Title 365 WAC

COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT, DEPARTMENT OF (COMMUNITY DEVELOPMENT)

Chapters

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365-230 Accreditation of lead-based paint training programs and the certification of firms and individuals conducting lead-based paint activities.

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

DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

Chapter 365-06
PUBLIC RECORDS

365-06-010 Purpose of chapter. [Order 73-4, § 365-06-010, filed 9/12/73.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.

365-06-020 Availability of public records and office procedures applicable to such availability. [Order 73-4, § 365-06-020, filed 9/12/73.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.

Chapter 365-12
REGULATIONS REGARDING RECOGNITION AND APPROVAL OF REGIONAL PLANNING AGENCIES FOR COMPREHENSIVE HEALTH PLANNING

365-12-010 Declaration of public policy. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-2, § 365-12-010, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-12-020 Definitions. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-2, § 365-12-020, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-12-030 Regional planning agencies—Establishment. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-2, § 365-12-030, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-12-040 Functions. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-2, § 365-12-040, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-12-050 Recognition and approval. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-2, § 365-12-050, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-12-060 Procedure. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-2, § 365-12-060, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-12-070 Criteria. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/85. Order 73-2, § 365-12-070, filed 6/29/73; Order 72-2, § 365-12-070, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-12-080 Rejection. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-2, § 365-12-080, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-12-090 Withdrawal. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-2, § 365-12-090, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-12-100 Notification requirements. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-2, § 365-12-100, filed 1/31/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-12-110 Declaration of emergency. [Order 72-2, § 365-12-110, filed 1/31/72 and Emergency Order 72-1, filed 1/18/72.] Decodified.

Chapter 365-14
FUNDING OF REGIONAL COMPREHENSIVE HEALTH PLANNING AGENCIES

365-14-010 General purpose. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Permanent and Emergency Order 77-01, § 365-14-010, filed 3/4/77, effective 3/4/77; Order 72-6, § 365-14-010, filed 11/3/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-14-020 Eligibility of applicants. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Permanent and Emergency Order 77-01, § 365-14-020, filed 3/4/77, effective 3/4/77; Order 73-2, § 365-14-020, filed 6/29/73; Order 72-6, § 365-14-020, filed 11/3/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-14-030 Application process. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 73-2, § 365-14-030, filed 6/29/73; Order 72-6, § 365-14-030, filed 11/3/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-14-040 Action by agency regarding application. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-6, § 365-14-040, filed 11/3/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-14-050 Funding allocation basis. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Permanent and Emergency Order 77-01, § 365-14-050, filed 3/4/77, effective 3/4/77; Order 73-2, § 365-14-050, filed 6/29/73; Order 72-6, § 365-14-050, filed 11/3/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-14-060 Decision of agency final. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 73-2, § 365-14-060, filed 6/29/73; Order 72-6, § 365-14-060, filed 11/3/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-14-070 Contract terms and conditions. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-6, § 365-14-070, filed 11/3/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-14-080 Commitment for additional funds. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Permanent and Emergency Order 77-01, § 365-14-080, filed 3/4/77, effective 3/4/77; Order 72-6, § 365-14-080, filed 11/3/72.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-14-110 Opportunity of funded agency to apply for funds for use in otherwise unfunded district. [Order 73-2, § 365-14-110, filed 6/29/73.] Repealed by Permanent and Emergency Order 77-01, filed 3/4/77, effective 3/4/77.

365-14-120 Application process. [Order 73-2, § 365-14-120, filed 6/29/73.] Repealed by Permanent and Emergency Order 77-01, filed 3/4/77, effective 3/4/77.

365-14-130 Agreement contents. [Order 73-2, § 365-14-130, filed 6/29/73.] Repealed by Permanent and Emergency Order 77-01, filed 3/4/77, effective 3/4/77.

365-14-200 Funding of demonstration projects. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Permanent and Emergency Order 77-01, § 365-14-200, filed 3/4/77, effective 3/4/77; Order 74-03, § 365-14-200, filed 5/23/74; Order 74-02, § 365-14-200, filed 2/19/74.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-14-210 Application process. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 74-02, § 365-14-210, filed 2/19/74.] Repealed by 85-15-011 (Order 85-06), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-14-220 Demonstration of local support. [Order 75-3, § 365-14-220, filed 8/11/75; Order 74-02, § 365-14-220, filed 2/19/74.] Repealed by Permanent and Emergency Order 77-01, filed 3/4/77, effective 3/4/77.

Chapter 365-22
PLANNING ADVANCES PROGRAM FOR LOCAL GOVERNMENT PUBLIC WORKS

365-22-010 Objectives of the planning advance program. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-010, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-22-020 Eligibility of applicants. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-020, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-22-030 Eligibility of public work. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-030, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-22-040 Application for planning advance. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-040, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-22-050 Action by agency regarding application. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-050, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-22-060 Planning advance funding criteria and preferences. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-060, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-22-070 Decision of agency final. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-070, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-22-080 Planning advance terms. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-080, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-22-090 Commitment for additional funds. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 72-7, § 365-22-090, filed 11/16/72.] Repealed by 85-15-010 (Order 85-05), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

Chapter 365-24
UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION

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.

Chapter 365-26
REGULATIONS REGARDING ADVANCED FINANCIAL SUPPORT PAYMENTS FOR THE DEVELOPMENT OF COMPREHENSIVE TRANSIT PLANS

365-26-010 General purpose and applicability. [Order 75-5, § 365-26-010, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-26-015 Definitions. [Order 75-5, § 365-26-015, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-26-110 Application for advanced financial support payment. [Order 75-5, § 365-26-110, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-26-120 Office response to application. [Order 75-5, § 365-26-120, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-26-130 Conditions of advanced financial support payments. [Order 75-5, § 365-26-130, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-26-200 Required elements of comprehensive transit plan. [Order 75-5, § 365-26-200, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-26-210 Capital improvements element. [Order 75-5, § 365-26-210, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-26-220 Level of service element. [Order 76-05, § 365-26-220, filed 11/17/76; Order 75-5, § 365-26-220, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-26-230 System funding for initial year of operation element. [Order 76-05, § 365-26-230, filed 11/17/76; Order 75-5, § 365-26-230, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-26-240 System of funding for the second through fifth years of operation element. [Order 75-5, § 365-26-240, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-26-250 Relation to nearby transit operations element. [Order 76-05, § 365-26-250, filed 11/17/76; Order 75-5, § 365-26-250, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-26-260 Prospects for geographic expansion of service area element. [Order 75-5, § 365-26-260, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-26-270 Minorities, elderly, handicapped, and low income people transportation service element. [Order 75-5, § 365-26-270, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-26-280 Citizen participation element. [Order 75-5, § 365-26-280, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-26-290 Coordinated planning element. [Order 75-5, § 365-26-290, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-26-300 Submission of comprehensive transit plans to agency. [Order 75-5, § 365-26-300, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-26-310 Review of comprehensive transit plan of public transportation benefit area. [Order 75-5, § 365-26-310, filed 12/31/75, 4:25 p.m.] Repealed by 80-01-030 (Order 43), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

Chapter 365-31
ORGANIZATION AND GENERAL PROCEDURES OF THE PLANNING AND COMMUNITY AFFAIRS AGENCY'S LAW AND JUSTICE PLANNING OFFICE AND THE GOVERNOR'S COMMITTEE ON LAW AND JUSTICE

365-31-010 Definitions. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-010, filed 4/14/80; Order 76-01, § 365-31-010, filed 2/13/76; Order 75-01, § 365-11-010 (codified as WAC 365-31-010), filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-31-020 Rules of interpretation. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-020, filed 4/14/80; Order 75-01, § 365-31-020, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-31-110 Officers of the governor's council on criminal justice and governor's juvenile justice advisory committee. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-110, filed 4/14/80; Order 75-01, § 365-31-110, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-31-111 Functions and membership of the governor's council on criminal justice and governor's juvenile justice advisory committee. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-111, filed 4/14/80.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-31-120 Meetings of the governor's council and committee, subcommittees, advisory committees. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-120,

filed 4/14/80; Order 76-01, § 365-31-120, filed 2/13/76; Order 75-01, § 365-31-120, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-31-130 Absences of members from meetings. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-130, filed 4/14/80; Order 75-01, § 365-31-130, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-31-140 Quorum. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Order 75-01, § 365-31-140, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-31-150 Participation and discussion during governor's council and committee meetings, rules of order, and forms of action. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-150, filed 4/14/80; Order 76-01, § 365-31-150, filed 2/13/76; Order 75-01, § 365-31-150, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-31-160 Voting procedures. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-160, filed 4/14/80; Order 76-01, § 365-31-160, filed 2/13/76; Order 75-01, § 365-31-160, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-31-170 Minutes. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-170, filed 4/14/80; Order 76-01, § 365-31-170, filed 2/13/76; Order 75-01, § 365-31-170, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-31-180 Subcommittees, advisory committees, and task forces. [Order 76-01, § 365-31-180, filed 2/13/76; Order 75-01, § 365-31-180, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-31-210 Duties of division of criminal justice. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.100. 80-05-023 (Order 48), § 365-31-210, filed 4/14/80; Order 76-01, § 365-31-210, filed 2/13/76; Order 75-01, § 365-31-210, filed 4/29/75.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-31-310 Administrative review of LJPO action grant applications. [Order 76-01, § 365-31-310, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-31-320 Program review of application. [Order 76-01, § 365-31-320, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-31-330 Appeal procedures. [Assumed and reaffirmed by the department of community development in WSR 84-14-064, filed 6/30/84. Statutory Authority: RCW 43.41.-100. 80-05-023 (Order 48), § 365-31-330, filed 4/14/80; Order 76-01, § 365-31-330, filed 2/13/76.] Repealed by 85-15-009 (Order 85-04), filed 7/8/85. Statutory Authority: RCW 43.63A.060.

365-31-340 LJPO hearing and review committee. [Order 76-01, § 365-31-340, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-31-350 Notice and scheduling of appeals to LJPO hearing and review committee. [Order 76-01, § 365-31-350, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-31-360 LJPO hearing and review committee operation. [Order 76-01, § 365-31-360, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-31-370 LJPO hearing and review committee action. [Order 76-01, § 365-31-370, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-31-410 Regional plan evaluation process. [Order 76-01, § 365-31-410, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-31-420 Evaluation criteria and rankings. [Order 76-01, § 365-31-420, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-31-430 Notice and scheduling of planning subcommittee consideration of regional plans—Appeals to planning subcommittee of SPA decisions on plans. [Order 76-01, § 365-31-430, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-31-440 Eligible appellants of SPA action on plan—Permissible subjects of appeal. [Order 76-01, § 365-31-440, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-31-450 Planning subcommittee operation when considering plans. [Order 76-01, § 365-31-450, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-31-460 Planning subcommittee action on regional plans. [Order 76-01, § 365-31-460, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-31-470 Appeal of planning subcommittee decision regarding a regional plan. [Order 76-01, § 365-31-470, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

Chapter 365-33
COMPREHENSIVE STATE PLANS FOR LAW ENFORCEMENT AND THE ADMINISTRATION OF JUSTICE

365-33-730 Adoption of 1973 state plan. [Order 75-01, § 365-33-730, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-33-740 Adoption of 1974 plan. [Order 75-01, § 365-33-740, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-33-750 Adoption of 1975 plan. [Order 76-01, § 365-33-750, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-33-760 Adoption of 1976 plan. [Order 76-01, § 365-33-760, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

Chapter 365-35
FINANCIAL GUIDELINES REGARDING GRANTS OF LAW AND JUSTICE FUNDS AND MATCHING CONTRIBUTIONS REQUIRED OF SUBGRANTEES

365-35-010 Adoption of financial guidelines of the SPA. [Order 75-01, § 365-35-010, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

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

Chapter 365-37
SPECIAL POLICIES AND PROCEDURES OF THE GOVERNOR'S COMMITTEE ON LAW AND JUSTICE AND THE STATE PLANNING AGENCY FOR LAW AND JUSTICE

365-37-010 Administration of law and justice program in accordance with applicable federal legislation and rules—Conformance with such federal legislation and regulations required of all subgrantees. [Order 75-01, § 365-37-010, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.-100. Later promulgation, see chapter 365-31 WAC.

365-37-110 Requirement that applications be "conforming" to necessitate SPA action within 90 days of receipt. [Order 75-01, § 365-37-110, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-37-120 Criteria for determining whether or not an application is "conforming." [Order 76-01, § 365-37-120, filed 2/13/76; Order 75-01, § 365-37-120, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-37-130 Conditional approval of application. [Order 75-01, § 365-37-130, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-37-210 Submission date for application for initial or continuation funding. [Order 75-01, § 365-37-210, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-37-220 Date after which applications for reallocation funds will be accepted. [Order 76-01, § 365-37-220, filed 2/13/76; Order 75-01, § 365-37-220, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-37-310 Authorization for the granting of project period extensions for operating projects—Maximum period of extension. [Order 75-01, § 365-37-310, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-37-320 Circumstances under which project period extensions may be granted. [Order 75-01, § 365-37-320, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-37-330 Circumstances under which a grant contract project period will not be extended. [Order 75-01, § 365-37-330, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-37-340 Procedure for requesting and granting a project period extension. [Order 76-01, § 365-37-340, filed 2/13/76; Order 75-01, § 365-37-340, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-37-410 Maximum project funding period—Exceptions. [Order 75-01, § 365-37-410, filed 4/29/75.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-37-510 Governor's committee as appellate forum. [Order 76-03, § 365-37-510, filed 3/26/76; Order 76-01, § 365-37-510, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-37-520 Eligible appellants—Decisions that may be appealed. [Order 76-03, § 365-37-520, filed 3/26/76; Order 76-01, § 365-37-520, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-37-530 Notice and scheduling of appeals to governor's committee. [Order 76-03, § 365-37-530, filed 3/26/76; Order 76-01, § 365-37-530, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-37-540 Submission of material to governor's committee for consideration in an appeal. [Order 76-01, § 365-37-540, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-37-550 Appeal consideration procedures. [Order 76-03, § 365-37-550, filed 3/26/76; Order 76-01, § 365-37-550, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-37-560 Governor's committee action on appeals. [Order 76-03, § 365-37-560, filed 3/26/76; Order 76-01, § 365-37-560, filed 2/13/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-37-570 Notice of governor's committee decision and right to appeal to governor. [Order 76-03, § 365-37-570, filed 3/26/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

365-37-580 Procedure applicable to petition to governor for reconsideration of governor's committee decision—Action by governor on petition. [Order 76-03, § 365-37-580, filed 3/26/76.] Repealed by 80-05-023 (Order 48), filed 4/14/80. Statutory Authority: RCW 43.41.100.

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

365-41-010 General purpose and applicability. [Order 77-04, § 365-41-010, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.

365-41-015 Definitions. [Order 77-04, § 365-41-015, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.

365-41-110 Application for advanced financial support payment. [Order 77-04, § 365-41-110, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.

365-41-120 Agency response to application. [Order 77-04, § 365-41-120, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.

365-41-130 Conditions of advanced financial support payments. [Order 77-04, § 365-41-130, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.

365-41-200 Required elements of feasibility study. [Order 77-04, § 365-41-200, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.

365-41-210 Geographical extent. [Order 77-04, § 365-41-210, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.

365-41-220 Identification of related transportation operations. [Order 77-04, § 365-41-220, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.

365-41-230 Estimation of need. [Order 77-04, § 365-41-230, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.

365-41-240 Alternative management schemes. [Order 77-04, § 365-41-240, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.-121.

365-41-250 Alternative funding sources. [Order 77-04, § 365-41-250, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.

365-41-300 Submission of feasibility study to agency. [Order 77-04, § 365-41-300, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.

365-41-310 Submission of municipal resolution to agency. [Order 77-04, § 365-41-310, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.

365-41-320 Submission of municipal ordinance levying and collecting taxes to agency. [Order 77-04, § 365-41-320, filed 8/10/77.] Repealed by 79-12-035 (Order 40), filed 11/20/79. Statutory Authority: RCW 47.01.121.

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

365-42-010 Definitions. [Order 77-02, § 365-42-010, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-010.

365-42-020 Program description. [Order 77-02, § 365-42-020, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-020.

365-42-030 Purpose. [Order 77-02, § 365-42-030, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-030.

365-42-100 Program period. [Order 77-02, § 365-42-100, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-100.

365-42-110 Qualification criteria. [Order 77-02, § 365-42-110, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-110.

365-42-200 Application procedures. [Order 77-02, § 365-42-200, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-200.

365-42-210 Evaluation of applications. [Order 77-02, § 365-42-210, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-210.

365-42-220 Coordination. [Order 77-02, § 365-42-220, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058

(Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-220.

365-42-230 Selection. [Order 77-02, § 365-42-230, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-230.

365-42-240 State application. [Order 77-02, § 365-42-240, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-240.

365-42-300 Contract. [Order 77-02, § 365-42-300, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-300.

365-42-310 Surplus funds. [Order 77-02, § 365-42-310, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-310.

365-42-320 Equipment purchasing. [Order 77-02, § 365-42-320, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-320.

365-42-330 UMTA interest. [Order 77-02, § 365-42-330, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-330.

365-42-340 Equipment acceptance. [Order 77-02, § 365-42-340, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-340.

365-42-350 Vehicle registration and licensing. [Order 77-02, § 365-42-350, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-350.

365-42-360 Equipment use. [Order 77-02, § 365-42-360, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-360.

365-42-370 Maintenance. [Order 77-02, § 365-42-370, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-370.

365-42-380 Inspections. [Order 77-02, § 365-42-380, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-380.

365-42-390 Reports. [Order 77-02, § 365-42-390, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-390.

365-42-410 Insurance. [Order 77-02, § 365-42-410, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-410.

365-42-420 Indemnity. [Order 77-02, § 365-42-420, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-420.

365-42-430 Risk of loss or damage. [Order 77-02, § 365-42-430, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-430.

365-42-440 Disposal of equipment. [Order 77-02, § 365-42-440, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-440.

