumstance places responsibilities both on local growth management planners and on administrators of preexisting programs to work toward producing a single harmonious body of law.

The need to consider and recognize other laws should profoundly influence, limit and shape planning and decision making under the act. At the same time, in recognition of the broad and fundamental changes intended by creation of the growth management scheme, prior programs should be interpreted and directed, to the maximum extent possible, in a manner consistent with the products of the comprehensive new land use management system.

The far-reaching nature of the act and the wide variety of possible outcomes under its authority dictate that identification of all the points of contact between its products and other laws will have to be elaborated over time. The entire process of determining how the act fits into the overall legal framework will, of necessity, be an incremental one. Nonetheless, for growth management to succeed, this process must begin at the outset.

At the planning stage, this means that a conscious effort to address the requirements of other existing law is needed as an essential initial step in the process. This need poses an unprecedented challenge to all governmental entities - municipalities, counties, regional authorities, special districts and state agencies - to communicate and collaborate. The act is a mandate to government at all levels to engage in coordinated planning and cooperative implementation.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-700, filed 8/11/93, effective 9/11/93; 92-23-065, § 365-195-700, filed 11/17/92, effective 12/18/92.]

WAC 365-195-705 Basic assumptions. (1) Where the legislature has spoken expressly on the relationship of the act to other statutory provisions, the explicit legislative directions shall be carried out. Examples of such express provisions are set forth in WAC 365-195-750.

(2) Absent a clear statement of legislative intent or judicial interpretation to the contrary, it should be presumed that neither the act nor other statutes are intended to be preemptive. Rather they should be considered together and, wherever possible, construed as mutually consistent.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-705, filed 8/11/93, effective 9/11/93.]

WAC 365-195-710 Identification of other laws. (1) In the development of their comprehensive plans and implementing regulations, cities and counties planning under the act should attempt to identify other statutes and legal authorities affecting subjects addressed by the plans and regulations.

(2) To aid in this identification, state agencies, regional authorities, special districts and utilities should implement programs to inform the planning entities of relevant programs and provisions within their jurisdiction or expertise. Every effort should be made to provide this information before the plan drafting process is complete.

(3) Opportunities to comment on draft comprehensive plans or on related SEPA documents should be used by commenting agencies as additional occasions for advising planning jurisdictions of preexisting programs and related legal authorities.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-710, filed 8/11/93, effective 9/11/93; 92-23-065, § 365-195-710, filed 11/17/92, effective 12/18/92.]

WAC 365-195-715 Integrating external considerations. (1) Agencies administering existing programs have already generated data, performed analyses and developed effective approaches to many of the challenges posed by the act. Planners should take advantage of such experience and use it to shape the form and content of plans and regulations under the act where relevant.

(2) Governmental entities with expertise in subjects affecting or affected by the act and private companies which provide public services should, as practicable, offer assistance to counties and cities planning under the act in formulating their plans and regulations, through model ordinances, model plan provisions, direct drafting assistance, or other technical advice.

(3) The drafting of comprehensive plans and development regulations should involve the identification of other related laws, an evaluation of any potential areas of conflict and an effort to avoid such conflicts. Where the text of outside sources can appropriately serve local needs, consideration should be given to adoption of that text in local plans or regulations.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-715, filed 8/11/93, effective 9/11/93.]

WAC 365-195-720 Sources of law. (1) In seeking to identify other relevant legal authorities, planners should refer to sources at all levels of government, including federal and state Constitutions, federal and state statutes, federal and state administrative regulations, and judicial interpretations thereof.

(2) The categories set forth in WAC 365-195-725 through 365-195-755 are an attempt to assist planners by highlighting various kinds of external legal provisions with which planning under the act should be concerned. Some of the categories overlap. The listing is not exhaustive. It is intended to supplement, not substitute for, the informational efforts of state agencies, regional authorities, special districts and utilities.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-720, filed 8/11/93, effective 9/11/93; 92-23-065, § 365-195-720, filed 11/17/92, effective 12/18/92.]

WAC 365-195-725 Constitutional provisions. (1) Local plans and regulations adopted under the act are subject to the supremacy principle of Article VI, United States Constitution and of Article XI, Section 11, Washington state Constitution.

(2) Counties and cities planning under the act are required to use a process established by the state attorney general to assure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights. This process is set forth in a publication

entitled, *"State of Washington, Attorney General's Recommended Process for Evaluation of Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property,"* first published in February 1992. Review and updating of this process by the attorney general is required on at least an annual basis to maintain consistency with changes in case law.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-725, filed 8/11/93, effective 9/11/93.]

WAC 365-195-730 Federal authorities. (1) The drafting of plans and development regulations under the act should involve a consideration of the effects of federal authority over land or resource use within the planning area, including:

- (a) Treaties with Native Americans;
- (b) Jurisdiction on land owned or held in trust by the federal government;
- (c) Federal statutes or regulations imposing national standards;
- (d) Federal permit programs and plans.
- (2) Examples of such federal standards, permit programs and plans are:
 - (a) National ambient air quality standards, adopted under the Federal Clean Air Act;
 - (b) Drinking water standards, adopted under the Federal Safe Drinking Water Act;
 - (c) Effluent limitations, adopted under the Federal Clean Water Act;
 - (d) Dredge and fill permits issued by the Army Corps of Engineers under the Federal Clean Water Act;
 - (e) Licenses for hydroelectric projects issued by the Federal Energy Regulatory Commission;
 - (f) Plans created under the Pacific Northwest Electric Power Planning and Conservation Act;
 - (g) Recovery plans and the prohibition on taking listed species under the Endangered Species Act.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-730, filed 8/11/93, effective 9/11/93.]

WAC 365-195-735 State and regional authorities. (1) The drafting of plans and development regulations under the act should involve a consideration of numerous state and regional regulatory and planning provisions affecting land use, resource management, environmental protection, utilities, or public facilities including:

- (a) State statutes and regulations imposing state-wide standards;
- (b) Programs involving state-issued permits or certifications;
- (c) State statutes and regulations regarding rates, services, facilities and practices of utilities, and tariffs of utilities in effect pursuant to such statutes and regulations;
- (d) State and regional plans;
- (e) Regulations and permits issued by regional entities;
- (f) Locally developed plans subject to approval or review by state or regional entities.
- (2) Examples of state-wide standards are:
 - (a) Water quality standards and sediment standards, adopted by the department of ecology under the state Water Pollution Control Act;

- (b) Drinking water standards adopted by the department of health pursuant to the Federal Safe Drinking Water Act;

- (c) Minimum functional standards for solid waste handling, adopted by the department of ecology under the state Solid Waste Management Act;

- (d) Minimum cleanup standards under the Model Toxics Control Act;

- (e) Statutory requirements under the Shoreline Management Act and implementing guidelines and regulations adopted by the department of ecology;

- (f) Standards for forest practices, adopted by the forest practices board under the state Forest Practices Act;

- (g) Minimum requirements for flood plain management, adopted by the department of ecology under the Flood Plain Management Act.