365-42-510 Accounting records. [Order 77-02, § 365-42-510, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-510.

365-42-610 Safety. [Order 77-02, § 365-42-610, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-610.

365-42-710 Termination. [Order 77-02, § 365-42-710, filed 8/19/77, effective 9/19/77.] Repealed by 81-10-058 (Order 61), filed 5/5/81. Statutory Authority: RCW 47.01.101(5). Later promulgation, see WAC 468-87-710.

Chapter 365-43
REGULATIONS REGARDING PASS-THROUGH OF U.S. URBAN MASS TRANSPORTATION ADMINISTRATION FUNDS FOR PUBLIC TRANSPORTATION TECHNICAL STUDIES

365-43-010 General purpose and applicability. [Order 77-03, § 365-43-010, filed 8/19/77, effective 9/19/77.] Repealed by 80-01-031 (Order 45), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-43-015 Definitions. [Order 77-03, § 365-43-015, filed 8/19/77, effective 9/19/77.] Repealed by 80-01-031 (Order 45), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-43-110 Application for technical study grant. [Order 77-03, § 365-43-110, filed 8/19/77, effective 9/19/77.] Repealed by 80-01-031 (Order 45), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-43-120 Agency response to application. [Order 77-03, § 365-43-120, filed 8/19/77, effective 9/19/77.] Repealed by 80-01-031 (Order 45), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

365-43-200 Application prioritization criteria. [Order 77-03, § 365-43-200, filed 8/19/77, effective 9/19/77.] Repealed by 80-01-031 (Order 45), filed 12/17/79. Statutory Authority: RCW 47.01.101 and 47.01.121.

Chapter 365-50
CRIMINAL RECORDS

365-50-010 General applicability. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-010, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-020 Definitions. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-020, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-030 Separation of information. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-030, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-040 Deferred prosecutions. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-040, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-050 Convictions under appeal or review. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-050, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-060 Certification of criminal justice agencies. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-060, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-070 Inspection—Individual's right to review record. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-070, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-080 Inspection—Forms to be made available. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-080, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-090 Inspection—Identification of requester. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-090, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-100 Inspection—Timeliness and manner of agency response. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-100, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-110 Inspection—Time allowed for review. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-110, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-120 Inspection—Retention or reproduction of records. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-120, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-130 Inspection—Prevention of unauthorized retention or reproduction. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-130, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-140 Inspection—Designation of person to assist in review. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-140, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-150 Inspection—Statement of procedures to be available. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-150, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-160 Inspection—Procedure for correctional or detention agencies. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-160, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-170 Deletion—Individual's right to have certain information deleted. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-170, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-180 Deletion—Agency option to refuse to delete. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-180, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-190 Deletion—Policies to be adopted. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-190, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-200 Deletion—Inquiries required. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-200, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-210 Challenge—Individual's right to challenge. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-210, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-220 Challenge—Forms to be made available. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-220, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-230 Challenge—Forwarding of challenge to appropriate agency. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-230, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-240 Challenge—Agency to make determination. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-240, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-250 Correction of erroneous information. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-250, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-260 Review of refusal to alter record. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-260, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-270 Dissemination—Dispositions to be included. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-270, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-280 Dissemination—Inquiry of prosecutor required. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-280, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-290 Dissemination—To implement a statute or other grant of authority. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-290, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-300 Dissemination pursuant to contract for services. [Statutory Authority: RCW 10.97.080. 78-10-038 (Order 40), § 365-50-300, filed 9/18/78; 78-03-065 (Order 78-01), § 365-50-300, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-310 Dissemination—Research purposes. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-310, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-320 Dissemination—Record of disseminations to be maintained. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-320, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-330 Dissemination—Fees. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-330, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-340 Protection from accidental loss or injury. [Statutory Authority: RCW 10.97.080. 78-10-038 (Order 40), § 365-50-340, filed 9/18/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-350 Protection against unauthorized access. [Statutory Authority: RCW 10.97.080. 78-10-038 (Order 40), § 365-50-350, filed 9/18/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-360 Personnel security. [Statutory Authority: RCW 10.97.080. 78-10-038 (Order 40), § 365-50-360, filed 9/18/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-370 Personnel training. [Statutory Authority: RCW 10.97.080. 78-10-038 (Order 40), § 365-50-370, filed 9/18/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-380 Personnel clearances. [Statutory Authority: RCW 10.97.080. 78-10-038 (Order 40), § 365-50-380, filed 9/18/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-390 Auditing of CHRI systems. [Statutory Authority: RCW 10.97.080. 78-10-038 (Order 40), § 365-50-390, filed 9/18/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-400 Establishment of procedures. [Statutory Authority: RCW 10.97.080. 78-10-038 (Order 40), § 365-50-400, filed 9/18/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-500 Form of request to inspect record. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-500, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-510 Form of request to modify record. [Statutory Authority: RCW 10.97.090. 78-04-031 (Order 78-03), § 365-50-510, filed 3/15/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-520 Form of request to review refusal to modify record. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-520, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-530 Appendix III to state of Washington plan for security and privacy of criminal offender records. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-530, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-540 Certification request form for criminal justice agencies seeking access to criminal offender record information. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-540, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

365-50-550 Certification request form for noncriminal justice agencies seeking access to criminal offender record information. [Statutory Authority: RCW 10.97.080. 78-03-065 (Order 78-01), § 365-50-550, filed 2/22/78.] Repealed by 80-08-056 (Order 80-3), filed 7/1/80. Statutory Authority: RCW 10.97.080 and 10.97.090.

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

Chapter 365-55
WASHINGTON STATE WEATHERIZATION ASSISTANCE PROGRAM FOR LOW-INCOME PERSONS

365-55-010 Definitions. [Statutory Authority: RCW 43.63A.060. 78-04-013 (Order 78-02), § 365-55-010, filed 3/9/78.] Repealed by 83-06-066 (Order 83-02), filed 3/2/83. Statutory Authority: RCW 43.63A.060.

365-55-020 Program description. [Statutory Authority: RCW 43.63A.060. 78-04-013 (Order 78-02), § 365-55-020, filed 3/9/78.] Repealed by 83-06-066 (Order 83-02), filed 3/2/83. Statutory Authority: RCW 43.63A.060.

365-55-030 Program purpose. [Statutory Authority: RCW 43.63A.060. 78-04-013 (Order 78-02), § 365-55-030, filed 3/9/78.] Repealed by 83-06-066 (Order 83-02), filed 3/2/83. Statutory Authority: RCW 43.63A.060.

365-55-040 Application procedures. [Statutory Authority: RCW 43.63A.060. 78-04-013 (Order 78-02), § 365-55-040, filed 3/9/78.] Repealed by 83-06-066 (Order 83-02), filed 3/2/83. Statutory Authority: RCW 43.63A.060.

365-55-050 Contract awards. [Statutory Authority: RCW 43.63A.060. 78-04-013 (Order 78-02), § 365-55-050, filed 3/9/78.] Repealed by 83-06-066 (Order 83-02), filed 3/2/83. Statutory Authority: RCW 43.63A.060.

365-55-060 Reports and records. [Statutory Authority: RCW 43.63A.060. 78-04-013 (Order 78-02), § 365-55-060, filed 3/9/78.] Repealed by 83-06-066 (Order 83-02), filed 3/2/83. Statutory Authority: RCW 43.63A.060.

365-55-070 Policy advisory council. [Statutory Authority: RCW 43.63A.060. 78-04-013 (Order 78-02), § 365-55-070, filed 3/9/78.] Repealed by 83-06-066 (Order 83-02), filed 3/2/83. Statutory Authority: RCW 43.63A.060.

365-55-080 Termination. [Statutory Authority: RCW 43.63A.060. 78-04-013 (Order 78-02), § 365-55-080, filed 3/9/78.] Repealed by 83-06-066 (Order 83-02), filed 3/2/83. Statutory Authority: RCW 43.63A.060.

Chapter 365-60
STATE ADMINISTRATION OF THE LOCAL SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

365-60-010 Purpose and authority. [Statutory Authority: Chapter 43.63A RCW. 79-03-004 (Order 79-02), § 365-60-010, filed 2/9/79.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.

365-60-020 Policies and procedures. [Statutory Authority: Chapter 43.63A RCW. 79-03-004 (Order 79-02), § 365-60-020, filed 2/9/79.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.

Chapter 365-300
ENHANCED 9-1-1 FUNDING

365-300-010 Authority. [Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-010, filed 5/11/93, effective 6/11/93.] Decodified by 98-01-064, filed 12/11/97, effective 1/1/98.

365-300-020 Purpose. [Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-020, filed 5/11/93, effective 6/11/93.] Decodified by 98-01-064, filed 12/11/97, effective 1/1/98.

365-300-030 Definitions. [Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-030, filed 5/11/93, effective 6/11/93.] Decodified by 98-01-064, filed 12/11/97, effective 1/1/98.

365-300-040 Eligible jurisdictions. [Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-040, filed 5/11/93, effective 6/11/93.] Decodified by 98-01-064, filed 12/11/97, effective 1/1/98.

365-300-050 Fundable items. [Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-050, filed 5/11/93, effective 6/11/93.] Decodified by 98-01-064, filed 12/11/97, effective 1/1/98.

365-300-060 Local plan requirements. [Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-060, filed 5/11/93, effective 6/11/93.] Decodified by 98-01-064, filed 12/11/97, effective 1/1/98.

365-300-070 Funding priorities. [Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-070, filed 5/11/93, effective 6/11/93.] Decodified by 98-01-064, filed 12/11/97, effective 1/1/98.

365-300-081 Application procedures. [Statutory Authority: RCW 38.52.540. 93-11-039 (Order 93-04), § 365-300-081, filed 5/11/93, effective 6/11/93.] Decodified by 98-01-064, filed 12/11/97, effective 1/1/98.

365-300-090 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.] Decodified by 98-01-064, filed 12/11/97, effective 1/1/98.

Reviser's note: Later promulgation, see chapter 118-65 WAC.

Chapter 365-04 WAC
GENERAL PROCEDURES

WAC

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

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

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

WAC 365-04-030 Agency organization. (1) The executive head of the agency is a director appointed by the governor. The director may delegate such of his functions, powers, and duties to such officers and employees of the office as he deems expedient to the furtherance of the purposes of the agency. The operating sections of the agency include the comprehensive health planning office, the law and justice planning office, and the local planning assistance, community services, model cities/planned variations, training and education, special projects, and administrative divisions.

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

Affairs Agency, Insurance Building, Olympia, Washington 98504.

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

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

WAC 365-04-050 Appearance and practice before agency—Who may appear. No person may appear in a representative capacity before the agency or its designated hearing officer other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington;

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law;

(3) A bona fide officer, partner, or full time employee of an individual firm, association, partnership, corporation or municipal corporation.

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

Chapter 365-08 WAC
UNIFORM PROCEDURAL RULES

WAC

365-08-010 Uniform procedural rules.

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

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

Chapter 365-18 WAC
LONG-TERM CARE OMBUDSMAN PROGRAM, DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT

WAC

365-18-010 Purpose.
365-18-020 Definitions.
365-18-030 Contractor, subcontractor, and ombudsman qualifications.
365-18-040 Conflicts of interest.
365-18-050 Duties—Department.
365-18-060 Duties—State ombudsman.
365-18-070 Duties—Regional and regional staff long-term care ombudsmen.
365-18-080 Duties—Certified volunteer long-term care ombudsmen.
365-18-090 Legal counsel.
365-18-100 Ombudsmen access to facilities, residents, and records.
365-18-110 Confidentiality of ombudsman records, communications privileged.
365-18-120 Interference with the ombudsman, liability.

WAC 365-18-010 Purpose. The purpose of this chapter is to implement the long-term care ombudsman program as provided for in chapter 43.190 RCW and the Older Americans Act of 1965 (42 U.S.C. § 3001 et seq., as amended). The overall purpose of the ombudsman program is to promote the interests, well-being, and rights of long-term care facility residents. These rules set forth the ombudsman program's authority and duties.

[Statutory Authority: Chapter 43.190 RCW and Older Americans Act of 1965 (42 U.S.C., 3001 et seq., as amended). 00-09-060, § 365-18-010, filed 4/17/00, effective 5/18/00.]

WAC 365-18-020 Definitions. When used in this chapter, unless otherwise required by the context:

(1) "Contractor" means the private nonprofit organization established by contract with the department to provide the services of the office of the state long-term care ombudsman program.

(2) "Department" means the department of community, trade, and economic development.

(3) "Immediate family" pertaining to conflicts of interest, means spouse, parents, children and siblings who live in the same household or who have, as determined by the state office, a significant financial relationship with the potential ombudsman.

(4) "Long-term care facility" or "facility" is as defined in RCW 43.190.020, and includes, but is not limited to, nursing homes, adult family homes, boarding homes, assisted living facilities, facilities that have a portion of their services established for long-term care, long-term care facilities operated by the Washington state department of veterans affairs, and any facility that is required by law to be licensed but is not.

(5) "Long-term care services" means services provided to residents and applicants of long-term care facilities including, but not limited to, assessment, placement, case management, and determinations regarding benefits, personal care, and health care, but for purposes of these regulations does not mean care or services provided in the applicant's or resident's home outside of a long-term care facility or in other locations outside of a long-term care facility. Services are those pro-

vided to residents of all ages, and include, but are not limited to, those provided to individuals with developmental or physical disabilities, mental illness, dementia, or substance abuse problems.

(6) "Ombudsman" means the state long-term care ombudsman, assistant state long-term care ombudsman, regional long-term care ombudsman, regional staff long-term care ombudsman, or certified long-term care volunteer ombudsman.

(7) "Resident" means any individual residing temporarily or permanently in a long-term care facility, and, when concerning complaints about admissions, readmissions, transfers, or discharges, includes applicants and former residents of such facilities.

(8) "State office" means the office of the state long-term care ombudsman.

(9) "Pecuniary interest" for purposes of this chapter means any significant ownership or investment interest.

[Statutory Authority: Chapter 43.190 RCW and Older Americans Act of 1965 (42 U.S.C., 3001 et seq., as amended). 00-09-060, § 365-18-020, filed 4/17/00, effective 5/18/00.]

WAC 365-18-030 Contractor, subcontractor, and ombudsman qualifications. (1) The contractor shall be a private nonprofit organization with demonstrated capability to carry out the responsibilities of the state long-term care ombudsman, including, but not limited to, an ability to receive, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities statewide. Subcontractors shall have demonstrated the capability to carry out the responsibilities of their respective contracts. The contractor and subcontractors shall also be free of conflicts of interest, including:

(a) Not be an agency or organization that is responsible for licensing, certifying, or regulating long-term care facilities;

(b) Not be an association, or an affiliate of such an association, of long-term care facilities; and

(c) Have no pecuniary interest in any long-term care facility.

(2) The state long-term care ombudsman and assistant state long-term care ombudsman shall have demonstrated expertise and experience in the fields of long-term care and resident advocacy, and be free of conflicts of interest as defined in WAC 365-18-040.

(3) Ombudsmen shall have demonstrated capability to carry out the responsibilities of their respective offices, and be free of conflicts of interest as defined in WAC 365-18-040.

(4) All prospective regional and volunteer ombudsmen shall successfully complete the training program designated by the state office prior to becoming certified and beginning work as ombudsmen. In addition, during the period of their assignment as ombudsmen, all ombudsmen are expected to attend periodic training events designed to increase their knowledge and expertise with regard to long-term care ombudsman issues.

(5) Prior to becoming an ombudsman, all prospective ombudsmen shall, at a minimum, successfully pass a criminal history background check as provided by chapter 43.43 RCW.

(6) Once a person becomes an ombudsman, he or she shall successfully pass a criminal history background check as provided by chapter 43.43 RCW every three years at a minimum.

[Statutory Authority: Chapter 43.190 RCW and Older Americans Act of 1965 (42 U.S.C., 3001 et seq., as amended). 00-09-060, § 365-18-030, filed 4/17/00, effective 5/18/00.]

WAC 365-18-040 Conflicts of interest. (1) All ombudsmen shall be free from conflicts of interests, including:

(a) No ombudsman shall be or have been employed by or participated in the management of any long-term care facility, or have or have had the right to receive remuneration from a long-term care facility, including work as a paid consultant or independent contractor, currently or within the past year;

(b) No ombudsman or member of his or her immediate family shall have, or have had within the past year, any pecuniary interest in a long-term care facility or a long-term care service;

(c) No ombudsman shall have a direct involvement in the licensing, certification, or regulation of a long-term care facility or of a long-term care service during his or her tenure as an ombudsman or within the past year;

(d) No ombudsman shall be assigned to or work in a long-term care facility in which the ombudsman or a member of his/her immediate family resides;

(e) No ombudsman shall solicit or be the beneficiary of gifts, money or estate property from residents in any facility in which he or she has served or is serving as ombudsman. This subsection shall not prohibit an ombudsman from receiving gifts, money, or estate property from a resident who is a relative of the ombudsman;

(f) No ombudsman may work for an agency or entity in which the ombudsman has direct personal involvement in the provision or establishment of involuntary services or in the involuntary commitment of a resident.

(2) No individual, or immediate family member of such an individual, who is involved in the designation or removal of the state ombudsman, or the designation or revocation of the contractor or subcontractors, or who administers or oversees the contractor's or subcontractor's contract, may be an official or employee of any agency or organization that conducts the licensing, certification, or regulation of long-term care facilities, or that owns, operates, or manages such facilities.

[Statutory Authority: Chapter 43.190 RCW. 02-17-018, § 365-18-040, filed 8/9/02, effective 9/9/02. Statutory Authority: Chapter 43.190 RCW and Older Americans Act of 1965 (42 U.S.C., 3001 et seq., as amended). 00-09-060, § 365-18-040, filed 4/17/00, effective 5/18/00.]

WAC 365-18-050 Duties—Department. The department shall, consistent with federal and state laws:

(1) Establish procedures for designating and contracting with a qualified private, nonprofit organization to provide the state long-term care ombudsman program services, including legal services;

(2) Facilitate the exchange of information among appropriate state agencies and organizations regarding issues relating to the long-term care ombudsman program;

(3) Help the state long-term care ombudsman obtain direct access to the directors and key staff of state governmental entities with responsibilities that impact residents of long-term care facilities;

(4) Provide other assistance to the ombudsman program as the department deems appropriate;

(5) Monitor program activities and the expenditure of state and federal funds under the contract with the state office for appropriate utilization of funds, compliance with state and federal laws, and fulfillment of contract obligations; and

(6) Assure, along with the state office, that no ombudsman is subject to a conflict of interest.

[Statutory Authority: Chapter 43.190 RCW and Older Americans Act of 1965 (42 U.S.C., 3001 et seq., as amended). 00-09-060, § 365-18-050, filed 4/17/00, effective 5/18/00.]

WAC 365-18-060 Duties—State ombudsman. The state long-term care ombudsman shall assure performance of the following duties:

(1) Identify, investigate, and resolve complaints that:

(a) Relate to actions, inactions, or decisions that may adversely affect the health, safety, welfare, or rights of residents;

(b) Are made by:

(i) A resident, a resident's relatives, friends, or associates;

(ii) Providers, or representatives of providers, of long-term care or health care services;

(iii) Public agencies;

(iv) Health and social service agencies; or

(v) Guardians, representative payees, holders of powers of attorney, or other resident representatives;

(2) In coordination with the appropriate state or local government agencies, develop referral procedures for all long-term care ombudsmen to refer complaints when necessary to any appropriate state or local government agency; such referral procedures must conform to the appropriate state law for referring reports of potential abuse, neglect, exploitation or abandonment and shall contain wherever possible the information specified in the appropriate state reporting laws and shall not abridge the confidentiality requirements of this chapter;

(3) Offer and provide services to assist residents and their representatives in protecting the health, safety, welfare, and rights of the residents;

(4) Inform the residents, their representatives and others about resident rights and about the means of obtaining needed services, and work with the department of social and health services and long-term care facility administrators to assure that notices containing the name, address, and telephone number of the appropriate long-term care ombudsman are posted prominently in every long-term care facility;

(5) Ensure that residents and their representatives have regular and timely access to the services provided through the ombudsman program, and ensure that the residents and complainants receive timely responses from representatives of the ombudsman program. Provision shall be made by facilities and the ombudsman to secure privacy for the purpose of the ombudsman carrying out his or her duties, including, but not limited to, building relationships with and providing information to residents;

(6) Represent the interests of residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(7)(a) Analyze, comment on, and monitor the development and implementation of federal, state, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to long-term care facilities and services in the state;

(b) Recommend changes in laws, regulations, policies, and actions that will further promote the interests, well-being and rights of residents;

(c) Provide such information as the state office determines to be necessary to public and private agencies, legislators, and other persons, regarding:

(i) The problems and concerns of individuals residing in long-term care facilities; and

(ii) Recommendations related to these problems and concerns; and

(d) Facilitate public comment on laws, regulations, policies, and actions related to residents of long-term care facilities and the ombudsman program;

(8)(a) Establish procedures for the training and supervision of prospective regional long-term care ombudsmen, regional long-term care staff ombudsmen, and certified volunteer ombudsmen, and ensure that all ombudsmen are educated in the fields of long-term care and advocacy, including, but not limited to, conflict resolution, laws that govern long-term care resident populations, and issues in long-term care facilities pertaining to residents with mental illness, dementia, developmental and physical disabilities, and substance abuse problems;

(b) Monitor and provide administrative and policy direction and technical assistance to the regional long-term care ombudsmen; and

(c) Coordinate the activities of long-term care ombudsmen throughout the state;

(9)(a) Promote the development of citizen groups to participate in the ombudsman program; and

(b) Provide support for the development of resident councils and family councils to protect the interests, well-being and rights of residents;

(10) Assure that representative stakeholder advisory councils are established and maintained for the state and regional ombudsman programs. All councils should include representation from a broad spectrum of interests served by the program, including, but not limited to, mental illness, dementia, and developmental and physical disabilities. All vacancies to councils should be filled where possible within six months of the vacancy;

(11) Coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illness including making appropriate referrals, and with legal services funded under Title III of the Older Americans Act, through the development of memoranda of understanding and other means;

(12) Establish a grievance procedure for the purpose of providing an appeal process for any individual dissatisfied with the actions of any ombudsman. The highest level of appeal shall be the contractor and the contractor's governing

board. The grievance procedure is not intended to supplant any contracting or subcontracting agency's internally established grievance procedure for disputes not related to ombudsman duties;

(13) Establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems;

(14) Prepare an annual report:

(a) Describing the activities carried out by the ombudsman program in the prior year;

(b) Evaluating the problems experienced by, and the complaints made by, or on behalf of, residents;

(c) Containing recommendations for:

(i) Improving quality of the care and life of the residents; and

(ii) Protecting the health, safety, welfare, and rights of the residents;

(d)(i) Analyzing the success and needs of the ombudsman program, including the success or gaps in providing services to residents of long-term care facilities; and

(ii) Identifying barriers that prevent the optimal operation of the ombudsman program;

(e) Providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove the barriers; and

(f) Make available to the federal Commissioner on Aging, the governor, the Washington state legislature, the department of social and health services, the department of health, the department of community, trade, and economic development, and other appropriate governmental entities and interested members of the public, the annual report described in this subsection;

(15) The state long-term care ombudsman may subcontract for long-term care ombudsman services, including regional long-term care ombudsman services, throughout the state. The state long-term care ombudsman has the authority to designate and certify regional long-term care ombudsmen. The state long-term care ombudsman has the authority to revoke, when good cause is shown, the subcontract or the designation and certification of the individual regional long-term care ombudsman;

(16) The state long-term care ombudsman has the authority to designate qualified individuals as certified volunteer long-term care ombudsmen representing the ombudsman program. Such individuals shall receive a certificate and picture identification card from the state office signed by the state long-term care ombudsman. The state long-term care ombudsman has the authority to revoke, when good cause is shown, this certification.

(17) Nothing in this chapter shall be construed to empower the state long-term care ombudsman or any other long-term care ombudsman with statutory or regulatory licensing or sanctioning authority.

[Statutory Authority: Chapter 43.190 RCW and Older Americans Act of 1965 (42 U.S.C., 3001 et seq., as amended). 00-09-060, § 365-18-060, filed 4/17/00, effective 5/18/00.]

WAC 365-18-070 Duties—Regional and regional staff long-term care ombudsmen. Regional and regional staff long-term care ombudsmen shall, in accordance with the policies and procedures established by the state office, have the following duties:

(1) Inform residents, their representatives, and others about their rights, and offer and provide services to protect the health, safety, welfare, and rights of residents;

(2) Ensure that residents and their representatives in the service area have regular, timely access to representatives of the ombudsman program and timely responses to complaints and requests for assistance. Provision shall be made by facilities and ombudsmen to secure privacy for the purpose of the ombudsman carrying out his or her duties, including, but not limited to, building relationships with and providing information to residents;

(3) Identify, investigate, and resolve complaints that:

(a) Relate to actions, inactions, or decisions, that may adversely affect the health, safety, welfare, or rights of residents;

(b) Are made by:

(i) A resident, a resident's relatives, friends, or associates;

(ii) Providers, or representatives of providers, of long-term care or health care services;

(iii) Public agencies;

(iv) Health and social service agencies; or

(v) Guardians, representative payees, holders of powers of attorney, or other resident representatives;

(4) Recruit, train, place and supervise volunteer and staff ombudsmen who have been certified by the state ombudsman;

(5) Represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(6) Review, and if necessary, comment on any existing and proposed laws, regulations, and other governmental policies and actions, that pertain to the rights and well-being of residents; and facilitate the ability of the public to comment on the laws, regulations, policies, and actions;

(7) Assure that regional stakeholder advisory councils are established and maintained for the regional ombudsman programs. Efforts should be made to include representation on the councils from a broad spectrum of interests served by the program, including, but not limited to, mental illness, dementia, and developmental and physical disabilities. All vacancies to councils should be filled where possible within six months of the vacancy;

(8) Promote the development of resident councils, family councils, and citizen advocacy groups; and

(9) Carry out other activities that the state long-term care ombudsman determines to be appropriate.

[Statutory Authority: Chapter 43.190 RCW and Older Americans Act of 1965 (42 U.S.C., 3001 et seq., as amended). 00-09-060, § 365-18-070, filed 4/17/00, effective 5/18/00.]

WAC 365-18-080 Duties—Certified volunteer long-term care ombudsmen. Trained and certified volunteer long-term care ombudsmen shall, in accordance with policies and procedures established by the state office, and under the

supervision of the regional long-term care ombudsman, have the following duties:

(1) Inform residents, their representatives and others about their rights, and offer and provide services to protect the health, safety, welfare, and rights of residents;

(2) Represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of residents;

(3) Visit residents in the assigned facility(s) on a regular basis, with provision made by facilities and ombudsmen to secure privacy for the purpose of the ombudsman carrying out his or her duties;

(4) According to program policy, identify, investigate and resolve complaints that:

(a) Relate to actions, inactions, or decisions, that may adversely affect the health, safety, welfare, or rights of residents;

(b) Are made by:

(i) A resident, a resident's relatives, friends, or associates;

(ii) Providers, or representatives of providers, of long-term care or health care services;

(iii) Public agencies;

(iv) Health and social service agencies; or

(v) Guardians, representative payees, holders of powers of attorney, or other resident representatives;

(5) Review, and if necessary, comment on any existing and proposed laws, regulations, and other governmental policies and actions, that pertain to the rights and well-being of residents; and facilitate the ability of the public to comment on the laws, regulations, policies, and actions;

(6) Promote development of resident councils, family councils, and citizen advocacy groups; and

(7) Carry out other activities that the state long-term care ombudsman determines to be appropriate.

[Statutory Authority: Chapter 43.190 RCW and Older Americans Act of 1965 (42 U.S.C., 3001 et seq., as amended). 00-09-060, § 365-18-080, filed 4/17/00, effective 5/18/00.]

WAC 365-18-090 Legal counsel. The state agency shall ensure that adequate legal counsel is available, and is able, without conflict of interest, to:

(1) Provide advice and consultation needed to protect the health, safety, welfare and rights of residents;

(2) Pursue administrative, legal, and other remedies on behalf of residents;

(3) Assist representatives of the state office in performance of their duties; and

(4) Provide legal representation to any representative of the state office, including ombudsmen, against whom legal action is threatened or brought in connection with performance of their duties.

[Statutory Authority: Chapter 43.190 RCW and Older Americans Act of 1965 (42 U.S.C., 3001 et seq., as amended). 00-09-060, § 365-18-090, filed 4/17/00, effective 5/18/00.]

WAC 365-18-100 Ombudsmen access to facilities, residents, and records. (1) All ombudsmen shall have access to all long-term care facilities and residents at any time deemed necessary and reasonable to effectively carry out the ombudsman duties set forth in this chapter, chapter 43.190 RCW, and federal law. Access to facilities and residents by ombudsmen shall be deemed necessary and reasonable at the following times:

(a) Any time during a facility's regular business day, regular visiting hours, or other period the facility is open to the public; and

(b) Any other time access may be required by the particular condition to be investigated or monitored.

(2) Upon entering a facility, or as soon as practicable thereafter, all ombudsmen shall report their presence to the facility administration or staff in charge and, upon request, present identification as an ombudsman.

(3) Ombudsmen shall have access to residents to perform the duties set forth in this chapter, chapter 43.190 RCW, and federal law. Provision shall be made by the facility and the ombudsman to secure privacy for the purpose of building relationships, providing information, and hearing, investigating, and resolving complaints of, and rendering advice to, residents of the facility at any time deemed necessary and reasonable by the ombudsmen to effectively carry out the provisions of this chapter.

(4) Ombudsmen shall have private access to residents without willful interference from the facility or the resident's representative, including a guardian, family member, or holders of powers of attorney.

(5) Ombudsmen shall have the following access to a resident's records:

(a)(i) Prompt access to review and timely access to obtain copies of all medical and social records of a resident, and other records relating to the resident if:

(A) The ombudsman has the permission of the resident, or the legal representative of the resident; or

(B) The resident is unable to consent to the review and has no legal representative; or

(ii) Prompt access to review and timely access to obtain copies of all medical, social, and other records of a resident, as is necessary to investigate a complaint if:

(A) A legal representative of the resident, including a guardian, refuses to give the permission;

(B) The ombudsman has reasonable cause to believe that the legal representative or guardian is not acting in the best interest of the resident; and

(C) The ombudsman obtains the prior approval of the state long-term care ombudsman or his or her designee;

(b) Prompt access to review and timely access to obtain copies of any long-term care facility's documents to which the residents or the general public have access, including administrative records and policies; provided, that in licensed nursing facilities this shall include, but not be limited to, the records and policies set forth in RCW 74.42.430.

(6) Ombudsmen shall have timely access to, and copies where requested, of all licensing and certification records maintained by the state with respect to long-term care facilities.

(7) For any copies obtained under this section, the ombudsman may be charged a reasonable rate not to exceed the community standard.

[Statutory Authority: Chapter 43.190 RCW and Older Americans Act of 1965 (42 U.S.C., 3001 et seq., as amended). 00-09-060, § 365-18-100, filed 4/17/00, effective 5/18/00.]

WAC 365-18-110 Confidentiality of ombudsman records, communications privileged. (1) All records and files maintained by the long-term care ombudsman program shall remain confidential. Any disclosure of long-term care ombudsman program records is subject to the following provisions:

(a) No disclosure shall be made without the prior approval of the state ombudsman or his or her representative.

(b) No disclosure of the identities of complainants, witnesses, clients, or residents shall be made unless one of the following conditions has been met:

(i) The complainant or resident, or their legal representative consents in writing to the disclosure; or

(ii) The complainant or resident gives oral consent, and that consent is documented contemporaneously in writing by a representative of the state office; or

(iii) The disclosure is required by court order.

(c) Nonidentifying information or statistics may be disclosed at the discretion of the state ombudsman or his or her representative.

(2) All communications by an ombudsman, if reasonably related to the requirements of that individual's responsibilities under this chapter or federal or state statutes and done in good faith, are privileged. That privilege shall serve as a defense to any action in libel or slander. Ombudsmen are exempt from being required to testify in court, administrative hearings, or depositions as to any confidential matters, except as the court may deem necessary to enforce this chapter.

(3) In monitoring the state office and regional ombudsmen programs, subject to the discretion of the state ombudsman, access to the ombudsman files and records, minus identifying information regarding any resident, complainant, or witness, shall be available to the director or one senior manager of the department and the organization in which the ombudsman program is administratively located. The individual who performs this monitoring function shall have no conflict of interest, as provided in WAC 365-18-040(2).

[Statutory Authority: Chapter 43.190 RCW and Older Americans Act of 1965 (42 U.S.C., 3001 et seq., as amended). 00-09-060, § 365-18-110, filed 4/17/00, effective 5/18/00.]

WAC 365-18-120 Interference with the ombudsman, liability. (1) It is unlawful under 42 U.S.C. Sec. 3058g(j) and RCW 43.190.090 to take any discriminatory, disciplinary, or retaliatory action against the following persons:

(a) Any employee of a facility or agency;

(b) Any resident or client of a long-term care facility or family member of a resident;

(c) Any ombudsman; or

(d) Any person;

for any communication made, or information given or disclosed, to an ombudsman carrying out his or her duties unless that person acted maliciously or without good faith.

(2) It is unlawful to willfully interfere with ombudsmen in the performance of their official duties.

(3) No ombudsman shall be liable for good faith performance of his or her duties under this chapter, chapter 43.190 RCW, or federal law.

[Statutory Authority: Chapter 43.190 RCW and Older Americans Act of 1965 (42 U.S.C., 3001 et seq., as amended). 00-09-060, § 365-18-120, filed 4/17/00, effective 5/18/00.]

Chapter 365-40 WAC

STATE FUNDING OF LOCAL HEAD START PROGRAMS

WAC

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

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

365-40-030 Financial support application process. [Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 78-11-059 (Order 78-04), § 365-40-030, filed 10/25/78.] Repealed by 79-08-050 (Order 79-02), filed 7/20/79. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW.

365-40-031 Establishment of advisory council. [Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 79-08-050 (Order 79-02), § 365-40-031, filed 7/20/79.] Repealed by 82-07-066 (Order 82-01), filed 3/22/82. Statutory Authority: RCW 43.06.110 and 43.63A.060.

365-40-040 Eligibility criteria. [Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 78-11-059 (Order 78-04), § 365-04-040 (codified as WAC 365-40-040), filed 10/25/78.] Repealed by 79-08-050 (Order 79-02), filed 7/20/79. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW.

365-40-050 Allowed and forbidden uses of state head start funds. [Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 78-11-059 (Order 78-04), § 365-40-050, filed 10/25/78.] Repealed by 79-08-050 (Order 79-02), filed 7/20/79. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW.

365-40-060 Method of payment. [Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 78-11-059 (Order 78-04), § 365-40-060, filed 10/25/78.] Repealed by 79-08-050 (Order 79-02), filed 7/20/79. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW.

365-40-061 Allowable and unallowable costs. [Statutory Authority: RCW 43.63A.060. 85-13-006 (Order 85-03), § 365-40-061, filed 6/7/85. Statutory Authority: RCW 43.06.110 and 43.63A.060. 82-07-066 (Order 82-01), § 365-40-061, filed 3/22/82. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 79-08-050 (Order 79-02), § 365-40-061, filed 7/20/79.] Repealed by 89-21-056 (Order 89-04), filed 10/16/89, effective 11/16/89. Statutory Authority: Chapter 43.63A RCW.

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

(2) This activity is undertaken pursuant to RCW 43.06.110 and chapter 43.330 RCW.

[Statutory Authority: RCW 43.06.110 and 43.330.040 (2)(g). 97-21-005, § 365-40-010, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 43.63A.060. 85-13-006 (Order 85-03), § 365-40-010, filed 6/7/85. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 78-11-059 (Order 78-04), § 365-40-010, filed 10/25/78.]