- (h) Minimum performance standards for construction pursuant to the state building code;

- (i) Safety codes, such as the electrical construction code, adopted by the department of labor and industries.

(3) Examples of programs involving state issued permits or certifications are:

- (a) Permits relating to forest practices, issued by the department of natural resources;

- (b) Permits relating to surface mining reclamation, issued by the department of natural resources;

- (c) National pollutant discharge elimination permits and waste discharge permits, issued by the department of ecology;

- (d) Water rights permits, issued by department of ecology under state surface and ground water codes;

- (e) Hydraulic project approvals, issued by departments of fisheries and wildlife under the state fisheries code;

- (f) Water quality certifications, issued by the department of ecology;

- (g) Operating permits for public water supply systems, issued by the state health department;

- (h) Site certifications developed by the energy facility site evaluation council.

- (i) Permits relating to the generation, transportation, storage or disposal of dangerous wastes, issued by the department of ecology.

- (4) Examples of state and regional plans are:

- (a) State implementation plan for ambient air quality standards under the Federal Clean Air Act;

- (b) State transportation policy plan;

- (c) Instream resource protection regulations for water resource inventory areas adopted under the Water Resources Act of 1971;

- (d) Ground water management area programs, adopted pursuant to the ground water code;

- (e) Puget Sound water quality management plan adopted by the puget sound water quality authority.

- (f) State outdoor recreation and open space plan;

- (g) State trails plan.

- (5) Examples of regulations and permits issued by regional entities are:

- (a) Solid waste disposal facility permits issued by health departments under the Solid Waste Management Act;

- (b) Regulations adopted by regional air pollution control authorities.

(c) Operating permits for air contaminant sources issued by regional air pollution control authorities.

(6) Examples of locally developed plans subject to approval or review by state or regional agencies are:

(a) Shorelines master programs, approved by the department of ecology;

(b) The consistency requirement for lands adjacent to shorelines of the state set forth in RCW 90.58.340.

(c) Coordinated water system plans for critical water supply service areas, approved by the state health department;

(d) Plans for individual public water systems, approved by the state health department;

(e) Comprehensive sewage drainage basin plans, approved by the department of ecology;

(f) Local moderate risk waste plans, approved by the department of ecology;

(g) Plans required to be filed with the utilities and transportation commission in accordance with WAC 480-100-251.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-735, filed 8/11/93, effective 9/11/93.]

WAC 365-195-740 Regional perspective. Some of the above authorities require planning for particular purposes for areas related by physical features, such as watersheds, rather than by political boundaries. Moreover, the systems addressed in resource management, service by utilities, fish and wildlife management and pollution control are generally not circumscribed by city and county lines. Planning entities should attempt to identify those subject areas which by law or logic require a regional planning approach and, where this is the case, work toward creating collaborative processes involving all agencies with jurisdiction in the relevant geographical area. This approach, where followed, should assist in achieving interjurisdictional consistency.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-740, filed 8/11/93, effective 9/11/93.]

WAC 365-195-745 Special siting statutes. (1) Plans and regulations adopted under the act should accommodate situations where the state has explicitly preempted all local land use regulations, as for example, in the siting of major energy facilities under RCW 80.50.110.

(2) Where special statutes relate specifically to the setting aside of designated areas for particular purposes and under particular management programs, local land use regulations adopted under the act should be consistent with those purposes and programs. Examples in this category are the statutes relating to:

- (a) Natural resource conservations areas;
- (b) Natural area preserves;
- (c) Seashore conservation area;
- (d) Scenic rivers.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-745, filed 8/11/93, effective 9/11/93.]

WAC 365-195-750 Explicit statutory directions. (1) In approving the Growth Management Act, the legislature expressly amended numerous existing statutes. On the matters they address, these amendments define the relation-

ship of such existing statutes to comprehensive plans and development regulations under the act. Examples are:

(a) RCW 19.27.097 (state building code - evidence of adequate supply of potable water.)

(b) RCW 35.13.005 (annexation of unincorporated areas - prohibited beyond urban growth areas)

(c) RCW 35.58.2795 (municipal corporations - six-year transit plan consistent with GMA comprehensive plans)

(d) RCW 35.77.010 (city streets - six-year comprehensive street program consistent with GMA comprehensive plans)

(e) RCW 35A.14.005 (annexation by code cities - prohibited beyond urban growth areas)

(f) RCW 36.81.121 (county roads - six-year comprehensive road program consistent with GMA comprehensive plans)

(g) RCW 36.94.040 (sewerage, water, drainage systems - incorporation of relevant comprehensive plan provisions into sewer or water general plan)

(h) RCW 56.08.020 (sewer districts - district comprehensive sewer plan consistent with urban growth area restrictions)

(i) RCW 57.16.010 (water districts - district comprehensive water plan consistent with urban growth area restrictions)

(j) RCW 58.17.060 (short plats - written findings about appropriate provisions for infrastructure)

(k) RCW 58.17.110 (subdivisions - written findings about appropriate provisions for infrastructure)

(l) RCW 58.18.440 (land development - authority of GMA planning entities to require relocation assistance)

(m) RCW 86.12.200 (comprehensive flood control management plans - may be incorporated into comprehensive plans under the act)

(2) Approval of the act included the creation of a new chapter (chapter 47.80 RCW) authorizing and assigning duties to regional transportation planning organizations (RTPO's). These organizations were expressly given responsibilities for ensuring the consistency of transportation planning throughout a region containing multiple local governmental jurisdictions.

(3) Approval of the act included the addition of new sections (RCW 82.02.050 through 82.02.090) concerning impact fees on development in counties or cities that plan under the GMA. These sections explicitly authorize and condition the use of such fees as part of the financing of public facility system improvements needed to serve new development.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-750, filed 8/11/93, effective 9/11/93.]

WAC 365-195-755 Voluntary interjurisdictional planning efforts. Needs for regional and interagency planning coordination have in some areas been responded to in the past by innovative voluntary planning efforts, such as the timber, fish and wildlife agreement and the Chelan agreement regional water resource planning process. Such efforts can provide a valuable source of prior analysis and serve as the basis for plan provisions which accomplish interjurisdictional consistency. Counties and cities planning

under the GMA should evaluate such work for possible incorporation into their plans and regulations.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-755, filed 8/11/93, effective 9/11/93.]