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

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

(3) "Department" means the department of community, trade and economic development.

(4) "Director" means the director of the department of community, trade and economic development.

(5) "Head Start program" means an operation undertaken in accordance with the program performance standards set forth in the federal Head Start Act as amended and relevant federal regulations.

[Statutory Authority: RCW 43.06.110 and 43.330.040 (2)(g). 97-21-005, § 365-40-020, filed 10/1/97, effective 11/1/97. Statutory Authority: Chapter 43.63A RCW. 89-21-056 (Order 89-04), § 365-40-020, filed 10/16/89, effective 11/16/89; 88-01-058 (Order 87-20), § 365-40-020, filed 12/16/87; 86-18-026 (Order 86-02), § 365-40-020, filed 8/27/86. Statutory Authority: RCW 43.63A.060. 85-13-006 (Order 85-03), § 365-40-020, filed 6/7/85. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 78-11-059 (Order 78-04), § 365-40-020, filed 10/25/78.]

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

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

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

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

[Statutory Authority: RCW 43.06.110 and 43.330.040 (2)(g). 97-21-005, § 365-40-041, filed 10/1/97, effective 11/1/97. Statutory Authority: Chapter 43.63A RCW. 89-21-056 (Order 89-04), § 365-40-041, filed 10/16/89, effective 11/16/89; 86-18-026 (Order 86-02), § 365-40-041, filed 8/27/86. Statutory Authority: RCW 43.63A.060. 85-13-006 (Order 85-03), § 365-40-041, filed 6/7/85. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 79-08-050 (Order 79-02), § 365-40-041, filed 7/20/79.]

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

[Statutory Authority: RCW 43.06.110 and 43.330.040 (2)(g). 97-21-005, § 365-40-051, filed 10/1/97, effective 11/1/97. Statutory Authority: Chapter 43.63A RCW. 89-21-056 (Order 89-04), § 365-40-051, filed 10/16/89, effective 11/16/89; 88-01-058 (Order 87-20), § 365-40-051, filed 12/16/87; 86-18-026 (Order 86-02), § 365-40-051, filed 8/27/86. Statutory Authority: RCW 43.63A.060. 85-13-006 (Order 85-03), § 365-40-051, filed 6/7/85. Statutory Authority: RCW 43.06.110 and 43.63A.060. 82-07-066 (Order 82-01), § 365-40-051, filed 3/22/82. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 79-08-050 (Order 79-02), § 365-40-051, filed 7/20/79.]

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

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

(3) The contractor shall submit annually a current report of the audit of funds conducted by an independent auditor or office of state auditor in accordance with generally accepted auditing standards. Such audit may be that conducted for and provided to other funding sources. The audit report must identify state funds by contract number. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report.

[Statutory Authority: RCW 43.06.110 and 43.330.040 (2)(g). 97-21-005, § 365-40-071, filed 10/1/97, effective 11/1/97. Statutory Authority: Chapter 43.63A RCW. 89-21-056 (Order 89-04), § 365-40-071, filed 10/16/89, effective 11/16/89; 88-01-058 (Order 87-20), § 365-40-071, filed 12/16/87; 86-18-026 (Order 86-02), § 365-40-071, filed 8/27/86. Statutory Authority: RCW 43.63A.060. 85-13-006 (Order 85-03), § 365-40-071, filed 6/7/85. Statutory Authority: RCW 43.06.110 and 43.63A.060. 82-07-066 (Order 82-01), § 365-40-071, filed 3/22/82. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 79-08-050 (Order 79-02), § 365-40-071, filed 7/20/79.]

Chapter 365-70 WAC

ALLOCATING SINGLE FAMILY HOUSING BONDS AMONG LOCAL HOUSING AGENCIES

WAC

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

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

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

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

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

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

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

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

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

(2) Such application shall contain the following information: (i) The jurisdiction served by the applicant and the population of such jurisdiction; (ii) the amount of bonds intended to be issued during the calendar year; (iii) the amount of housing to be supplied as a result of such financing; (iv) a description of the housing and financing proposed; (v) a statement regarding the likelihood of completing such financing during the calendar year (reference should be made to the existence of bond purchase contracts or other documentation already executed or scheduled to be executed); (vi) a statement regarding the consistency of the project(s) with the plan

of the commission, if available; (vii) a statement concerning coordination with other applicable federal and state programs; (viii) any other information the applicant believes is pertinent to the agency's decision to grant an allocation distribution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WAC 365-70-070 Confirmation of distribution. Each local housing authority that receives a distribution must confirm its distribution by providing the agency with a copy of an executed bond purchase contract or alternative documentation deemed sufficient by the commission to evidence the reasonable likelihood that the distribution will be fully used. Any portion of such distribution which is not confirmed will be added to the allocation of the commission. Such confirmation must be received by the agency no later than June 1: Provided, That for 1983 such confirmation must be received no later than October 1, 1983. The agency shall provide written notice of any change in the distribution to the affected local housing authority prior to the effectiveness of any such change.

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

Chapter 365-80 WAC

FIRE PROTECTION CONTRACTS FOR STATE FACILITIES WITH CITIES AND TOWNS

WAC

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

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

365-80-010 General purpose. [Statutory Authority: RCW 35.21.775 as amended by 1983 c 146. 83-19-063 (Order 83-06), § 365-80-010, filed 9/20/83.] Repealed by 92-15-047 (Order 92-05), filed 7/10/92, effective 8/10/92. Statutory Authority: Chapter 35.21 RCW.

365-80-020 Eligible agencies. [Statutory Authority: RCW 35.21.775 as amended by 1983 c 146. 83-19-063 (Order 83-06), § 365-80-020, filed 9/20/83.] Repealed by 92-15-047 (Order 92-05), filed 7/10/92, effective 8/10/92. Statutory Authority: Chapter 35.21 RCW.

365-80-030 State facilities. [Statutory Authority: RCW 35.21.775 as amended by 1983 c 146. 83-19-063 (Order 83-06), § 365-80-030, filed 9/20/83.] Repealed by 92-15-047 (Order 92-05), filed 7/10/92, effective 8/10/92. Statutory Authority: Chapter 35.21 RCW.

365-80-040 Fire protection services. [Statutory Authority: RCW 35.21.775 as amended by 1983 c 146. 83-19-063 (Order 83-06), § 365-80-040, filed 9/20/83.] Repealed by 92-15-047 (Order 92-05), filed 7/10/92, effective 8/10/92. Statutory Authority: Chapter 35.21 RCW.

365-80-050 Basic fire protection payment. [Statutory Authority: RCW 35.21.775 as amended by 1983 c 146. 83-19-063 (Order 83-06), § 365-80-050, filed 9/20/83.] Repealed by 92-15-047 (Order 92-05), filed 7/10/92, effective 8/10/92. Statutory Authority: Chapter 35.21 RCW.

365-80-060 Method of determining square footage of state facilities. [Statutory Authority: RCW 35.21.775 as amended by 1983 c 146. 83-19-063 (Order 83-06), § 365-80-060, filed 9/20/83.] Repealed by 92-15-047 (Order 92-05), filed 7/10/92, effective 8/10/92. Statutory Authority: Chapter 35.21 RCW.

365-80-070 Payments. [Statutory Authority: RCW 35.21.775 as amended by 1983 c 146. 83-19-063 (Order 83-06), § 365-80-070, filed 9/20/83.] Repealed by 92-15-047 (Order 92-05), filed 7/10/92, effective 8/10/92. Statutory Authority: Chapter 35.21 RCW.

365-80-080 Decisions of the planning and community affairs agency final. [Statutory Authority: RCW 35.21.775 as

amended by 1983 c 146. 83-19-063 (Order 83-06), § 365-80-080, filed 9/20/83.] Repealed by 92-15-047 (Order 92-05), filed 7/10/92, effective 8/10/92. Statutory Authority: Chapter 35.21 RCW.

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

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

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

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

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

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

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

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

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

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

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

(7) "Municipality" means city or town.

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

WAC 365-80-130 Eligible municipalities. Section 4, chapter 117, Laws of 1992, provides that when a municipality has one or more state agencies located within its city limits, the municipality and the agency or agencies may enter into fire protection contracts. Section 6, chapter 117, Laws of 1992, provides that in cities or towns where the estimated value of state facilities, as determined by the department, equals ten percent or more of the municipality's total assessed valuation, the state agency shall enter into a compulsory fire protection contract to provide the municipality with an equitable share of its fire protection services costs. An exception is provided where fire protection services are performed by state staff and equipment or by a fire protection district pursuant to RCW 52.30.020.

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

WAC 365-80-140 Notification of intent to contract. Cities and towns shall notify the department and the appropriate state agency in writing, not later than July 1 of the fiscal year for which payment shall be made, of their intent to enter into compulsory fire protection contract negotiations. When more than one state agency is located in a city or town, that municipality may notify only the department of its intent to enter into compulsory fire contract negotiations, and the department shall thereupon notify the appropriate state agencies of the municipality's intent. Municipalities making such notification shall include the name of the state agency or agencies which have state-owned facilities located therein. The department shall verify whether the state agency facilities in the municipality meet the estimated value threshold.

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

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

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

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

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

WAC 365-80-170 Notification to municipalities. Not later than July 31 of each year the department shall inform in writing each municipality making notification under WAC 365-80-140, and the appropriate state agency or agencies, whether or not the municipality meets the estimated value threshold.

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

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

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

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

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

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

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

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

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

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

Chapter 365-90 WAC

SUPPLEMENTAL LAW ENFORCEMENT RESOURCES FOR BORDER AREAS

WAC

365-90-060 Responsibilities of eligible jurisdictions.
365-90-070 Changes.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

365-90-010 Declaration of public policy. [Statutory Authority: RCW 43.63A.060. 91-04-017 (Order 91-01), § 365-90-010, filed 1/28/91, effective 2/28/91. Statutory Authority: RCW 43.63A.190. 83-22-037 (Order 83-08), § 365-90-010, filed 10/27/83.] Repealed by 97-21-006, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 43.330.040 (2)(g).

365-90-020 Definitions. [Statutory Authority: RCW 43.63A.060. 91-04-017 (Order 91-01), § 365-90-020, filed 1/28/91, effective 2/28/91. Statutory Authority: RCW 43.63A.190. 83-22-037 (Order 83-08), § 365-90-020, filed 10/27/83.] Repealed by 97-21-006, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 43.330.040 (2)(g).

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

365-90-040 Allocation of funds. [Statutory Authority: RCW 43.63A.060. 91-04-017 (Order 91-01), § 365-90-040, filed 1/28/91, effective 2/28/91. Statutory Authority: RCW 43.63A.190. 83-22-037 (Order 83-08), § 365-90-040, filed 10/27/83.] Repealed by 97-21-006, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 43.330.040 (2)(g).

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

365-90-080 Unexpended funds. [Statutory Authority: RCW 43.63A.060. 91-04-017 (Order 91-01), § 365-90-080, filed 1/28/91, effective 2/28/91. Statutory Authority: RCW 43.63A.190. 83-22-037 (Order 83-08), § 365-90-080, filed 10/27/83.] Repealed by 97-21-006, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 43.330.040 (2)(g).

365-90-090 Annual review. [Statutory Authority: RCW 43.63A.060. 91-04-017 (Order 91-01), § 365-90-090, filed 1/28/91, effective 2/28/91. Statutory Authority: RCW 43.63A.190. 83-22-037 (Order 83-08), § 365-90-090, filed 10/27/83.] Repealed by 97-21-006, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 43.330.040 (2)(g).

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

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

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

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

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

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

Chapter 365-100 WAC

WINTER UTILITY MORATORIUM PROGRAM

WAC

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

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The applicant has been determined income ineligible.

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

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

Chapter 365-110 WAC

STATE BUILDING CODE—BUILDING PERMIT SURCHARGES AND FEES

WAC

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

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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

365-110-040 Collection of energy studies surcharge. [Statutory Authority: 1985 c 144 and 360, 1985 1st ex.s. c 6, RCW 43.63A.060 and 43.63A.065. 85-19-042 (Order 85-10), § 365-110-040, filed 9/13/85.] Repealed by 90-09-008 (Order 90-01), filed 4/6/90, effective 5/7/90. Statutory Authority: Chapters 19.27 and 19.27A RCW.

365-110-050 Collection of State Building Code fee. [Statutory Authority: RCW 19.27.085, 19.27A.040, 43.63A.060, 43.63A.065 and 1987 1st ex.s. c 7 § 217(14). 87-19-110 (Order 87-19), § 365-110-050, filed 9/18/87. Statutory Authority: 1985 c 144 and 360, 1985 1st ex.s. c 6, RCW 43.63A.060 and 43.63A.065. 85-19-042 (Order 85-10), § 365-110-050, filed 9/13/85.] Repealed by 90-09-008 (Order 90-01), filed 4/6/90, effective 5/7/90. Statutory Authority: Chapters 19.27 and 19.27A RCW.

365-110-060 Transmittal of funds. [Statutory Authority: 1985 c 144 and 360, 1985 1st ex.s. c 6, RCW 43.63A.060 and 43.63A.065. 85-19-042 (Order 85-10), § 365-110-060, filed 9/13/85.] Repealed by 90-09-008 (Order 90-01), filed 4/6/90, effective 5/7/90. Statutory Authority: Chapters 19.27 and 19.27A RCW.

365-110-080 Termination. [Statutory Authority: RCW 19.27.085, 19.27A.040, 43.63A.060, 43.63A.065 and 1987 1st ex.s. c 7 § 217(14). 87-19-110 (Order 87-19), § 365-110-080, filed 9/18/87. Statutory Authority: 1985 c 144 and 360, 1985 1st ex.s. c 6, RCW 43.63A.060 and 43.63A.065. 85-19-042 (Order 85-10), § 365-110-080, filed 9/13/85.] Repealed by 90-09-008 (Order 90-01), filed 4/6/90, effective 5/7/90. Statutory Authority: Chapters 19.27 and 19.27A RCW.

WAC 365-110-010 Authority. These rules are adopted under the authority of RCW 43.330.040(2) which provides that the director shall make such rules and regulations and do all other things necessary and proper to carry out the purposes of chapter 43.330 RCW.

[Statutory Authority: RCW 43.330.040(2) and 19.27.070(3). 99-01-089, § 365-110-010, filed 12/16/98, effective 1/16/99. Statutory Authority: 1985 c 144 and 360, 1985 1st ex.s. c 6, RCW 43.63A.060 and 43.63A.065. 85-19-042 (Order 85-10), § 365-110-010, filed 9/13/85.]

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

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

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

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

3. **Building permit** shall mean a permit issued by a city or a county to construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure regulated by the Uniform Building Code as set forth in the Uniform Building Code, section 106.1. This definition shall be subject to the exemptions contained in section 106.2 of the Uniform Building Code. Building permits shall not include plumbing, electrical, mechanical permits, or permits issued pursuant to the Uniform Fire Code.

[Statutory Authority: RCW 43.330.040(2) and 19.27.070(3). 99-01-089, § 365-110-035, filed 12/16/98, effective 1/16/99. Statutory Authority: Chapters 19.27 and 19.27A RCW. 90-09-008 (Order 90-01), § 365-110-035, filed 4/6/90, effective 5/7/90. Statutory Authority: RCW 19.27.085, 19.27A.040, 43.63A.060, 43.63A.065 and 1987 1st ex.s. c 7 § 217(14). 87-19-110 (Order 87-19), § 365-110-035, filed 9/18/87. Statutory Authority: 1985 c 144 and 360, 1985 1st ex.s. c 6, RCW 43.63A.060 and 43.63A.065. 85-19-042 (Order 85-10), § 365-110-035, filed 9/13/85.]

Chapter 365-120 WAC

STATE FUNDING OF LOCAL EMERGENCY SHELTER AND TRANSITIONAL HOUSING, OPERATING AND RENT PROGRAMS

WAC

365-120-010 Authority.
365-120-020 Purpose.
365-120-030 Definitions.
365-120-040 Contractor funding allocation and distribution.
365-120-050 Funding application process.
365-120-060 Eligibility for all applicants.
365-120-070 Eligibility for emergency shelter assistance.
365-120-080 Eligibility for operating assistance for transitional housing.
365-120-090 Eligibility for rental assistance.

WAC 365-120-010 Authority. These rules are adopted under the authority of RCW 43.63A.060 which provides that the director shall make such rules and regulations and do all other things necessary and proper to carry out the purposes of chapter 43.63A RCW. RCW 43.63A.065(2) provides that among its functions and responsibilities the department shall administer state and federal grants and programs which are assigned to the department by the governor or the legislature. RCW 43.63A.650 provides that the department shall be the principal state department responsible for providing shelter and housing services to homeless families with children.

[Statutory Authority: Chapter 43.63A RCW, RCW [43.]63A.650, and 1999 c 267. 00-05-020, § 365-120-010, filed 2/8/00, effective 3/10/00. Statutory Authority: RCW 43.63A.060. 87-19-112 (Order 87-12), § 365-120-010, filed 9/18/87; 86-03-008 (Order 85-19), § 365-120-010, filed 1/6/86.]

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

[Statutory Authority: Chapter 43.63A RCW, RCW [43.]63A.650, and 1999 c 267. 00-05-020, § 365-120-020, filed 2/8/00, effective 3/10/00. Statutory Authority: RCW 43.63A.060. 86-03-008 (Order 85-19), § 365-120-020, filed 1/6/86.]

WAC 365-120-030 Definitions. (1) "Applicant" means a public or private nonprofit organization or agency, including local government entities, or a combination thereof, which applies for state emergency shelter or transitional housing program funds.

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

(3) "Contractor" means an applicant who has been awarded state funds under the emergency shelter or transitional housing, operating and rent program and which has entered into a contract with the department to provide emergency shelter or transitional housing services.

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

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

(6) "Department" means the department of community, trade, and economic development.

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

(8) "Director" means the director of the department of community, trade, and economic development.

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

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

(11) "Families" means pregnant women or one or more adults with dependent children under eighteen, including pregnant and parenting teens.