WAC 365-195-760 Integration of SEPA process with creation and adoption of comprehensive plans and development regulations. (1) The SEPA process is supplementary to other governmental decision-making processes, including the processes involved in creating and adopting comprehensive plans and development regulations under the act. The thoughtful integration of SEPA compliance with the overall effort to implement the act will provide understanding and insight of significant value to the choices growth management requires.

(2) The growth management process is designed to proceed in phases, moving, by and large, from general policy-making to more specific implementation measures. Phased review available under SEPA can be integrated with the growth management process through a strategy which identifies the points in that process where the requirements of the two statutes are connected and seeks to accomplish the requirements of both at those points.

(3) In an integrated approach major emphasis should be placed on the quality of SEPA analysis at the front end of the growth management process - the local legislative phases of plan adoption and regulation adoption. The objective should be to create nonproject impact statements and progressively more narrowly focused supplementary documents which are sufficiently informative that subsequent environmental analysis at the individual project stage will, ordinarily, need to be neither extensive nor time consuming.

(4) While not compromising SEPA's basic aim of ensuring consideration of environmental impacts in advance of development, this approach can serve the goal that project applications be processed in a timely manner.

(5) In the creation of SEPA documents, maximum advantage should be taken of relevant prior environmental analysis through identification and incorporation of statements prepared by other lead agencies in connection with other plans or projects.

(6) Planners are encouraged to consult the "SEPA/GMA Workbook" published by the department in January of 1993. The workbook deals in detail with the integration of the two statutory processes.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-760, filed 8/11/93, effective 9/11/93.]

WAC 365-195-765 State agency compliance. (1) RCW 36.70A.103 declares that state agencies shall comply with the local comprehensive plans and development regulations and amendments thereto adopted pursuant to the act.

(2) The department construes the provision for state agency compliance to require that each state agency must meet local siting and building requirements when it occupies the position of an applicant proposing development, except where specific legislation explicitly dictates otherwise. Generally this means that the development of state facilities is subject to local approval procedures and substantive

provisions, including zoning, density, setbacks, bulk and height restrictions.

(3) RCW 36.70A.210(4) provides that adopted county-wide planning policies shall be adhered to by state agencies. Consistent with other statutory mandates, state programs should be administered in a manner which does not interfere with implementation of the county framework for interjurisdictional consistency.

(4) Overall, the broad sweep of policy contained in the act implies a requirement that all programs at the state level accommodate the outcomes of the growth management process wherever possible. State agencies are rarely concerned solely with the rote application of fixed standards. The exercise of statutory powers, whether in permit functions, grant funding, property acquisition or otherwise, routinely involves such agencies in discretionary decision-making. The discretion they exercise should now take into account the new reality of legislatively mandated local growth management programs.

(5) After local adoption of plans and regulations under the act, state agencies are encouraged to review their existing programs in light of the local plans and regulations. Within relevant legal constraints, this review should lead to redirecting the state's actions in the interests of consistency with the growth management effort.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-765, filed 8/11/93, effective 9/11/93.]

WAC 365-195-770 Compliance by regional agencies and special districts. (1) Regional and special purpose government entities possess statutorily defined powers which include planning, development, regulatory, facility management and taxing functions. Such entities include regional air pollution control authorities, metropolitan municipal corporations, fire protection districts, port districts, public utility districts, school districts, sewer districts, water districts, irrigation districts, flood control districts, diking and drainage districts, park and recreation districts.

(2) Except where any specific enactment may state the contrary, the department interprets the GMA as requiring that regional agencies and special districts comply with the comprehensive plans and development regulations developed under the act.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-770, filed 8/11/93, effective 9/11/93.]

WAC 365-195-800 Relationship to comprehensive plans. (1) Development regulations under the Growth Management Act are specific controls placed on development or land use activities by a county or city. Such regulations must be consistent with comprehensive plans developed pursuant to the act and they must implement those comprehensive plans.

"Implement" in this context has a more affirmative meaning than merely "consistent" (See WAC 365-195-210(5).) "Implement" connotes not only a lack of conflict but sufficient scope to carry out fully the goals, policies, standards and directions contained in the comprehensive plan.

(2) The legislature has specifically provided that the designation of interim urban growth areas shall be in the

form of development regulations. Such interim designations shall generally precede the adoption of comprehensive plans.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-800, filed 8/11/93, effective 9/11/93; 92-23-065, § 365-195-800, filed 11/17/92, effective 12/18/92.]

WAC 365-195-805 Implementation strategy. Each county or city planning under the act should develop a detailed strategy for implementing its comprehensive plan. The strategy should describe the regulatory and nonregulatory measures (including actions for acquiring and spending money) to be used in order to apply the plan in full. The strategy should identify each of the specific development regulations needed.

(1) Selection. In determining the specific regulations to be adopted, jurisdictions may select from a wide variety of types of controls. The strategy should include consideration of:

(a) The choice of substantive requirements, such as the delineation of use zones; general development limitations concerning lot size, setbacks, bulk, height, density; provisions for environmental protection; urban design guidelines and design review criteria; specific requirements for affordable housing, landscaping, parking; levels of service, concurrency regulations and other measures relating to public facilities.

(b) The means of applying the substantive requirements, such as methods of prior approval through permits, licenses, franchises, or contracts.

(c) The processes to be used in applying the substantive requirements, such as permit application procedures, hearing procedures, approval deadlines, and appeals.

(d) The methods of enforcement, such as inspections, reporting requirements, bonds, permit revocation, civil penalties, and abatement.

(2) Identification. The strategy should include a list of all regulations identified as development regulations for implementing the comprehensive plan. Some of these regulations may already be in existence and consistent with the plan. Others may be in existence, but require amendment. Still others will need to be written.

(3) Adoption schedule. The strategy should include a schedule for the adoption or amendment of the development regulations identified. Individual regulations or amendments may be adopted at different times. However, all of the regulations identified should be adopted by the applicable final deadline for adoption of development regulations.

(4) The implementation strategy for each jurisdiction should be in writing and available to the public. A copy should be provided to the department. Completion of adoption of all regulations identified in the strategy will be construed by the department as completion of the task of adopting development regulations for the purposes of deadlines under the statute.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-805, filed 8/11/93, effective 9/11/93.]

WAC 365-195-810 Timing of initial adoption. (1) Except for interim regulations, required development regulations must be enacted either by the deadline for adoption of the comprehensive plan or within six months

thereafter, if an extension is obtained. The possibility of a time gap between the adoption of a comprehensive plan and the adoption of development regulations pertains to the time frame after the initial adoption of the comprehensive plan. Subsequent amendments to the plan should not face any delay before being implemented by regulations. After adoption of the initial plan and development regulations, such regulations should at all times be consistent with the comprehensive plan. Whenever amendments to comprehensive plans are adopted, consistent implementing regulations or amendments to existing regulations should be enacted and put into effect concurrently. (See WAC 365-195-865.)

(2) To obtain an extension of the deadline for adopting development regulations, a county or city must notify the department of its need by letter prior to the initial deadline. Six-month extensions will be obtained whenever such letters are timely received, but no extensions will result from requests received after the initial deadline.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-810, filed 8/11/93, effective 9/11/93; 92-23-065, § 365-195-810, filed 11/17/92, effective 12/18/92.]

WAC 365-195-815 Review for compliance. (1) When adopting any development regulation intended, in part, to carry out a comprehensive plan, the proposing jurisdiction should review its terms to ensure that it is consistent with and implements the comprehensive plan and make a finding to that effect.

(2) When the implementation strategy has been completely developed, the proposing jurisdiction should review the total package to ensure that such implementation is consistent with the comprehensive plans of other counties or cities with which it shares common borders or related regional issues.

(3) Planning jurisdictions should consider the use or creation of regional entities (county-wide or broader) to provide an interjurisdictional overview of consistency issues raised by comprehensive plans and development regulations.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-815, filed 8/11/93, effective 9/11/93.]

WAC 365-195-820 Submissions to state. (1) Development regulations may be submitted to the department and other state agencies for comment individually as they are drafted. Except as set forth in subsection (2) of this section, the statutory requirement to notify the department of the intent to adopt development regulations at least sixty days prior to final adoption will apply each time any implementing regulation or amendment is proposed for adoption.

(2) The department construes the sixty-day notice requirement as inapplicable to interim regulations for natural resource lands and critical areas, and to regulations or amendments which are merely procedural or ministerial.

(3) Counties and cities should provide the department with notice of intent sixty days prior to adopting interim growth areas.

(4) Separate notice should be provided to the department of all preexisting regulations that are to be included in the implementation strategy without change.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-820, filed 8/11/93, effective 9/11/93; 92-23-065, § 365-195-820, filed 11/17/92, effective 12/18/92.]

WAC 365-195-825 Regulations specifically required by the act. (1) Conservation of natural resource lands.

(a) Lands designated as agricultural, forest and mineral lands of long-term commercial significance are collectively referred to as natural resource lands.

(b) "Conservation" in this context is construed to mean measures designed to assure that the natural resource lands will remain available to be used for commercial production of the resources designated.

(c) Classification, designation and designation amendment. The department has adopted minimum guidelines in chapter 365-190 WAC, detailing the process involved in establishing a natural resource lands conservation program. Included are criteria to be considered before any designation change should be approved. (See WAC 365-190-040 (2)(g).)

(d) Initial adoption and subsequent review.

(i) The act requires the designation of natural resources lands by all counties and cities. The adoption of development regulations for the conservation of such lands by jurisdictions planning under the act is required to occur prior to the adoption of comprehensive plans.

(ii) Upon the adoption of the comprehensive plans, such designations and regulations must be reviewed and, where necessary altered, to ensure consistency with the plans.

(e) Review upon adoption of other development regulations.

(i) In connection with the adoption of the total package of development regulations implementing the comprehensive plan, each planning jurisdiction must again review the regulations for conserving natural resource lands to ensure consistency.

(ii) If any regulations for conserving natural resource lands are by their terms effective only in the interim before the regulations implementing comprehensive plans are adopted, the subject must be covered in the development regulation package, so that there will be no gap in the effectiveness of a natural resource lands conservation program.

(f) Statutory limitations.

(i) Prior uses. Regulations for the conservation of natural resource lands may not prohibit uses legally existing on any parcel prior to their adoption.

(ii) Adjacent lands. Such regulations shall assure that the use of lands adjacent to designated natural resource lands does not interfere with the continued use, in the accustomed manner and in accordance with the best management practices, of the natural resource lands.

(iii) Plats and permits. Counties and cities shall require that all plats, short plats, development permits, and building permits issued for development activities on, or within three hundred feet, of designated natural resource lands contain a notice that the subject property is within or near designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration.

(g) Relationship to comprehensive plans. The act does not explicitly require that comprehensive plans address the

conservation of natural resource lands. However, because the required natural resource lands regulations must be consistent with the comprehensive plans, logic dictates that each comprehensive plan should set forth the underlying policies for the jurisdiction's natural resource lands program. In pursuing the natural resource industries goal of the act, such policies should identify nonregulatory measures for assuring the conservation of the designated lands as well as regulatory approaches. When such policies are incorporated into the plan (either as a separate element or as a part of the land use element), the consistency of the regulations can be readily assessed.

(h) Relationship to other programs. In designing development regulations and nonregulatory programs to conserve designated natural resource lands, counties and cities should endeavor to make such regulations and programs fit together with regional, state and federal resource management programs applicable to the same lands. Local plans and policies may in some respects be adequately implemented by adopting the provisions of such other programs as part of the local regulations.

(2) Protection of critical areas.

(a) Critical areas include the following areas and ecosystems: Wetlands, areas of critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas and geologically hazardous areas.

(b) "Protection" in this context is construed to mean measures designed to preserve the structure, values and functions of the natural environment or to safeguard the public from hazards to health and safety.

(c) Classification, designation and designation amendment. The department has adopted minimum guidelines in chapter 365-190 WAC detailing the process involved in establishing a program to protect critical areas.

(d) Initial enactment and subsequent review.

(i) The act requires the designation of critical areas and the adoption of regulations for the protection of such areas by all counties and cities. For jurisdictions planning under the act this is required to occur prior to the adoption of comprehensive plans.

(ii) Upon the adoption of the comprehensive plans, such designations and regulations must be reviewed and, where necessary altered, to ensure consistency with the plans.

(e) Review upon adoption of other development regulations.

(i) In connection with the adoption of the total package of development regulations implementing the comprehensive plan, each planning jurisdiction must again review the regulations for protecting critical areas to ensure consistency.

(ii) If any regulations for protecting critical areas are by their terms effective only in the interim before the regulations implementing comprehensive plans are adopted, the subject must be covered in the development regulation package, so that there will be no gap in the effectiveness of a critical area protection program.