(12) "Group care facility" means an agency maintained and operated for the care of a group of children on a twenty-four-hour basis.

(13) "Homeless" means persons, including families, who, on one particular day or night, do not have a decent and safe shelter or sufficient funds to purchase a place to stay.

(14) "Homelessness prevention" means the following activities or programs designed to prevent the incidence of homelessness:

(a) Subsidies to help defray rent or mortgage arrearages for individuals or families faced with eviction or foreclosure.

(b) Security and damage deposits to enable a homeless individual or family to move into their own housing.

(c) Initial rent costs to enable a homeless individual or family to move into his or her own housing.

(d) Case management to assist individuals and families to remain in their housing or to look for permanent housing.

(e) Landlord-tenant mediation, conciliation or other forms of dispute resolution or negotiation which will keep people in housing or help people with housing barriers to obtain a lease.

(15) "Housing stability plan" means a set of goals and course of action set by the assisted family and housing support staff, to aid the family in transitioning to stable housing and the highest attainable level of self-sufficiency.

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

(17) "Religious service" means any sectarian or nondenominational service, rite, or meeting that involves worship of a higher being.

(18) "Rental assistance" means no less than ninety-one days and no more than twenty-four months of assistance to help homeless families with children pay the cost of rent and utilities for amounts that are consistent with local practices.

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

(20) "Short-term" means one to ninety days.

(21) "Transitional housing" means housing provided for no less than ninety-one days and no more than twenty-four months.

(22) "Transitional housing, operating and rent program" or "transitional housing program" means the statewide administrative activities carried out within the department to allocate, award and monitor state funds appropriated to local communities to provide operating assistance for transitional housing units and partial rental assistance to homeless families with children.

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

[Statutory Authority: Chapter 43.63A RCW, RCW [43.]63A.650, and 1999 c 267. 00-05-020, § 365-120-030, filed 2/8/00, effective 3/10/00. Statutory Authority: RCW 43.63A.060. 87-19-112 (Order 87-12), § 365-120-030, filed 9/18/87; 86-20-011 (Order 86-15), § 365-120-030, filed 9/22/86; 86-03-008 (Order 85-19), § 365-120-030, filed 1/6/86.]

WAC 365-120-040 Contractor funding allocation and distribution. Funds will be distributed statewide to successful applicants according to department formulas. The department will give priority in the awarding of allocations

under the emergency shelter assistance program to applicants who serve families and children in need of shelter.

The department will pay for services provided under the state emergency shelter and transitional housing programs after the contractor submits a monthly report of expenditures incurred and a request for reimbursement, and any other reports or information required by department guidelines. Reports and requests for reimbursement may be submitted on a less frequent basis if approved by the department.

[Statutory Authority: Chapter 43.63A RCW, RCW [43.]63A.650, and 1999 c 267. 00-05-020, § 365-120-040, filed 2/8/00, effective 3/10/00. Statutory Authority: RCW 43.63A.060. 87-19-112 (Order 87-12), § 365-120-040, filed 9/18/87; 86-20-011 (Order 86-15), § 365-120-040, filed 9/22/86; 86-03-008 (Order 85-19), § 365-120-040, filed 1/6/86.]

WAC 365-120-050 Funding application process. (1) The department will notify potential applicants that in order to be considered for state emergency shelter assistance and transitional housing, operating and rent grants, applications must be submitted to the department.

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

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

[Statutory Authority: Chapter 43.63A RCW, RCW [43.]63A.650, and 1999 c 267. 00-05-020, § 365-120-050, filed 2/8/00, effective 3/10/00. Statutory Authority: RCW 43.63A.060. 87-19-112 (Order 87-12), § 365-120-050, filed 9/18/87; 86-20-011 (Order 86-15), § 365-120-050, filed 9/22/86; 86-03-008 (Order 85-19), § 365-120-050, filed 1/6/86.]

WAC 365-120-060 Eligibility for all applicants. (1) The applicant must not require participation in a religious service as a condition of receiving emergency shelter.

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

[Statutory Authority: Chapter 43.63A RCW, RCW [43.]63A.650, and 1999 c 267. 00-05-020, § 365-120-060, filed 2/8/00, effective 3/10/00. Statutory Authority: RCW 43.63A.060. 87-19-112 (Order 87-12), § 365-120-060, filed 9/18/87; 86-20-011 (Order 86-15), § 365-120-060, filed 9/22/86; 86-03-008 (Order 85-19), § 365-120-060, filed 1/6/86.]

WAC 365-120-070 Eligibility for emergency shelter assistance. (1) The applicant must have been a provider of emergency shelter for one year prior to the beginning date of the contract year or serve an area or population of demonstrated unmet need determined by a consortium of service providers in a county.

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

(3) The applicant must not deny shelter to a homeless person or family because of inability to pay.

(4) The applicant must provide homelessness prevention assistance or short-term emergency shelter assistance directly through a shelter facility, a voucher system, or a safe home.

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

(6) The applicant for lead agency contractor may or may not actually provide emergency shelter or homelessness prevention assistance.

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

[Statutory Authority: Chapter 43.63A RCW, RCW [43.]63A.650, and 1999 c 267. 00-05-020, § 365-120-070, filed 2/8/00, effective 3/10/00.]

WAC 365-120-080 Eligibility for operating assistance for transitional housing. (1) Projects must provide transitional housing in a structure designed for the targeted population of homeless families with children whose incomes are at or below fifty percent of the area median income.

(2) Operating subsidies shall not exceed thirty percent of the project's core operating budget for the year.

(3) Rents shall not exceed fifty percent of the income of the targeted population.

[Statutory Authority: Chapter 43.63A RCW, RCW 43.63A.650, 1999 c 267. 02-05-012, § 365-120-080, filed 2/8/02, effective 3/11/02; 00-05-020, § 365-120-080, filed 2/8/00, effective 3/10/00.]

WAC 365-120-090 Eligibility for rental assistance. (1) Programs must provide rental assistance to homeless families with children whose incomes are at or below fifty percent of the area median.

(2) Assistance must be provided for no less than ninety-one days and no more than twenty-four months to help pay the cost of rent and utilities.

(3) Households must sign a written agreement to participate in a housing stability plan.

(4) Rent subsidies must be appropriate to individual family incomes.

(5) Local program administrators must have written program policies and procedures describing tenant selection, assistance denial or termination, housing safety standards, and a minimum tenant rent payment.

[Statutory Authority: Chapter 43.63A RCW, RCW [43.]63A.650, and 1999 c 267. 00-05-020, § 365-120-090, filed 2/8/00, effective 3/10/00.]

Chapter 365-130 WAC
BOND USERS CLEARINGHOUSE

WAC

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

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

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

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

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

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

WAC 365-130-030 Collection of municipal bond information. (1) The department of community development will supply to local governments and state agencies a form for reporting bond issue information. Information to be reported will be based on the requirements of RCW 39.44.-210, 39.44.230, and chapter 130, Laws of 1985, and will include the names of the principals involved in the bond issue, in conjunction with the purpose of the bond users clearinghouse, as stated in WAC 365-130-010. Copies of the bond covenants and the official statement may also be required.

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

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

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

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

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

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

Chapter 365-135 WAC
BOND CAP ALLOCATION

WAC

365-135-010 Purpose.
365-135-020 Definitions.
365-135-030 Initial allocations.
365-135-035 Reallocations.
365-135-040 Procedure for obtaining an allocation, extension, or carryforward.
365-135-050 Fees.
365-135-060 Criteria for small issue (industrial revenue) bonds.
365-135-070 Criteria for exempt facility bonds.

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

[Statutory Authority: Chapter 39.86 RCW and RCW 43.330.040 (2)(g). 97-02-093, § 365-135-010, filed 1/2/97, effective 2/2/97. Statutory Authority: 1987 c 297. 87-19-082 (Order 87-18), § 365-135-010, filed 9/16/87.]

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

Allocation 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 multiplying the requested allocation amount by the following figures:

December 31, 1999, through June 30, 2000	.00026
July 1, 2000, through June 30, 2001	.000269
July 1, 2001, and thereafter	.000277;

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, trade, and economic 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. 00-02-061, § 365-135-020, filed 1/3/00, effective 2/3/00. Statutory Authority: Chapter 39.86 RCW and RCW 43.330.040 (2)(g). 97-02-093, § 365-135-020, filed 1/2/97, effective 2/2/97. 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 365-135-030 Initial allocations. Initial allocations shall be made in accordance with provisions of the statute. In addition, until September 1 of each calendar year, at least twenty-five percent of the initial allocation for the small issue bond use category shall be reserved for the community economic revitalization board's umbrella bond program, except that this amount may be reduced if the board indicates that a reduced amount is appropriate.

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

WAC 365-135-035 Reallocations. (1) Housing programs and projects will be given priority for the first fifty percent of the bond cap available after September 1 each year because of the need for affordable housing, the program's ability to serve lower-income households, its contribution to and support of economic development and long-term benefits that may be achieved.

(2) Bond cap will consider other categories of applications including industrial development bonds, exempt facilities, public utility districts, and student loans for allocation from the remaining bond cap available after September 1.

(a) The program will consider and then evaluate and balance the public benefits listed in statute and in rule in making allocation decisions. Allocations will be based upon the likelihood of a project achieving the highest overall public purposes and the degree to which a project:

(i) Provides an economic boost to an economically distressed community (based on the three-year unemployment figures from employment security);

(ii) Creates or retains jobs that pay higher than the median wage for the county in which it is located, in sustainable industries, particularly for lower-income persons;

(iii) Retains or expands the local tax base;

(iv) Encourages and facilitates the provision of student loans for institutions of higher education;

(v) Reduces environmental pollution;

(vi) Facilitates investments in new manufacturing technologies enabling Washington industries to stay competitive;

(vii) Diverts solid waste from disposal and manufactures it into value-added products;

(viii) Encourages the environmentally sound handling of solid waste using best management's practices; or

(ix) Produces competitively priced energy for use in the state.

(b) The criteria in this section and other applicable criteria otherwise established in statute and rule shall not be considered as ranked in any particular order but shall be weighed and balanced for each application and among applications in making allocation decisions.

[Statutory Authority: Chapter 39.86 RCW and RCW 43.330.040 (2)(g). 97-02-093, § 365-135-035, filed 1/2/97, effective 2/2/97.]

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.

The housing category will be given priority for carryforward allocations.

[Statutory Authority: Chapter 39.86 RCW and RCW 43.330.040 (2)(g). 97-02-093, § 365-135-040, filed 1/2/97, effective 2/2/97. 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, trade, and economic 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 and RCW 43.330.040 (2)(g). 97-02-093, § 365-135-050, filed 1/2/97, effective 2/2/97. 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 365-135-060 Criteria for small issue (industrial revenue) bonds. In addition to the statute, the following guidelines will be used as criteria for evaluating small issue requests:

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

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

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

Designation	$ (in thousands) per job offered
East/distressed	$192.2/job
East/nondistressed	121.6/job
West/distressed	146.2/job
West/nondistressed	106.6/job
Statewide	116.8/job

(3) The program will consider the number and type of jobs that will be created or retained. Projects that create new jobs will, in general, have priority over others. Projects that involve relocation from one part of Washington to another will, in general, have a lower priority than those that create net new jobs, unless the relocation was caused through displacement for other job creating or economic development activity.

(4) Projects that involve the creation of semiskilled and skilled jobs as well as unskilled jobs, or that will provide special training and promotion opportunities to employees, will have priority over those that do not. Projects that will be located in enterprise communities, neighborhood empowerment zones, or distressed areas will be accorded priority over other projects.

(5) Priority will be given to projects that result in publicly owned facilities over privately owned facilities.

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

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

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

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

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

[Statutory Authority: Chapter 39.86 RCW and RCW 43.330.040 (2)(g). 97-02-093, § 365-135-060, filed 1/2/97, effective 2/2/97. Statutory Authority: 1987 c 297. 87-19-082 (Order 87-18), § 365-135-060, 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 degree to which the project proposes to provide jobs for lower-income persons from the community.

(e) The number of jobs created in proportion to the amount of the bond cap allocation.

(f) The proportionate number of persons in relationship to the size of the community who will benefit from the project.

(g) The degree to which the project provides an economic boost to an economically distressed community (based on the three-year unemployment figures from employment security).

(h) The degree to which the project retains or expands the local tax base.

(i) The degree to which the project reduces environmental pollution.

(j) The degree to which the project diverts solid waste from disposal and manufactures it into value-added products.

(k) The degree to which the project produces energy at a lower cost than alternative or existing energy sources.

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

(m) The availability of bond cap from the exempt facility category.

(n) Recognize and accommodate the unique timing, and issuance needs of large scale projects that may require allocations in more than one year.

(o) Projects that result in publicly owned facilities over privately owned facilities.

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

(a) The department receives:

(i) 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;

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

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

(3) The criteria in this section and other applicable criteria otherwise established in rule and statute shall not be considered as ranked in any particular order but shall be weighed and balanced for each application and among applications in making allocation decisions.

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

(5) Exempt facility projects may receive an allocation in order to convert taxable financing to tax-exempt financing, but only in January or September of any year. The request for conversion will be compared against other requests for conversion and current exempt facility applications. Projects that use the Washington economic development finance authority to complete their financing will have priority over projects in obtaining future allocations to convert to tax-exempt financing. Conversion is only allowed within the federal guidelines of one year after the project comes on-line or two calendar years after the Washington economic development finance authority financing is approved, whichever comes first.

(6) Exempt facility projects up to $50,000,000 may receive an allocation for up to one hundred percent of the total project cost. Projects from $50,000,001 to $75,000,000 may receive an allocation for up to ninety percent of the total project cost. Projects from $75,000,001 to $100,000,000 may receive an allocation for up to eighty percent of the total project cost. Projects over $100,000,000 may receive an allocation for up to seventy percent of the total project cost. A project may obtain additional allocation above these percentages after September 1 of the last year of eligibility only if the total demand for cap is lower than the amount available.

[Statutory Authority: Chapter 39.86 RCW and RCW 43.330.040 (2)(g). 97-02-093, § 365-135-070, filed 1/2/97, effective 2/2/97. 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

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

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

365-140-045 Pilot project for consolidated emergency food assistance program. [Statutory Authority: RCW 43.63A.060 and 1992 c 232 § 222(5). 94-18-073, § 365-140-045, filed 9/2/94, effective 10/3/94.] Repealed by 95-12-002, filed 5/24/95, effective 7/1/95. Statutory Authority: RCW 43.63A.060

WAC 365-140-010 Authority. These rules are adopted under the authority of RCW 43.330.040 (2)(g) which provides that the director shall adopt rules necessary to carry out the purposes of the chapter. RCW 43.330.130 provides that among its functions and responsibilities the department shall coordinate services to communities that are directed to the poor and disadvantaged, including emergency food assistance.

[Statutory Authority: RCW 43.330.040. 99-15-062, § 365-140-010, filed 7/16/99, effective 8/16/99. Statutory Authority: RCW 43.63A.060. 87-19-113 (Order 87-11), § 365-140-010, filed 9/18/87; 86-08-043 (Order 85-15), § 365-140-010, filed 3/27/86.]

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

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

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

(2) "Director" means the director of the department of community, trade, and economic development.

(3) "Food bank" means an emergency food program that distributes unprepared food without charge to its clients, is open a fixed number of hours and days each week or month, and such hours and days are publicly posted.

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

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

(6) "Emergency food assistance program" means the statewide activities of the department to assist local emergency food programs by allocating and awarding state funds.

(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, trade, and economic development to provide emergency food assistance to individuals.

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

(10) "Tribal food voucher program" means the statewide activities of the department which allocate and award state funds to tribes and tribal organizations that issue food vouchers to clients.

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

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

(13) "Emergency food" means food that is given to clients who do not have the means to acquire that food themselves, so that they will not go hungry.

(14) "Special dietary needs" mean funds to purchase food that meets the nutritional needs of special needs population.

(15) "In-kind" means the value of volunteer services or donated goods such as staff time, rent, food, supplies and transportation.

(16) "Administrative costs" mean management and general expenses, including membership dues, that cannot be readily identified with a particular program or direct services.

(17) "Operational expenses" mean those costs clearly identifiable with providing direct services to eligible clients, or distribution services to food banks such as staff time, transportation costs, and equipment rental.

[Statutory Authority: RCW 43.330.040. 99-15-062, § 365-140-030, filed 7/16/99, effective 8/16/99. Statutory Authority: RCW 43.63A.060. 95-12-002, § 365-140-030, filed 5/24/95, effective 7/1/95. Statutory Authority: RCW 43.63A.060 and 1992 c 232 § 222(5). 94-18-073, § 365-140-030, filed 9/2/94, effective 10/3/94; 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 seventy percent of the total allocation appropriated by the legislature shall be contracted to lead agency contractors. These funds shall be for the purpose of funding the activities of food banks and food distributors, the purchase of special dietary needs foods, and providing special dietary needs training. The specific appropriation for timber and salmon dependent communities shall be contracted to food banks in those communities. Of the remainder of the total allocation, not including department administrative costs, allocations shall be contracted to a discretionary program if the department elects to award such contracts, the tribal food voucher program, and additional special dietary needs training. Allocations for each county shall be contracted to lead agency contractors on the following basis:

(1) 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.

This formula may only be changed at the beginning of a biennial contract period.

(2) The department shall award the lead agency contract to an eligible contractor as defined by the department, that is supported by a least two-thirds of the participating food banks in a county.

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

(4) The department shall award a contract to no more than one lead agency contractor in each county, with the exception of King County, where there may be three lead agency contractors, to administer subcontracts with one or more participating food banks and food distributors.

(5) Federally recognized tribes may apply to the department directly for the food bank program without having to subcontract with the lead agency. They must meet all the same criteria and requirements as lead agencies.

(6) Within each lead agency service area, except for the additional funds specifically allocated for food banks in timber and salmon dependent communities, funds shall be allocated between food distributors, food banks, and special dietary needs foods and training based on a two-thirds vote of all participating food banks and the lead agency.