(f) Relationship to comprehensive plans. The act does not explicitly require that comprehensive plans address the protection of critical areas. However, because the required critical area regulations must be consistent with the comprehensive plans, logic dictates that each comprehensive plan

should set forth the underlying policies for the jurisdiction's critical areas program. In pursuing the environmental protection and open space goals of the act, such policies should identify nonregulatory measures for protecting critical areas as well as regulatory approaches. When such policies are incorporated into the plan (either in a separate element or as a part of the land use element), the consistency of the regulations can be readily assessed.

(g) Relationship to other programs. In designing development regulations and nonregulatory programs to protect designated critical areas, counties and cities should endeavor to make such regulations and programs fit together with regional, state and federal programs directed to the same environmental, health, safety and welfare ends. Local plans and policies may in some respects be adequately implemented by adopting the provisions of such other programs as part of the local regulations.

(3) Interim urban growth area designations.

(a) The adoption of interim urban growth area designations shall be preceded by public notice, public hearing, compliance with SEPA and compliance with RCW 36.70A.110.

(b) The department construes compliance with RCW 36.70A.110 for interim growth areas to require the same consultation and attempted agreement process as is required for the adoption of final urban growth areas. Where an interim urban growth area is adopted without the agreement of any affected city, the county will prepare a written justification.

(4) Subdivisions.

(a) Regulations for subdivision approvals, including approvals of short subdivisions, shall require written findings that "appropriate provisions" have been made for the public health, safety, and general welfare, including open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds.

(b) Counties and cities may add other items related to the public health, safety and general welfare to the specific listing above, such as protection of critical areas, conservation of natural resource lands and affordable housing for all economic segments of the population.

(c) In drafting such regulations, "appropriate provisions" should be defined in a manner consistent with the requirements of other applicable laws and with any level of service standards or planning objectives established by the jurisdiction for the facilities involved.

(d) The definition of "appropriate provisions" could also cover the timing within which the facilities involved should be available for use, requiring, for example, that such timing be consistent with the definition of "concurrency" in this chapter. (See WAC 365-195-210(4).)

(5) Potable water.

(a) Each applicant for a building permit of a building necessitating potable water shall provide evidence of an "adequate water supply" for the intended use of the building. By statute such evidence may be in the form of a water right permit from the department of ecology, a letter from an approved water purveyor stating the ability to provide water, or another form sufficient to verify the existence of an adequate water supply.

(b) Receipt of one of the statutory forms of evidence may not provide enough information for building departments to determine whether the proposed water supply is, in fact, adequate. Local regulations should be designed to produce enough data to make such a determination, addressing both water quality and water quantity issues.

(c) Planning jurisdictions should give consideration to guidelines promulgated by the departments of ecology and health

on what constitutes an "adequate water supply." In addition, Attorney General's Opinion, AGO 1992 No. 17, should be consulted for assistance in determining what substantive standards should be applied.

(d) If the department of ecology has adopted rules on this subject, or any part of it, local regulations should be consistent with those rules.

(e) Counties and cities may impose conditions on building permits requiring connection to an existing public water system where the existing system is willing and able to provide safe and reliable potable water to the applicant with reasonable economy and efficiency.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-825, filed 8/11/93, effective 9/11/93.]

WAC 365-195-830 Optional authorizations. (1)
Relocation assistance.

(a) Any county or city required to plan under the act is authorized to require property owners to provide their portion of reasonable relocation assistance to low-income tenants displaced by certain changes to residential property. The changes include demolition, substantial rehabilitation (whether due to code enforcement or any other reason), change of use and removal of use restrictions in an assisted-housing development.

(b) The regulations implementing the relocation assistance program shall be governed by the provisions of RCW 59.18.440.

(c) "Low-income tenants" means tenants whose combined total income per dwelling unit is at or below fifty percent of the median income, adjusted for family size, in the county where the tenants reside.

(d) For purposes of determining eligibility, the department shall annually inform counties and cities of the appropriate dollar limits to use for median income, adjusted for family size, in different areas within the state. In deciding on these limits, the department will refer to the county-by-county family income figures published annually by the federal department of housing and urban development. As soon as the federal figures become available each year, the department will review them and advise counties and cities promptly of the appropriate dollar limits and their effective dates.

(2) New communities.

(a) Any county planning under the act may reserve a portion of its twenty-year population projection for new fully contained communities, located outside of the initially designated urban growth areas.

(b) Proposals to authorize such communities shall be processed pursuant to development regulations which implement the criteria set forth in RCW 36.70A.350.

(3) Master planned resorts.

(a) Any county planning under the act may permit master planned resorts constituting urban growth outside of urban growth areas.

(b) Proposals to authorize such resorts shall be processed pursuant to development regulations which implement policies on the subject in the comprehensive plan. Approval criteria shall conform to the provisions of RCW 36.70A.360.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-830, filed 8/11/93, effective 9/11/93; 92-23-065, § 365-195-830, filed 11/17/92, effective 12/18/92.]

WAC 365-195-835 Concurrency regulations. (1) Each planning jurisdiction should produce a regulation or series of regulations which govern the operation of that jurisdiction's concurrency management system. This regulatory scheme will set forth the procedures and processes to be used to determine whether relevant public facilities have adequate capacity to accommodate a proposed development. In addition, the scheme should identify the responses to be taken when it is determined that capacity is not adequate to accommodate a proposal. Relevant public facilities for these purposes are those to which concurrency applies under the comprehensive plan. Adequate capacity refers to the maintenance of concurrency.

(2) Compliance with applicable environmental requirements, such as ambient air quality standards or water quality standards, should have been built into the determination of the facility capacities needed to accommodate anticipated growth.

(3) The variations possible in designing a concurrency management system are many. However, such a system could include the following features:

(a) Capacity monitoring — a process for collecting and maintaining real world data on use for comparison with evolving public facility capacities in order to show at any moment how much of the capacity of public facilities is being used.

(b) Capacity allocation procedures — a process for determining whether proposed new development can be accommodated within the existing or programmed capacity of public facilities.

This can include preassigning amounts of capacity to specific zones, corridors or areas on the basis of planned growth. For any individual development this may involve:

(i) A determination of anticipated total capacity at the time the impacts of development occur.

(ii) Calculation of how much of that capacity will be used by existing developments and other planned developments at the time the impacts of development occur.

(iii) Calculation of the amount of capacity available for the proposed development.

(iv) Calculation of the impact on capacity of the proposed development, minus the effects of any mitigation provided by the applicant. (Standardized smaller developments can be analyzed based on predetermined capacity impact values.)

(v) Comparison of available capacity with project impact.

(c) Provisions for reserving capacity — a process of prioritizing the allocation of capacity to proposed developments.

This might include:

(i) Setting aside a block or blocks of available or anticipated capacity for specified types of development fulfilling an identified public interest.

(ii) Adopting a first-come, first-served system of allocation, dedicating capacity to applications in the order received.

(iii) Adopting a preference system giving certain categories or specified types of development preference over others in the allocation of available capacity.

(d) Provisions specifying the response when there is insufficient available capacity to accommodate development.

(i) In the case of transportation, an ordinance must prohibit development approval if the development causes the level of service of a transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan unless improvements or strategies to accommodate the impacts of development are made concurrent with development.

(ii) If the proposed development is consistent with the land use element, relevant levels of service should be reevaluated.

(iii) Other responses could include:

(A) Development of a system of deferrals, approving proposed developments in advance but deferring authority to construct until adequate public facilities become available at the location in question. Such a system should conform to and help to implement the growth phasing schedule contemplated in the land use and capital facilities elements of the plan.

(B) Conditional approval through which the developer agrees to mitigate the impacts.

(C) Denial of the development, subject to resubmission when adequate public facilities are made available.

(e) Form, timing and duration of concurrency approvals. The system should include provisions for how to show that a project has met the concurrency requirement, whether as part of another approval document (e.g., permit, platting decisions, planned unit development) or as a separate certificate of concurrency, possibly a transferable document. This choice, of necessity, involves determining when in the approval process the concurrency issue is evaluated and decided. Approvals, however made, should specify the length of time that a concurrency determination will remain effective, including requirements for development progress necessary to maintain approval.

(f) Provisions for interjurisdictional coordination.

(4) Planning jurisdictions should consider integrating SEPA compliance on the project-specific level with the case-by-case process for concurrency management.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-835, filed 8/11/93, effective 9/11/93.]

WAC 365-195-840 Essential public facilities. (1) Development regulations for identifying and siting essential public facilities shall be consistent with and implement the process for this purpose set forth in the comprehensive plan.

(2) The regulations should list those types of facilities which the planning jurisdiction has determined are essential, pursuant to the definition and the criteria established in the comprehensive plan for identifying such facilities. The

designated facilities should include those listed by the state office of financial management and those necessary to list in order to comply with county-wide planning policies. In addition, other facilities needed locally should be listed. These may include facilities which receive funding from the state or other governmental units, but which are not identified on the state list or by virtue of county-wide policies.

(3) Except where county-wide planning policies have otherwise dictated siting choices, provision should be made for the possibility of siting each of the listed essential public facilities somewhere within each jurisdiction's planning area.

(4) For the purposes of making the threshold determination on whether a proposal presents siting difficulties, the regulations should specify a method for publicizing applications for siting essential public facilities and for soliciting initial comment on the site(s) proposed. The regulations should describe how and by whom the threshold decision will be made.

(5) For proposals involving siting difficulties, the regulations should:

(a) Provide requirements for notice to other interested jurisdictions, and for public participation in the siting decision;

(b) Consistent with county-wide planning policies, require an evaluation of feasible alternative sites and of equity in geographical distribution;

(c) When appropriate interlocal agreements have been made, provide for an interjurisdictional process for facilities of a county-wide, regional or state-wide nature;

(d) Call for an evaluation of the extent to which design features or operational conditions can eliminate or reduce unwanted project impacts;

(e) Where appropriate, establish incentives or require amenities for siting in particular areas;

(f) Include in criteria for siting decisions a consideration of the need for the particular facility in light of established level of service standards or planning assumptions.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-840, filed 8/11/93, effective 9/11/93; 92-23-065, § 365-195-840, filed 11/17/92, effective 12/18/92.]

WAC 365-195-845 Permit process. The development regulations of planning jurisdictions should include provisions addressing the general procedures for processing applications for development, designed to promote timeliness, fairness and predictability.

(1) Centralized processing. Consideration should be given to the establishment of a master permit or centralized permit process which would allow an applicant to apply for all needed approvals at once and for the simultaneous processing by the local jurisdiction of all aspects of project approval.

(2) Time limits. Consistent with the requirements of SEPA, consideration should be given to adopting self-imposed permit processing deadlines, so that applicants will be able to plan with greater certainty in most cases.

(3) Fast tracking. Consistent with fairness, consideration should be given to expedited permit procedures for developments which include features which the planning jurisdiction particularly wishes to encourage. An example

might be the inclusion of affordable housing in a residential development project.

(4) Vertical integration. In designing permit programs planning entities should review the permit requirements of regional, state and federal agencies on the same subjects and, working with those agencies, attempt to coordinate processing in order to avoid overlapping reviews and unnecessary time delays.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-845, filed 8/11/93, effective 9/11/93.]

WAC 365-195-850 Impact fees. (1) Counties and cities planning under the act are authorized to impose impact fees on development activity as part of the financing for public facilities. However, the financing for system improvements to serve new development must provide a balance between impact fees and other sources of public funds and cannot rely solely on impact fees.

(2) The decision to use impact fees should be specifically implemented through development regulations. The impact fees:

(a) Shall only be imposed for system improvements that are reasonably related to the new development. "System improvements" (in contrast to "project improvements") are public facilities included in the capital facilities plan and designed to provide service to service areas within the community at large;

(b) Shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development; and

(c) Shall be used for system improvements that will reasonably benefit the new development.

The implementing regulation should call for a specific finding on all three of the above limitations whenever an impact fee is imposed.

(3) Impact fees may be collected and spent only for the following capital facilities owned or operated by government entities: Public streets and roads; publicly owned parks, open space, and recreation facilities; school facilities; and fire protection facilities in jurisdictions that are not part of a fire district. These facilities must have been addressed in a capital facilities plan element which identifies:

(a) Deficiencies in public facilities serving existing development and the means by which existing deficiencies will be eliminated within a reasonable period of time;

(b) Additional demands placed on existing public facilities by new development; and

(c) Additional public facility improvements required to serve new development.

(4) The local ordinance by which impact fees are imposed shall strictly conform to the provisions of RCW 82.02.060. The department recommends that jurisdictions include the authorized exemption for low-income housing.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-850, filed 8/11/93, effective 9/11/93.]

WAC 365-195-855 Protection of private property. In the drafting of development regulations, consideration should be given to the attorney general's process of evaluation issued pursuant to RCW 36.70A.370, to assure that governmental actions do not result in an unconstitutional

taking of private property. Procedures for avoiding takings, such as variances or exemptions, should be built into the overall regulatory scheme.

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-855, filed 8/11/93, effective 9/11/93.]

WAC 365-195-860 Housing for persons with handicaps. No county or city planning under the act may enact or maintain an ordinance, development regulation, zoning regulation or official control, policy, or administrative practice which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals. As used in this section, "handicaps" are as defined in the federal fair housing amendments of 1988 (42 U.S.C. Sec. 3602).