(7) The additional funds specifically allocated for food banks in timber and salmon dependent communities shall remain in the amounts identified by the legislature.

(8) If participating food banks designate funds for food distribution, they shall elect with a two-thirds vote of the participating food banks and the lead agency, an eligible distributor as defined by the department. They may choose more than one distributor with which to subcontract. The lead agency contractor shall be responsible for subcontracting with the food distributor(s).

(9) A formula for distributing the funds to each tribe and tribal organization participating in the emergency food assistance program in proportion to need shall be established by the department in consultation with a committee consisting of representatives from all tribes participating in the program. This formula may only be changed at the beginning of a biennial contract period.

(10) 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.

(11) Tribes may apply for the food bank funds or the food voucher funds or both. Tribes will receive the same amount of funds whether they participate in one or both programs, computed as their share of the allocated EFAP tribal funds. It will be up to the discretion of each participating tribe how it allocates the EFAP funds.

(12) 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 lead agency contractor may request authorization from the department to reallocate funds, within its service area, to an area of unmet need.

(13) In the event that a portion of the funds allocated to a subcontracting tribe within a tribal contractor's contract remains unspent or unclaimed, the tribal contractor may request authorization from the department to reallocate funds to one of its other subcontracting tribes with unmet needs.

[Statutory Authority: RCW 43.330.040. 99-15-062, § 365-140-040, filed 7/16/99, effective 8/16/99. Statutory Authority: RCW 43.63A.060. 95-12-002, § 365-140-040, filed 5/24/95, effective 7/1/95. 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, or be a public nonprofit agency, be a recognized tribe, a tribal organization with 501 (c)3 status, or an unrecognized tribe with 501 (c)3 status.

(2) The applicant for funding as lead agency must have been operating as a public nonprofit or private nonprofit with 501 (c)3 status for one year prior to the beginning date of the contract.

(3) The applicant for funding as a participating food bank must have been operating as a public nonprofit or private nonprofit with 501 (c)3 status food bank for one year prior to the beginning date of the subcontract.

(4) The applicant for funding as a food distributor must have been operating as a public nonprofit or a private nonprofit with 501 (c)3 status food distributor for one year prior to the beginning date of the contract.

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

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

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

(8) Applicants within a county or multicounty region, or tribes with established parameters for service, may define their service area boundaries for the purpose of equitably allocating resources. The department encourages the provider to serve the client no matter what service areas the client resides in. If appropriate, the provider may then refer the client to the agency servicing the area in which the client resides, or to the tribe which has established jurisdiction over the individual, for further assistance. Providers must practice nondiscrimination when applying their service area policies.

(9) The applicant may not charge for food or food vouchers given to a client.

[Statutory Authority: RCW 43.330.040. 99-15-062, § 365-140-050, filed 7/16/99, effective 8/16/99. Statutory Authority: RCW 43.63A.060. 95-12-002, § 365-140-050, filed 5/24/95, effective 7/1/95. Statutory Authority: RCW 43.63A.060 and 1992 c 232 § 222(5). 94-18-073, § 365-140-050, filed 9/2/94, effective 10/3/94; 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) Department funds may not be used to defray costs of distributing USDA commodities under the commodity program.

(5) 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.

(6) Applicants that receive food bank or food distribution funds are subject to the following fiscal requirements:

(a) The total funds from the department received by a nontribal lead agency contractor or a food distribution subcontractor 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. Nontribal participating food banks receiving funds from the department have two options for matching funds: They may equally match the EFAP funds, with no more than fifty percent being documented in-kind contributions; if they do not have at least one-half of their minimum match as cash, they may match their department funds by at least two hundred percent in in-kind contributions from other sources.

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

(7) Tribal applicants are subject to the following fiscal requirements:

(a) Tribal contractors and subcontractors must match thirty-five percent of the funds received by the department for the emergency food assistance program. No more than fifty percent of that match may be documented in-kind contributions.

(b) Of a contract award allocated to the tribal food voucher program, 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. Of funds allocated to the food bank program, tribal contractors are subject to the same spending requirements as nontribal food bank contractors as per WAC 365-140-060 (6)(b).

[Statutory Authority: RCW 43.330.040. 99-15-062, § 365-140-060, filed 7/16/99, effective 8/16/99. Statutory Authority: RCW 43.63A.060. 95-12-002, § 365-140-060, filed 5/24/95, effective 7/1/95. 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 365-150 WAC

WASHINGTON STATE DEVELOPMENT LOAN FUND

WAC

365-150-010	Authority.
365-150-020	Purpose.
365-150-030	Definitions.
365-150-040	Committee meetings.
365-150-050	Financing conditioned upon completed application.
365-150-060	Criteria by which the committee will evaluate loan fund applications.
365-150-070	Public records.
365-150-080	Requests for reconsideration of committee decisions.
365-150-090	Address for communication and application package requests.

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

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

WAC 365-150-020 Purpose. The purpose of this chapter is to establish the department of community development rules for the Washington state development loan fund, here-

inafter referred to as the "fund," and the Washington state development loan fund committee, hereinafter referred to as the "committee."

The purpose of the program is:

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

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

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

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

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

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

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

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

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

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

(b) A memorandum has been prepared by department staff which specifies how the application meets criteria set out in the fund enabling legislation and the loan fund guidelines. Such memorandum must be prepared by department staff within a reasonable time from receipt of the completed application.

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

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

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

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

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

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

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

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

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

WAC 365-150-090 Address for communication and application package requests. All communications with the committee and its staff, including but not limited to, acquisition of program guidelines and application materials, submission of materials regarding participation in the development loan fund program, or inquiries regarding the operation and/or administration of the committee, including the inspection of public records, or other matters, should be addressed as follows: Development Loan Fund, Department of Community Development, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151, 1-800-562-5677 or (360) 753-4900.

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

Chapter 365-170 WAC

STATE FUNDING FOR LOCAL EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAMS

WAC

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WAC 365-170-010 Authority. These rules are adopted under the authority of RCW 43.63A.060 which provides that the director shall make such rules and regulations and do all other things necessary and proper to carry out the purposes of

chapter 43.63A RCW. RCW 43.63A.065(2) provides that among its functions and responsibilities the department shall administer state and federal grants and programs which are assigned to the department by the governor or the legislature. These rules are also adopted under the specific authority delegated to the department under RCW 28A.34A.060 to adopt rules for the administration of the program. The program which these rules are designed to implement is found in chapter 28A.34A RCW.

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

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

[Statutory Authority: RCW 43.63A.060. 99-19-176, § 365-170-020, filed 9/22/99, effective 10/23/99; 87-04-007 (Order 87-02), § 365-170-020, filed 1/23/87.]

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

(2) "At risk" means by virtue of socio-economic, or developmental or environmental status at risk of failure in the common school system.

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

(4) "Department" means the department of community, trade and economic development.

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

(6) "Director" means the director of the department of community, trade and economic development.

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

(8) "Enrolled child(ren)" means participant(s) in the early childhood education and assistance program.

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

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

(11) "Like educational services" means comprehensive programs providing educational, family support, and health services funded by other sources.

(12) "Low-income family" means a family whose total income before taxes for the previous twelve months or full calendar year, whichever period better reflects the current income of the family, is equal to, or less than, one hundred ten percent of the federally established poverty guidelines as defined by the department of health and human services. Recipients of cash benefits under the temporary assistance to needy families program are included in this definition.

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

[Statutory Authority: RCW 43.63A.060. 99-19-176, § 365-170-030, filed 9/22/99, effective 10/23/99. Statutory Authority: RCW 28A.34A.060. 88-18-039 (Order 88-04), § 365-170-030, filed 8/31/88. Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-030, filed 1/23/87.]

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

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

WAC 365-170-050 Eligibility criteria for funding applicants. (1) Public or private nonsectarian organizations are eligible to apply for funding as early childhood education and assistance programs.

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

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

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

[Statutory Authority: RCW 43.63A.060. 99-19-176, § 365-170-050, filed 9/22/99, effective 10/23/99. Statutory Authority: RCW 28A.34A.060. 88-18-039 (Order 88-04), § 365-170-050, filed 8/31/88. Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-050, filed 1/23/87.]

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

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

(3) The department shall notify all applicants of funding decisions. All recipients of funds shall be provided with a contract for signature. This contract must be signed by an official with authority to bind the recipient and must be

returned to the department prior to the award or allocation of any funds under this program.

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

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

(2) Contracting agencies receiving early childhood education assistance program funds must provide comprehensive early education and family support services free of charge to enrolled families.

(3) Early childhood education assistance program funds must be used as dollars of last resort for medical, dental, nutrition and mental health services.

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

[Statutory Authority: RCW 43.63A.060. 99-19-176, § 365-170-070, filed 9/22/99, effective 10/23/99. Statutory Authority: RCW 28A.34A.060. 88-18-039 (Order 88-04), § 365-170-070, filed 8/31/88. Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-070, filed 1/23/87.]

WAC 365-170-080 Recruitment, eligibility and enrollment of children. (1) Nondiscrimination. Programs must neither deny service to, nor otherwise discriminate in the delivery of services against, any person who otherwise meets the eligibility criteria for the program on the basis of gender, race, color, religion, age, national origin, citizenship, ancestry, physical or mental disability, family configuration, culture, or because such person is a recipient of federal, state, or local public assistance. Services must comply with ADA and the Family Policy Initiative principles defined in RCW 74.14A.025.

(2) Recruitment.

(a) Policies and procedures must be in place to systematically recruit, document eligibility, and enroll children who reflect the low-income population in the service area of the program. Ongoing recruitment activities must be conducted to ensure that eligible families in the community are aware of services.

(b) Recruitment efforts must be made to ensure enrollment at one hundred percent of the funded enrollment level within thirty calendar days of the first date of service. Daily attendance at eighty-five percent of the funded enrollment level must be maintained. Efforts to recruit eligible children and maintain waiting lists for filling vacancies as they occur must continue until forty-five calendar days from the end of the program year.

(c) Not less than ten percent of the available slots statewide shall be reserved for children of migrant families, seasonal farmworker families, and native American families living on or off reservation.

(d) As many as ten percent of the available funded enrollment slots may be filled with children who do not meet income eligibility requirements if the child is determined to be "at-risk" due to developmental or environmental factors.

(3) Eligibility. A child is eligible if:

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

(b) The child would benefit from a preschool program designed to help prepare children to enter the school system;

(c) The child is not otherwise a participant in a federal or state program providing like educational services as defined under WAC 365-170-030(10); and

(d) The child:

(i) Is a member of a family with an income level that, as defined by the Department of Health and Human Services, is at or below one hundred ten percent of the U.S. Poverty Guidelines for family size. Verification and documentation of family income must be obtained for the previous calendar year or twelve months which precede the child's enrollment date, whichever is more reflective of current circumstances; or

(ii) Is a member of a family which receives cash benefits under the Temporary Assistance to Needy Families program; or

(iii) Occupies one of the slots of ten percent which may be filled with children who do not meet income eligibility requirements but are determined to be at-risk due to developmental or environmental factors; or

(iv) Occupies one of the slots of ten percent of slots available statewide which shall be reserved for children of migrant families, seasonal farmworker families, and native American families living on or off reservation who are otherwise eligible.

(4) Enrollment.

(a) Enrolled children and their families must not be charged fees for any services provided.

(b) Programs must develop an enrollment process that addresses identification of age eligible and income eligible children and prioritization within that same population. Priority must be given to children from families with the lowest income or to eligible children from families with multiple needs. Criteria for prioritizing child eligibility must address the various factors in WAC 365-170-080(3) and must at minimum prioritize as follows:

(i) First priority for enrollment, consistent with the intent to prepare children for the common school system, must be given to four year olds who are not eligible for kindergarten as of August 31 of the contract year and are considered to be at-risk;

(ii) Second priority must be given to three-year-olds if local program priorities determine the child would benefit from a comprehensive early education program.

[Statutory Authority: RCW 43.63A.060. 99-19-176, § 365-170-080, filed 9/22/99, effective 10/23/99. Statutory Authority: RCW 28A.34A.060. 88-18-039 (Order 88-04), § 365-170-080, filed 8/31/88. Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-080, filed 1/23/87.]

WAC 365-170-090 Program design. (1) Standards for program design are based on a model of comprehensive services to enrolled children and their families. These include educational and health services, including medical, dental, nutrition, mental health, and family support services. Parents must be given the opportunity to be involved in every aspect of the planning and implementation of services.

(2) Programs must support and demonstrate parent/guardian leadership and involvement throughout all levels of a comprehensive early childhood education and assistance program. This must include development of systems for feedback and program performance.

(3) A community needs assessment which involves staff, parents/guardians and other community group(s) must be conducted in accordance with early childhood education and assistance program performance standards. The results of a community needs assessment must be the basis for the development of service delivery options. Service delivery models must meet the following criteria:

(a) Thirty-two weeks of direct services per program year; and

(b) A minimum of two hundred forty hours of child direct services over thirty weeks; and

(c) A minimum of one peer experience/group session per week, no less than four hours and no more than six hours per session; multiple peer experiences in a week must be no less than two and one-half hours per session; and

(d) Three hours of educational planning meetings per year; and

(e) Three hours of adult contact per child's family per year to provide family support services; and

(f) 1:6 adult/child ratio with at least one adult being a lead teacher for classroom/group activities. Programs must develop services according to this ratio and make reasonable efforts to maintain this ratio on a regular basis. In no case shall the ratio fall below 1:9; and

(g) No more than eighteen children per group setting. Where a group size of eighteen children cannot be maintained, the design must maintain a group setting no larger than twenty-four and maintain an adult child ratio of 1:6.

(4) Educational services.

(a) Programs must provide educational services using a developmentally appropriate approach. Services must provide individual and age appropriate learning experiences, curricula, environments, guidance, direct child supervision and strategies that support all enrolled children's social-emotional, physical, and intellectual development. Environments must reflect the cultural and linguistic backgrounds of enrolled children.

(b) The program must provide methods for enhancing the knowledge and understanding of staff and parents of the educational and developmental needs and activities of enrolled children.

(c) Corporal punishment or other humiliating or frightening discipline techniques must not be used. Staff and parents participating in the program must be trained for and must use positive techniques of guidance, including redirection, anticipation, elimination of potential problems, positive reinforcement and encouragement during the actual hours of program operation while the child is participating in program activities supervised by program staff.

(5) Family support services. Programs must provide family support services using an approach that builds from parent/guardian strengths and involvement and supports parent empowerment and family advocacy. Needs must be assessed to assist families in identifying and using appropriate and available community resources. Programs must coordinate with existing community resources, including existing head start and other preschool programs. Staff and families must work together to develop reciprocal relationships. Family support practices must address family assets and needs through a variety of service strategies such as:

(a) Acknowledge parents/guardians as resources to themselves and others;

(b) Reflect family support principles in delivery of services to families;

(c) Develop family services that are responsive to economic circumstances, individual cultures, languages and child rearing techniques;

(d) Facilitate the family's access to economic, social and health resources to support family self-sufficiency;

(e) Develop communication systems with families that increase their involvement in their child's healthy development;

(f) Build environments that are culturally and linguistically relevant and that encourage self-advocacy within the community;

(g) Involve families in shared decision-making activities;

(h) Develop activities to ease transitions for enrolled children and their families between preschool and elementary schools and from home to other care settings; and

(i) Promote and support the family's role as advocates for their children.

(6) Health services and safety.

(a) Programs must provide health services using an approach that addresses individual child health issues and makes appropriate referrals for family members. Staff and families must work together to remove obstacles to the healthy and safe development of each child. Health practices must address family needs through a variety of service strategies as outlined in the early childhood education and assistance program performance standards.

(b) A health advisory committee (HAC), composed of medical, dental, nutrition, public and mental health providers, parents/guardians of enrolled and/or past enrolled young children, and staff, must be established to advise the program. Existing committees may be modified to accomplish this. The health advisory committee must:

(i) Provide input on health, nutrition, and mental health services planning and policies;

(ii) Address service delivery implementation issues, concerns and procedures; and

(iii) Provide a forum for parent empowerment and leadership skill development.

(c) Programs must obtain parent/guardian consent before any screenings, assessments or the procurement of any medical, dental, nutrition and mental health services for their child or before taking the child off premises. Staff must inform parents/guardians when health issues or developmental concerns are suspected or identified in their child. Programs must facilitate safe and timely responses to medical emergencies as outlined in the early childhood education assistance program performance standards. Programs must ensure the confidentiality of all medical, dental, nutrition, and mental health records. Records and results of diagnostic and follow-up procedures must be shared with parents/guardians, and may be released to other providers only with informed, written consent.

(d) Programs must ensure that all children receive a medical and dental exam as outlined in the early childhood education assistance program performance standards. Programs must ensure that all children are immunized in accordance

with WAC 246-100-166. Children can attend group settings on a conditional basis when a schedule of immunizations is developed and near completion, or when a written medical or personal exemption is documented according to WAC 246-100-166.

(e) Programs must provide for an organized health education program for staff, parents, and children which must be integrated into instructional activities in programs.

(f) Programs must ensure that a mental health professional is available to work collaboratively with parents/guardians to address children's mental health issues and other concerns. Mental health services to screen and identify the emotional needs of children must be provided as needed in a systematic manner that addresses early identification, ongoing progress, follow-up and assessment, as indicated in the early childhood education and assistance program performance standards.

(g) Programs must have access to a health professional that provides consultation regarding individual children's needs and development of health education programming for children and families.

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

(i) Programs must have access to a registered dietician that provides consultation regarding development of nutrition services for children and their families as defined in chapter 18.138 RCW.

(j) Food must be offered which meets one-third of the child's daily nutritional needs, recognizing individual differences and cultural patterns. The food service system, including the menus, must be approved by a certified dietician. The certified dietician must be available to provide consultation and education concerning the nutritional needs of enrolled children.

(k) Contracting agencies must apply for and participate in federally funded food service/food reimbursement programs under the USDA child food and nutrition program and/or the child and adult care food program through the office of the superintendent of public instruction.