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-860, filed 8/11/93, effective 9/11/93.]

WAC 365-195-865 Supplementing, amending and monitoring. (1) New development regulations may be adopted from time to time as the need for supplementing the initial implementation strategy becomes apparent. However, because development regulations must be consistent with the comprehensive plans, substantive amendments to such regulations will frequently need to be accompanied by a comprehensive plan amendment. Since comprehensive plans can be amended only once a year (except in emergencies), consideration of significant changes in the land use management scheme will, by and large, become an annual affair.

(2) Cities and counties should institute an annual review of growth management implementation on a systematic basis. To aid in this process, planning jurisdictions should consider establishing a growth management monitoring program designed to measure and evaluate the progress being made toward accomplishing the act's goals and the provisions of the comprehensive plan. This program should be integrated with provisions for continuous public involvement. (See WAC 365-195-600 (2)(b).)

[Statutory Authority: RCW 36.70A.190 (4)(b). 93-17-040, § 365-195-865, filed 8/11/93, effective 9/11/93.]

Chapter 365-300 WAC ENHANCED 9-1-1 FUNDING

WAC

365-300-010	Authority.
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365-300-040	Eligible jurisdictions.
365-300-050	Fundable items.
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365-300-070	Funding priorities.
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WAC 365-300-010 Authority. This chapter is promulgated pursuant to the authority granted in RCW 38.52.540.

[Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-010, filed 5/11/93, effective 6/11/93.]

WAC 365-300-020 Purpose. RCW 38.52.540 establishes the enhanced 9-1-1 account in the state treasury and specifies that moneys in the account shall be used only to help implement and operate enhanced 9-1-1 state-wide. The purpose of this chapter is to specify by rule the purposes for which moneys may be expended from the enhanced 9-1-1 account.

[Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-020, filed 5/11/93, effective 6/11/93.]

WAC 365-300-030 Definitions. (1) "9-1-1 voice network" means all switches and circuits which provide the connection between the caller's central office and the public safety answering point.

(2) "Address" means an identification of a unique physical location by street name, number, and postal community. If applicable it also includes the identification of separately-occupied subunits, such as apartment or suite numbers, and where appropriate, other information such as building name or floor number which defines a unique physical location.

(3) "Advisory committee" means the E9-1-1 advisory committee established by RCW 38.52.530.

(4) "ALI/DMS (data management system)" means a system of manual procedures and computer programs used to create, store, and update the data required for ALI (automatic location identification) in support of enhanced 9-1-1.

(5) "Alternate routing" means a method by which 9-1-1 calls are routed to a designated alternate location if all E9-1-1 lines to a PSAP are busy.

(6) "Automatic location identification (ALI)" means a feature by which the name and address associated with the calling party's telephone number (identified by ANI feature) is forwarded to the PSAP for display.

(7) "Automatic number identification (ANI)" means a feature that allows for the automatic display of the seven-digit number used to place a 9-1-1 call.

(8) "Central office" means a telephone company facility that houses the switching and trunking equipment serving telephones in a defined area.

(9) "Central office enabling" means the technology that allows the public network telephone switch(s) to recognize and accept the digits 9-1-1.

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

(11) "Diversity" means a method of assuring continuity of service by using multiple transmission routes to deliver a particular service between two points on a network.

(12) "Master street address guide (MSAG)" means a data base of street names and address ranges within their associated postal communities defining emergency service zones for 9-1-1 purposes.

(13) "Network performance level monitoring" means steps taken by a telephone company to determine that the network is operating properly.

(14) "Night service" means a feature that automatically forwards all 9-1-1 calls to a PSAP to an alternate directory number assigned for that PSAP. The alternate directory number may be associated with a secondary PSAP or another alternate destination.

(15) "Public safety answering point (PSAP)" means an answering location for 9-1-1 calls originating in a given area. PSAPs are designated as primary or secondary, which refers to the order in which calls are directed for answering.

(16) "Reverse ALI search capability" means the ability to query the ALI data base to electronically obtain the ALI data associated with a known telephone number for purposes of handling an emergency.

(17) "Selective routing" means a feature that permits a 9-1-1 call to be routed to a predesignated public safety answering point (PSAP) based upon the identified telephone number of the calling party and an address associated with that telephone number.

(18) "TDD (telecommunications device for the deaf)" means a telecommunications device that permits typed telephone conversations with or between deaf, hard of hearing, or speech impaired people with a machine at their location.

(19) "Telephone system management information system (TSMIS)" means the equipment that records call volume and usage data that is helpful to a PSAP in their staffing and coverage decisions.

(20) "Traffic studies" means studies performed by a telephone company or others that measure the volume of calls made over the 9-1-1 network.

(21) "Uninterruptible power supply (UPS)" means a system designed to provide power, without delay or transients, during a period when the normal power supply is incapable of performing acceptably. UPS must allow operation for at least thirty minutes after loss of commercial power.

[Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-030, filed 5/11/93, effective 6/11/93.]

WAC 365-300-040 Eligible jurisdictions. The counties of the state of Washington shall be eligible to receive funds from the enhanced 9-1-1 account.

[Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-040, filed 5/11/93, effective 6/11/93.]

WAC 365-300-050 Fundable items. Enhanced 9-1-1 systems are made up of four main components: Network, data base, customer premise equipment (CPE), and operational items. Both the implementation and maintenance costs of these components will be eligible for funding. The following subcomponents within each of these major components will be eligible for funding from the enhanced 9-1-1 account.

(1) **NETWORK:**

- (a) Central office enabling;
- (b) Automatic number identification (ANI) provisioning;
- (c) Selective routing (hardware, software, data base);
- (d) 9-1-1 voice network (B.01/P.01 service level required);
- (e) Automatic location identification (ALI) data link;
- (f) Noncompatible central office switch upgrades;
- (g) Diversity;
- (h) Network performance level monitoring;
- (i) Traffic studies;
- (j) Alternate routing or night service.

(2) **DATA BASE:**

- (a) County or regional provided:
 - (i) Addressing (house number, street, postal community) exclusive of house numbering and street signs;
 - (ii) MSAG development and maintenance.
- (b) Telephone company provided:
 - (i) ALI data base:
 - MSAG development and maintenance;
 - Subscriber record purification.
 - (ii) ALI DMS equipment (for the storage and retrieval of ALI) may be provided by several vendors but the equipment must conform to the interfacing telephone companies standards.
- (3) **CUSTOMER PREMISE EQUIPMENT:**
 - (a) ANI/ALI display equipment for both primary and secondary PSAPs;
 - (b) Telephone system if existing is incompatible with enhanced 9-1-1;
 - (c) ALI controller;
 - (d) ANI controller;
 - (e) ALI/DMS equipment (must conform to interfacing telephone company's standards);
 - (f) Call detail interface and printer;
 - (g) Telephone system management information system;
 - (h) Radio communications equipment (if necessary as part of a regional or consolidated E9-1-1 system);
 - (i) Uninterruptible power supply (UPS) for telephone system and 9-1-1 equipment;
 - (j) Auxiliary generator to support 9-1-1 emergency telephone service for backup;
 - (k) TDD if existing is incompatible with enhanced 9-1-1;
 - (l) Recording equipment if existing is incompatible with enhanced 9-1-1;
 - (m) Reverse ALI search capability.
- (4) **OPERATIONAL ITEMS:**
 - (a) Funding necessary to develop the detailed E9-1-1 implementation and budget plan required by the state E9-1-1 office;
 - (b) Call receiver training.
- (5) **ADDITIONAL ITEMS:**

Additional equipment and local requirements will be considered for funding if they are an element in a regional or consolidated E9-1-1 system, including increased PSAP staffing needs directly attributable and documentable as being required for E9-1-1 implementation.

[Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-050, filed 5/11/93, effective 6/11/93.]

WAC 365-300-060 Local plan requirements. Prior to the allocation of funds to a local jurisdiction, other than the allocation of funds to develop local implementation plans and budgets, the local jurisdiction must develop an approved implementation plan and budget. The plans shall detail how each jurisdiction(s) will implement enhanced 9-1-1 in the most efficient and effective manner and shall include a proposed implementation schedule and estimate of required state and local resources. Such documents shall be submitted on forms developed by the department and shall be subject to review and approval by the state enhanced 9-1-1 coordinator with the advice of the advisory committee.

[Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-060, filed 5/11/93, effective 6/11/93.]

Additional equipment and local requirements will be considered for funding if they are an element in a regional or consolidated E9-1-1 system, including increased PSAP staffing needs directly attributable and documentable as being required for E9-1-1 implementation.

[Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-050, filed 5/11/93, effective 6/11/93.]

WAC 365-300-060 Local plan requirements. Prior to the allocation of funds to a local jurisdiction, other than the allocation of funds to develop local implementation plans and budgets, the local jurisdiction must develop an approved implementation plan and budget. The plans shall detail how each jurisdiction(s) will implement enhanced 9-1-1 in the most efficient and effective manner and shall include a proposed implementation schedule and estimate of required state and local resources. Such documents shall be submitted on forms developed by the department and shall be subject to review and approval by the state enhanced 9-1-1 coordinator with the advice of the advisory committee.

[Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-060, filed 5/11/93, effective 6/11/93.]

WAC 365-300-070 Funding priorities. Within available revenues, funds will be allocated in the manner best calculated, at the discretion of the state enhanced 9-1-1 coordinator, with the advice and assistance of the state enhanced 9-1-1 advisory committee, to facilitate the state-wide implementation and operation of enhanced 9-1-1. This discretion shall be guided by the following factors:

(1) The nature of existing and planned services in the local jurisdiction. Funds will generally be allocated first to those counties without 9-1-1, then to those counties which have some 9-1-1 capability, and then to counties which have fully enhanced 9-1-1;

(2) Priority will be given to those counties proposing to develop consolidated or regional enhanced 9-1-1 systems;

(3) The difference between locally generated revenue and revenue needed to fund services in accordance with the approved local plan and budget;

(4) Funding required in a particular time period for planning purposes;

(5) The differential impacts on local jurisdictions due to the costs and services of enhanced 9-1-1 as provided in tariffs approved by the Washington utilities and transportation commission; and

(6) Such additional factors directly related to implementation and operation of enhanced 9-1-1 state-wide as may be identified within the local jurisdiction's application for funding and are otherwise consistent with these rules.

[Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-070, filed 5/11/93, effective 6/11/93.]

WAC 365-300-081 Application procedures. The department shall develop an application format and applications shall be made in accordance with this format. The department shall further establish a schedule of annual application dates. Funding awards will be made by the department with the advice and assistance of the advisory committee.

[Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-081, filed 5/11/93, effective 6/11/93.]

WAC 365-300-090 Other rules. Through other state agencies, including the Washington utilities and transportation commission, rules have and will be adopted which will direct the state-wide implementation and operation of enhanced 9-1-1. By this reference, this rule is intended to be consistent with and complementary to these other rules.

[Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-090, filed 5/11/93, effective 6/11/93.]

Title 374 WAC

POLLUTION LIABILITY INSURANCE AGENCY

Chapters

374-60 Underground storage tank community assistance program.

Chapter 374-60 WAC

UNDERGROUND STORAGE TANK COMMUNITY ASSISTANCE PROGRAM

WAC

374-60-020	Definitions.
374-60-060	Applications.
374-60-070	Eligibility—Private owners and operators.
374-60-120	Grant management.

WAC 374-60-020 Definitions. (1) "Agency" means the Washington state pollution liability insurance agency.

(2) "Charity care" means necessary hospital health care rendered to indigent persons, to the extent that the persons are unable to pay for the care or to pay deductibles or co-insurance amounts required by a third party payor, as determined by the Washington state hospital commission. (Defined in RCW 70.39.020.)

(3) "Cleanup" means any remedial action taken that complies with WAC 173-340-450 and any remedial action taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with WAC 173-340-360.

(4) "Community assistance program" means the program established by the Washington state legislature under the provision of chapter 70.148 RCW to provide financial assistance grants to:

(a) Private owners and operators of underground petroleum storage tanks;

(b) Local governmental entities, and;

(c) Rural hospitals.

(5) "Director" means the director of the Washington state pollution liability insurance agency.

(6) "Local government entity" means a unit of local government, either general purpose or special purpose, and includes but is not limited to, counties, cities, towns, school districts and other governmental and political subdivisions. The local government unit must perform a public purpose and either:

(a) Receive an annual appropriation;

(b) Have taxing power; and

(c) Derive authority from state or local government law enforcement power.

(7) "Operator" means any person in control of, or having responsibility for, the daily operation of a petroleum underground storage tank system. (Defined in RCW 70.148.010.)

(8) "Owner" means any person who owns a petroleum underground storage tank. (Defined in RCW 70.148.010.)

(9) "Petroleum" means crude oil or any fraction of crude oil that is liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit and 14.7 pounds per square inch absolute) and includes gasoline, kerosene, heating oils and diesel fuels. (Defined in RCW 70.148.010.)

(10) "Private owner or operator" means any person, corporation, partnership or business that owns or operates one or more regulated petroleum underground storage tanks