(l) Programs must establish policies and practices to safeguard against children's exposure to and transmission of, infectious diseases in accordance with the office of the superintendent of public instruction infectious disease control guide for school staff developed by the Washington state department of health. Programs must follow universal safety precautions and follow local requirements for reporting of communicable diseases. Sufficient toilet and handwashing facilities that are readily available and reachable by children must be maintained.

(m) Contractors must comply with state and local sanitation laws and regulations for food preparation and handling, storage, and service.

[Statutory Authority: RCW 43.63A.060. 99-19-176, § 365-170-090, filed 9/22/99, effective 10/23/99. Statutory Authority: RCW 28A.34A.060. 88-18-039 (Order 88-04), § 365-170-090, filed 8/31/88. Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-090, filed 1/23/87.]

WAC 365-170-095 Staffing. (1) A system must be developed for the recruitment and selection of early childhood education and assistance program staff. The system must:

(a) Meet state and relevant federal laws that ensure equity;

(b) Advertise and describe position qualifications and requirements to the public;

(c) Use a selection and hiring process which involves parents, guardians and appropriate staff;

(d) Requires background reference check, criminal record clearance, and finger printing of any staff or volunteers who have unsupervised contact with children;

(e) Prevents hiring of staff whose health or behavior presents a threat to children's safety.

(2) A description of how specific staff classifications will be used to deliver services in each distinct model must be maintained in program planning records. Programs must make concerted efforts to recruit and hire qualified staff that reflects the diversity of culture, ethnicity, language and physical abilities of the service population.

(3) Staff hired into lead teacher and family educator positions must meet the standard qualifications for their position within five years of appointment or by July 1, 2004, whichever is later. Staff hired into positions of assistant teacher, family advocate, family service worker and health aide after June 30, 1999, must meet the standard qualifications for their position within five years of appointment or by July 1, 2004, whichever is later.

(4) Early childhood education or special education degrees from out-of-state may be accepted on par with Washington state degrees. Out-of-state teaching certificates must be validated by an endorsement obtained through the office of the superintendent of public instruction.

(5) Clock hours accumulated through June 30, 1999, may be credited towards quarter credit requirements of positions at the rate of ten clock hours to one credit hour.

(6) Staff not meeting standard qualifications may be hired if they meet provisional qualifications and program records document planning for progression to the standard qualifications within five years.

(7) An exception to minimum qualifications may be requested of the department to retain or appoint a person who does not meet the standard or provisional qualifications but has other education and experience in the applicable field. Any necessary approvals for existing staff must be obtained by August 31, 1999.

(8) Programs unable to hire staff meeting standard qualifications must document written plans and efforts for professional development. Planning documents must show how staff will progress to the standard qualifications of their position(s) within five years of appointment, or by July 1, 2004, whichever is later.

(9) The following standard and provisional staff qualifications are required for program positions.

(a) Standard lead teacher qualifications:

(i) A two-year or four-year degree from an accredited public or private institution of higher education in the field of early childhood education or child development and two years of successful work experience with adults/parents and young children; **or**

(ii) Three years of successful, relevant, documented work experience in a preschool, child care or kindergarten setting; **and**

(A) A two-year or four-year degree in any field from an accredited public or private institution of higher education, and at least thirty quarter units or equivalent semester hours in the field of early childhood education or child development; **or**

(B) A valid Washington state elementary education teaching certificate with an endorsement in early childhood education (pre-K-Grade 3) or special education with an emphasis in early childhood education.

(b) Provisional lead teacher qualifications. Three years of successful, relevant, documented work experience in a preschool, child care or kindergarten setting; **and**

(i) A child development associate certificate (CDA)**; or**

(ii) A two-year or four-year degree in any field from an accredited public or private institution of higher education; **or**

(iii) A valid Washington state teaching certificate, which does not include an endorsement in early childhood education or early childhood special education.

(c) Standard assistant teacher qualifications. One year of successful, relevant, documented work experience in a preschool or child care setting; **and**

(i) A one year certificate in the field of early childhood education or child development from an accredited public or private technical college or institution of higher education; **or**

(ii) A high school diploma and child development associate (CDA) certificate.

(d) Provisional assistant teacher qualifications. One year of successful, relevant, documented work or volunteer experience in a preschool or child care setting.

(e) Standard family educator qualifications:

(i) A two-year or four-year degree in the field of adult education, human development, human services, social work, early childhood education, child development, psychology, or a related field from an accredited public or private institution of higher education and two years of successful work experience with adults/parents and young children; **or**

(ii) Three years of successful, relevant, documented work experience with adults/parents of young children; **and**

(A) A two-year or four-year degree in any field from an accredited public or private institution of higher education **and** thirty quarter units or the equivalent semester hours in adult education, human development, human services, social work, early childhood education, child development, or a related field; **or**

(B) A valid Washington state elementary education teaching certificate with an endorsement in early childhood education (pre-K-Grade 3) or special education with an emphasis in early childhood education.

(f) Provisional family educator qualifications. Three years of successful, relevant, documented work experience in a preschool, child care, kindergarten or social work setting; **and**

(i) A child development associate certificate (CDA); **or**

(ii) A two-year or four-year degree in any field from an accredited public or private institution of higher education; **or**

(iii) A valid Washington state teaching certificate, which does not include an endorsement in Early childhood education or early childhood special education.

(g) Standard family advocate, family service worker, and health aide qualifications:

(i) A two-year or four-year degree in the field of adult education, human development, human services, public health, health education, nursing, social work, early childhood education, child development, psychology, or a related field from an accredited public or private institution of higher education and a minimum of two years of successful, relevant, documented work experience with adults/parents and young children; **or**

(ii) A two-year degree in any field from an accredited public or private institution of higher education, and at least thirty quarter units or the equivalent semester hours in the fields of adult education, human development, human services, social work, nursing, public health, health education, early childhood education, child development or a related field and three years of successful work experience with adults/parents of young children.

(h) Provisional family advocate, family service worker, and health aide qualifications. Two years or more of successful, relevant, documented work or volunteer experience working with families of young children in an early childhood family support program setting.

(i) Standard health professional qualifications:

(i) Four-year degree in the field of public health, nursing, or health education and two or more years experience in public health, nursing, health education, or management of a health program serving children and families; **or**

(ii) A registered nurse with a two-year degree in nursing, health education, or the management of health programs, and two or more years experience in health programs serving children and families.

(j) Standard dietician qualifications. Two years successful, relevant, documented work experience in a community nutrition program serving children and families and a four-year degree in nutrition science, public health nutrition, dietetics, or other related fields **and** current registration with the American Dietetic Association as dietician **or** be eligible, registered and scheduled for the registration exam.

(k) Standard mental health professionals qualifications:

(i) Certified or licensed mental health professional; **or**

(ii) School counselor; **or**

(iii) A registered mental health professional working in a licensed facility; **or**

(iv) Licensed psychologist with experience and expertise serving young children and their families.

(10) Programs must implement and maintain a system for training and development of staff and families of enrolled children. Staff and families must be involved in the system design and implementation process.

[Statutory Authority: RCW 43.63A.060. 99-19-176, § 365-170-095, filed 9/22/99, effective 10/23/99.]

WAC 365-170-100 Administration. (1) Facility:

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

(b) Programs must conform to all applicable state, local and county laws and ordinances for fire, health, and safety.

(c) Indoor/outdoor facilities must be safe, in good repair, sanitary and barrier free for all children and adults. Appropriate provisions for safe storage of flammable, toxic and hazardous materials must be made. Facilities must include regularly updated and inspected smoke detectors and fire alarms. Flaking or deteriorating lead-based paint must be refinished with lead-free paint or other nontoxic materials. Emergency lighting must be available in each classroom. Spaces occupied by children must be accessible to adults at all times that children are present. Provisions must be made to fence or supervise outdoor play areas sufficiently to prevent children from leaving the premises and wandering into unsafe and unsupervised areas. Programs located in schools must adhere to the Washington state primary and secondary schools facility standards. All other program locations must follow DSHS child care center licensing guidelines. Programs must establish a systematic review of facilities for compliance with safety regulations.

(d) Sites must have a minimum of thirty-five square feet of indoor space and a minimum of seventy-five square feet of outdoor space, (exclusive of bathroom, hall, kitchen, and storage) per child.

(2) Transportation. Children must be transported to and from program activities as follows:

(a) One-way scheduled transportation time must be no more than one hour except in rural/remote areas where transportation time must be kept to a minimum;

(b) Buses used for transportation of children must meet child safety standards as set forth by the office of the superintendent of public instruction;

(c) Vans or other vehicles must meet child safety standards as set forth by the Washington state patrol;

(d) Alternative transportation may be used if all other transportation services have been investigated and are not available to the program. A system must be in place to ensure documentation and completion of routine vehicle safety inspections. Drivers of vehicles must have valid required licenses and insurance coverage. Copies of licenses and insurance records must be filed in program records;

(e) Vehicles must meet insurance requirements designated by the Washington department of licensing (DOL);

(f) Programs located within school districts that are eligible for school bus transportation must adhere to school busing regulations;

(g) Parental consent forms for transportation of children in a personal vehicle must be kept on file.

(3) Policy council:

(a) The program must provide for parental involvement at a level including, but not limited to, parents working with children in cooperation with staff, parents participating in the program, and parents planning for the operation of the program.

(b) A policy council, separate from an agency board of directors, must be established by every agency contracting to operate early childhood education and assistance program. The policy council is a decision-making body, which is responsible for initiating suggestions to the early childhood education and assistance program, its administration, and its parents, and for receiving reports on actions taken by the agency regarding its recommendations. Some terms should be staggered to promote continuity and stability. Program staff must attend policy council meetings to provide support and/or consultation. The council must include community representatives and parents and guardians of current and past enrolled children. At least fifty percent of council positions must be held by parents of currently enrolled children. Membership must be:

(i) Proportionate to the relative funded enrollment level of the early childhood education and assistance program in joint policy councils;

(ii) Comprised of volunteers or representatives elected to serve by parents and guardians of currently enrolled children;

(iii) Approved by parent members if holding a community representative position; and

(iv) Limited to three consecutive years for parent membership.

[Statutory Authority: RCW 43.63A.060. 99-19-176, § 365-170-100, filed 9/22/99, effective 10/23/99. Statutory Authority: RCW 28A.34A.060. 88-18-039 (Order 88-04), § 365-170-100, filed 8/31/88. Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-100, filed 1/23/87.]

Chapter 365-180 WAC
ENERGY MATCHMAKERS

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

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

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

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

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

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

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

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

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

(5) "Residence" means a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters; but excluding institutional buildings such as: A university, group care facil-

ity, nursing home, half-way residence, hospital, hotel, motel, etc.

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

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

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

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

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

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

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

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

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

(3) Plans shall identify weatherizing agencies.

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

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

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

(3) A sponsor may pay the sponsor match as lump sum at the time of weatherization, or make yearly payments over a period not to exceed ten years. When the sponsor elects to make yearly payments, the value of the payments shall be determined by the department, but shall not be less than the value of the lump sum that would have been made.

(4) All match committed shall result in:

(a) Increasing the number of residences weatherized;

(b) Increasing weatherization measures installed on or in the residence; or

(c) Otherwise increasing the thermal efficiency of the residence.

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

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

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

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

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

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

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

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

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

WAC 365-180-080 Eligibility criteria for clients. (1) Total income of all household members shall be at or below one hundred twenty-five percent of the federally established poverty level; or households shall meet other qualifications established by the department for its low-income weatherization program.

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

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

WAC 365-180-090 Program services. (1) Weatherizing agencies shall provide weatherization services to eligible low-income households in accordance with the "Washington state low-income weatherization assistance program procedures and guidelines" established by the department.

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

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

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

(5) Before a leased or rented residence is weatherized, the department's "property owner/agency weatherization agreement" form, or subsequent special conditions estab-

lished by the department when necessary to comply with applicable state or federal law, must be signed by the owner of the building or the owner's authorized agent. Through this form the landlord ensures that, at a minimum, during a period extending through one year following the date of completion of the weatherization work, the amount of rent will not be raised for any reason and during the period extending through three years following the date of completion of the weatherization work performed, rent will not be increased, nor the tenant evicted, as a result of the weatherization provided.

(6) Benefits of weatherization work performed on behalf of a low-income tenant shall accrue primarily to the low-income tenant.

[Statutory Authority: Chapter 70.164 RCW. 92-03-019 (Order 92-01), § 365-180-090, filed 1/7/92, effective 2/7/92. Statutory Authority: 1987 c 36. 88-02-042 (Order 88-01), § 365-180-090, filed 1/4/88.]

Chapter 365-185 WAC

PROCEDURES FOR MANAGEMENT OF GROWTH MANAGEMENT PLANNING AND ENVIRONMENTAL REVIEW FUND

WAC

365-185-010	Purpose and authority.
365-185-020	Definitions.
365-185-030	Eligibility criteria.
365-185-040	Grant application process.
365-185-050	Grant evaluation procedure.
365-185-060	Method of payment.

WAC 365-185-010 Purpose and authority. (1) The purpose of this chapter is to outline the conditions and procedures by which the department of community, trade, and economic development will make available grants from the growth management planning and environmental review fund to local governments required to plan or have chosen to plan under RCW 36.70A.040 to assist them in complying with RCW 43.21C.240, 36.70B.050, 36.70B.060, and 36.70B.090.

(2) This activity is undertaken pursuant to RCW 36.70A.500 and 43.21C.240.

[Statutory Authority: RCW 36.70A.500 and 43.21C.240. 96-04-046, § 365-185-010, filed 2/5/96, effective 3/7/96.]

WAC 365-185-020 Definitions. (1) "Applicant" means a local government that has submitted an application for a grant from the growth planning and environmental review fund.

(2) "Contractor" means an applicant which has executed a contract for receipt of growth management planning and environmental review funds with the department.

(3) "Department" means the department of community, trade, and economic development.

(4) "Growth management planning and environmental review fund" means the growth management planning and environmental review fund established pursuant to RCW 36.70A.490.

(5) "Integrated permit process" means a system for integrating environmental review with review of project permits, consistent with RCW 36.70B.050 and 36.70B.060.

(6) "Integrated plan" means a detailed environmental impact statement that is integrated with a comprehensive plan or subarea plan and development regulations.

(7) "Local government" means a city or county that is required or has chosen to plan under RCW 36.70A.040 and 43.21C.240.

[Statutory Authority: RCW 36.70A.500 and 43.21C.240. 96-04-046, § 365-185-020, filed 2/5/96, effective 3/7/96.]

WAC 365-185-030 Eligibility criteria. (1) A grant may be awarded to a local government that is qualified pursuant to this section.

(2) A grant may be awarded to a county or city that is required to or has chosen to plan under RCW 36.70A.040 and that is qualified pursuant to this section. The grant shall be provided to assist a county or city in paying for the cost of preparing a detailed environmental impact statement that is integrated with a comprehensive plan or subarea plan and development regulations.

(3) In order to qualify for a grant, a county or city shall:

(a) Demonstrate that it will prepare an environmental analysis pursuant to chapter 43.21C RCW that is integrated with a comprehensive plan or subarea plan and development regulations;

(b) Address environmental impacts and consequences, alternatives, and mitigation measures in sufficient detail to allow the analysis to be adopted in whole or in part by subsequent applicants for development permits within the geographic area analyzed in the plan;

(c) Include mechanisms in the plan to monitor the consequences of growth as it occurs in the plan area and provide ongoing data to update the plan and environmental analysis;

(d) Be making substantial progress towards compliance with the requirements of this chapter. A county or city that is more than six months out of compliance with a requirement of this chapter is deemed to not be making substantial progress towards compliance; and

(e) Provide local funding, which may include financial participation by the private sector.

(4) In awarding grants, the department shall give preference to proposals that include one or more of the following elements:

(a) Financial participation by the private sector, or a public/private partnering approach;

(b) Comprehensive and subarea plan proposals that are designed to identify and monitor system capacities for elements of the built environment, and to the extent appropriate, of the natural environment;

(c) Programs to improve the efficiency and effectiveness of the permitting process by greater reliance on integrated plans;

(d) Programs for effective citizen and neighborhood involvement that contribute to greater certainty that planning decisions will be implemented; and

(e) Plans that identify environmental impacts and establish mitigation measures that provide effective means to satisfy concurrency requirements and establish project consistency with the plans.

[Statutory Authority: RCW 36.70A.500 and 43.21C.240. 96-04-046, § 365-185-030, filed 2/5/96, effective 3/7/96.]

WAC 365-185-040 Grant application process. (1) Applications for growth management planning and environmental review funds shall be filed with the department.

(2) The department will specify the form and manner of application and will set the date and time for receipt of applications.

(3) Applications shall be filed in the form, manner and time specified by the department. Failure of an applicant to make application in the specified form, manner and time will cause the applicant to be ineligible for grant funds.

(4) Applications for grant funds shall contain a detailed strategy, budget, and timeline for meeting the department's application requirements.

(5) The department will review each application for eligibility under the criteria specified in WAC 365-200-030.

(6) In awarding grants, the department may consider:

(a) An applicant's ability and intent to develop an integrated planning process that will have applicability to jurisdictions with similar characteristics;

(b) A geographic balance of communities;

(c) A balance of urban and rural communities;

(d) A variety of permit processes;

(e) Diversity in population; or

(f) Other criteria that the department considers advisable.

(7) Applicants will be notified in writing of the department's decisions on grants.

(8) The department may offer a contract to an applicant with such reasonable terms and conditions as the department may determine.

[Statutory Authority: RCW 36.70A.500 and 43.21C.240. 96-04-046, § 365-185-040, filed 2/5/96, effective 3/7/96.]

WAC 365-185-050 Grant evaluation procedure. The department should appoint a committee to assist it in evaluating the applications. The committee may include:

(1) Department staff;

(2) Department of ecology staff;

(3) Representatives of cities and counties; or

(4) A representative of private business.

[Statutory Authority: RCW 36.70A.500 and 43.21C.240. 96-04-046, § 365-185-050, filed 2/5/96, effective 3/7/96.]

WAC 365-185-060 Method of payment. (1) Grant allocations from the fund will be paid subject to the provisions of the applicable contract.

(2) All grant funds will be disbursed by June 30, 1997.

[Statutory Authority: RCW 36.70A.500 and 43.21C.240. 96-04-046, § 365-185-060, filed 2/5/96, effective 3/7/96.]

Chapter 365-190 WAC

MINIMUM GUIDELINES TO CLASSIFY AGRICULTURE, FOREST, MINERAL LANDS AND CRITICAL AREAS

WAC

PART ONE
PURPOSE/AUTHORITY

365-190-010 Authority.
365-190-020 Purpose.

PART TWO
GENERAL REQUIREMENTS

365-190-030 Definitions.

PART THREE
GUIDELINES

365-190-040 Process.
365-190-050 Agricultural lands.
365-190-060 Forest land resources.
365-190-070 Mineral resource lands.
365-190-080 Critical areas.

PART ONE
PURPOSE/AUTHORITY

WAC 365-190-010 Authority. This chapter is established pursuant to RCW 36.70A.050.

[Statutory Authority: RCW 36.70A.050. 91-07-041, § 365-190-010, filed 3/15/91, effective 4/15/91.]

WAC 365-190-020 Purpose. The intent of this chapter is to establish minimum guidelines to assist all counties and cities statewide in classifying agricultural lands, forest lands, mineral resource lands, and critical areas. These guidelines shall be considered by counties and cities in designating these lands.

Growth management, natural resource land conservation, and critical areas protection share problems related to governmental costs and efficiency. Sprawl and the unwise development of natural resource lands or areas susceptible to natural hazards may lead to inefficient use of limited public resources, jeopardize environmental resource functions and values, subject persons and property to unsafe conditions, and affect the perceived quality of life. It is more costly to remedy the loss of natural resource lands or critical areas than to conserve and protect them from loss or degradation. The inherent economic, social, and cultural values of natural resource lands and critical areas should be considered in the development of strategies designed to conserve and protect lands.

In recognition of these common concerns, classification and designation of natural resource lands and critical areas is intended to assure the long-term conservation of natural resource lands and to preclude land uses and developments which are incompatible with critical areas. There are qualitative differences between and among natural resource lands and critical areas. Not all areas and ecosystems are critical for the same reasons. Some are critical because of the hazard they present to public health and safety, some because of the values they represent to the public welfare. In some cases, the risk posed to the public by use or development of a critical area can be mitigated or reduced by engineering or design; in other cases that risk cannot be effectively reduced except by avoidance of the critical area. Hence, classification and designation of critical areas is intended to lead counties and cities to recognize the differences among these areas, and to develop appropriate regulatory and nonregulatory actions in response.

Counties and cities required or opting to plan under the Growth Management Act of 1990 should consider the definitions and guidelines in this chapter when preparing development regulations which preclude uses and development incompatible with critical areas (see RCW 36.70A.060). Pre-

cluding incompatible uses and development does not mean a prohibition of all uses or development. Rather, it means governing changes in land uses, new activities, or development that could adversely affect critical areas. Thus for each critical area, counties and cities planning under the act should define classification schemes and prepare development regulations that govern changes in land uses and new activities by prohibiting clearly inappropriate actions and restricting, allowing, or conditioning other activities as appropriate.

It is the intent of these guidelines that critical areas designations overlay other land uses including designated natural resource lands. That is, if two or more land use designations apply to a given parcel or a portion of a parcel, both or all designations shall be made. Regarding natural resource lands, counties and cities should allow existing and ongoing resource management operations, that have long-term commercial significance, to continue. Counties and cities should encourage utilization of best management practices where existing and ongoing resource management operations that have long-term commercial significance include designated critical areas. Future operations or expansion of existing operations should be done in consideration of protecting critical areas.

[Statutory Authority: RCW 36.70A.050. 91-07-041, § 365-190-020, filed 3/15/91, effective 4/15/91.]

PART TWO
GENERAL REQUIREMENTS

WAC 365-190-030 Definitions. (1) Agricultural land is land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and that has long-term commercial significance for agricultural production.

(2) Areas with a critical recharging effect on aquifers used for potable water are areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water.

(3) City means any city or town, including a code city.

(4) Critical areas include the following areas and ecosystems:

(a) Wetlands;

(b) Areas with a critical recharging effect on aquifers used for potable water;

(c) Fish and wildlife habitat conservation areas;

(d) Frequently flooded areas; and

(e) Geologically hazardous areas.

(5) Erosion hazard areas are those areas containing soils which, according to the United States Department of Agriculture Soil Conservation Service Soil Classification System, may experience severe to very severe erosion.

(6) Forest land is land primarily useful for growing trees, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, for commercial purposes, and that has long-term commercial significance for growing trees commercially.

(7) Frequently flooded areas are lands in the floodplain subject to a one percent or greater chance of flooding in any given year. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and the like.

(8) Geologically hazardous areas are areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns.

(9) Habitats of local importance include, a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alteration, such as cliffs, talus, and wetlands.

(10) Landslide hazard areas are areas potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

(11) Long-term commercial significance includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of land.

(12) Minerals include gravel, sand, and valuable metallic substances.

(13) Mine hazard areas are those areas directly underlain by, adjacent to, or affected by mine workings such as adits, tunnels, drifts, or air shafts.

(14) Mineral resource lands means lands primarily devoted to the extraction of minerals or that have known or potential long-term commercial significance for the extraction of minerals.

(15) Natural resource lands means agricultural, forest and mineral resource lands which have long-term commercial significance.

(16) Public facilities include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(17) Public services include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(18) Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, or soil liquefaction.

(19) Species of local importance are those species that are of local concern due to their population status or their sensitivity to habitat manipulation or that are game species.

(20) Urban growth refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(21) Volcanic hazard areas shall include areas subject to pyroclastic flows, lava flows, and inundation by debris flows, mudflows, or related flooding resulting from volcanic activity.

(22) Wetland or wetlands means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted by the county or city.

[Statutory Authority: RCW 36.70A.050. 91-07-041, § 365-190-030, filed 3/15/91, effective 4/15/91.]

PART THREE
GUIDELINES

WAC 365-190-040 Process. The classification and designation of natural resource lands and critical areas is an important step among several in the overall growth management process. Together these steps comprise a vision of the future, and that vision gives direction to the steps in the form of specific goals and objectives. Under the Growth Management Act, the timing of the first steps coincides with development of the larger vision through the comprehensive planning process. People are asked to take the first steps, designation and classification of natural resource lands and critical areas, before the goals, objectives, and implementing policies of the comprehensive plan are finalized. Jurisdictions planning under the Growth Management Act must also adopt interim regulations for the conservation of natural resource lands and protection of critical areas. In this way, the classification and designation help give shape to the content of the plan, and at the same time natural resource lands are conserved and critical areas are protected from incompatible development while the plan is in process.

Under the Growth Management Act, preliminary classifications and designations will be completed in 1991. Those planning under the act must also enact interim regulations to protect and conserve these lands by September 1, 1991. By July 1, 1992, counties and cities not planning under the act must bring their regulations into conformance with their comprehensive plans. By July 1, 1993, counties and cities planning under the act must adopt comprehensive plans, consistent with the goals of the act. Implementation of the plans will occur by the following year.

(1) Classification is the first step in implementing RCW 36.70A.050. It means defining categories to which natural resource lands and critical areas will be assigned.

Pursuant to RCW 36.70A.170, natural resource lands and critical areas will be designated based on the defined classifications. Designation establishes, for planning purposes: The classification scheme; the general distribution, location, and extent of the uses of land, where appropriate, for agriculture, forestry, and mineral extraction; and the general distribution, location, and extent of critical areas. Inventories and maps can indicate designations of natural resource lands. In the circumstances where critical areas (e.g., aquifer recharge areas, wetlands, significant wildlife habitat, etc.) cannot be readily identified, these areas should be designated by performance standards or definitions, so they can be specifically identified during the processing of a permit or development authorization. Designation means, at least, formal adoption of a policy statement, and may include further legislative action. Designating inventoried lands for comprehensive planning and policy definition may be less precise than subsequent regulation of specific parcels for conservation and protection.

Classifying, inventorying, and designating lands or areas does not imply a change in a landowner's right to use his or her land under current law. Land uses are regulated on a parcel basis and innovative land use management techniques should be applied when counties and cities adopt regulations to conserve and protect designated natural resource lands and critical areas. The department of community development will provide technical assistance to counties and cities on a wide array of regulatory options and alternative land use management techniques.

These guidelines may result in critical area designations that overlay other critical area or natural resource land classifications. That is, if two or more critical area designations apply to a given parcel, or portion of a given parcel, both or all designations apply. For counties and cities required or opting to plan under chapter 36.70A RCW, reconciling these multiple designations will be the subject of local development regulations adopted pursuant to RCW 36.70A.060.

(2) Counties and cities shall involve the public in classifying and designating natural resource lands and critical areas.

(a) Public participation:

(i) Public participation should include at a minimum: Landowners; representatives of agriculture, forestry, mining, business, environmental, and community groups; tribal governments; representatives of adjacent counties and cities; and state agencies. The public participation program should include early and timely public notice of pending designations and regulations.

(ii) Counties and cities should consider using: Technical and citizen advisory committees with broad representation, press releases, news conferences, neighborhood meetings, paid advertising (e.g., newspaper, radio, T.V., transit), newsletters, and other means beyond the required normal legal advertising and public notices. Plain, understandable language should be used. The department of community development will provide technical assistance in preparing public participation plans, including: A pamphlet series, workshops, and a list of agencies available to provide help.

(b) Adoption process. Statutory and local processes already in place governing land use decisions are the minimum processes required for designation and regulation pursuant to RCW 36.70A.060 and 36.70A.170. At least these steps should be included in the process:

(i) Accept the requirements of chapter 36.70A RCW, especially definitions of agricultural lands, forest lands, minerals, long-term commercial significance, critical areas, geo-

logically hazardous areas, and wetlands as mandatory minimums.

(ii) Consider minimum guidelines developed by department of community development under RCW 36.70A.050.

(iii) Consider other definitions used by state and federal regulatory agencies.

(iv) Consider definitions used by the county and city and other counties and cities.

(v) Determine recommended definitions and check conformance with minimum definitions of chapter 36.70A RCW.

(vi) Adopt definitions, classifications, and standards.

(vii) Apply definitions to the land by mapping designated natural resource lands.

(viii) Establish designation amendment procedures.

(c) Intergovernmental coordination. The Growth Management Act requires coordination among communities and jurisdictions to reconcile conflicts and strive for consistent definitions, standards, and designations within regions. The minimum coordination process required under these guidelines may take one of two forms:

(i) Adjacent cities (or those with overlapping or adjacent planning areas); counties and the cities within them; and adjacent counties would provide each other and all adjacent special purpose districts and special purpose districts within them notice of their intent to classify and designate natural resource lands and critical areas within their jurisdiction. Counties or cities receiving notice may provide comments and input to the notifying jurisdiction. The notifying jurisdiction specifies a comment period prior to adoption. Within forty-five days of the jurisdiction's date of adoption of classifications or designations, affected jurisdictions are supplied a copy of the proposal. The department of community development may provide mediation services to counties and cities to help resolve disputed classifications or designations.

(ii) Adjacent jurisdictions; all the cities within a county; or all the cities and several counties may choose to cooperatively classify and designate natural resource lands and critical areas within their jurisdictions. Counties and cities by interlocal agreement would identify the definitions, classification, designation, and process that will be used to classify and designate lands within their areas. State and federal agencies or tribes may participate in the interlocal agreement or be provided a method of commenting on designations and classifications prior to adoption by jurisdictions.

Counties and/or cities may begin with the notification option ((c)(i) of this subsection) and choose to change to the interlocal agreement method ((c)(ii) of this subsection) prior to completion of the classification and designations within their jurisdictions. Approaches to intergovernmental coordination may vary between natural resource land and critical area designation. It is intended that state and federal agencies with land ownership or management responsibilities, special purpose districts, and Indian tribes with interests within the jurisdictions adopting classification and designation be consulted and their input considered in the development and adoption of designations and classifications. The department of community development may provide mediation services to help resolve disputes between counties and cities that are using either the notification or interlocal agreement method of coordinating between jurisdictions.

(d) Mapping. Mapping should be done to identify designated natural resource lands and to identify known critical areas. Counties and cities should clearly articulate that the maps are for information or illustrative purposes only unless the map is an integral component of a regulatory scheme.

Although there is no specific requirement for inventorying or mapping either natural resource lands or critical areas, chapter 36.70A RCW requires that counties and cities planning under chapter 36.70A RCW adopt development regulations for uses adjacent to natural resource lands. Logically, the only way to regulate adjacent lands is to know where the protected lands are. Therefore, mapping natural resource lands is a practical way to make regulation effective.

For critical areas, performance standards are preferred, as any attempt to map wetlands, for example, will be too inexact for regulatory purposes. Standards will be applied upon land use application. Even so, mapping critical areas for information but not regulatory purposes, is advisable.

(e) Reporting. Chapter 36.70A RCW requires that counties and cities annually report their progress to department of community development. Department of community development will maintain a central file including examples of successful public involvement programs, interjurisdictional coordination, definitions, maps, and other materials. This file will serve as an information source for counties and cities and a planning library for state agencies and citizens.

(f) Evaluation. When counties and cities adopt a comprehensive plan, chapter 36.70A RCW requires that they evaluate their designations and development regulations to assure they are consistent with and implement the comprehensive plan. When considering changes to the designations or development regulations, counties and cities should seek interjurisdictional coordination and public participation.

(g) Designation amendment process. Land use planning is a dynamic process. Procedures for designation should provide a rational and predictable basis for accommodating change.

Land use designations must provide landowners and public service providers with the information necessary to make decisions. This includes: Determining when and where growth will occur, what services are and will be available, how they might be financed, and what type and level of land use is reasonable and/or appropriate. Resource managers need to know where and when conversions of rural land might occur in response to growth pressures and how those changes will affect resource management.

Designation changes should be based on consistency with one or more of the following criteria:

(i) Change in circumstances pertaining to the comprehensive plan or public policy.

(ii) A change in circumstances beyond the control of the landowner pertaining to the subject property.

(iii) An error in designation.

(iv) New information on natural resource land or critical area status.

(h) Use of innovative land use management techniques. Resource uses have preferred and primary status in designated natural resource lands of long-term commercial significance. Counties and cities must determine if and to what extent other uses will be allowed. If other uses are allowed, counties and cities should consider using innovative land

management techniques which minimize land use incompatibilities and most effectively maintain current and future natural resource lands.

Techniques to conserve and protect agricultural, forest lands, and mineral resource lands of long-term commercial significance include the purchase or transfer of development rights, fee simple purchase of the land, less than fee simple purchase, purchase with leaseback, buffering, land trades, conservation easements or other innovations which maintain current uses and assure the conservation of these natural resource lands.

Development in and adjacent to agricultural and forest lands of long-term commercial significance shall assure the continued management of these lands for their long-term commercial uses. Counties and cities should consider the adoption of right-to-farm provisions. Covenants or easements that recognize that farming and forest activities will occur should be imposed on new development in or adjacent to agricultural or forest lands. Where buffering is used it should be on land within the development unless an alternative is mutually agreed on by adjacent landowners.

Counties and cities planning under the act should define a strategy for conserving natural resource lands and for protecting critical areas, and this strategy should integrate the use of innovative regulatory and nonregulatory techniques.

[Statutory Authority: RCW 36.70A.050. 91-07-041, § 365-190-040, filed 3/15/91, effective 4/15/91.]

WAC 365-190-050 Agricultural lands. (1) In classifying agricultural lands of long-term significance for the production of food or other agricultural products, counties and cities shall use the land-capability classification system of the United States Department of Agriculture Soil Conservation Service as defined in Agriculture Handbook No. 210. These eight classes are incorporated by the United States Department of Agriculture into map units described in published soil surveys. These categories incorporate consideration of the growing capacity, productivity and soil composition of the land. Counties and cities shall also consider the combined effects of proximity to population areas and the possibility of more intense uses of the land as indicated by:

(a) The availability of public facilities;

(b) Tax status;

(c) The availability of public services;

(d) Relationship or proximity to urban growth areas;

(e) Predominant parcel size;

(f) Land use settlement patterns and their compatibility with agricultural practices;

(g) Intensity of nearby land uses;

(h) History of land development permits issued nearby;

(i) Land values under alternative uses; and

(j) Proximity of markets.

(2) In defining categories of agricultural lands of long-term commercial significance for agricultural production, counties and cities should consider using the classification of prime and unique farmland soils as mapped by the Soil Conservation Service. If a county or city chooses to not use these categories, the rationale for that decision must be included in its next annual report to department of community development.

(3) Counties and cities may further classify additional agricultural lands of local importance. Classifying additional agricultural lands of local importance should include consultation with the board of the local conservation district and the local agriculture stabilization and conservation service committee.

These additional lands may also include bogs used to grow cranberries. Where these lands are also designated critical areas, counties and cities planning under the act must weigh the compatibility of adjacent land uses and development with the continuing need to protect the functions and values of critical areas and ecosystems.

[Statutory Authority: RCW 36.70A.050. 91-07-041, § 365-190-050, filed 3/15/91, effective 4/15/91.]

WAC 365-190-060 Forest land resources. In classifying forest land, counties and cities should use the private forest land grades of the department of revenue (WAC 458-40-530). This system incorporates consideration of growing capacity, productivity and soil composition of the land. Forest land of long-term commercial significance will generally have a predominance of the higher private forest land grades. However, the presence of lower private forest land grades within the areas of predominantly higher grades need not preclude designation as forest land.

Each county and city shall determine which land grade constitutes forest land of long-term commercial significance, based on local and regional physical, biological, economic, and land use considerations.

Counties and cities shall also consider the effects of proximity to population areas and the possibility of more intense uses of the land as indicated by:

(1) The availability of public services and facilities conducive to the conversion of forest land.

(2) The proximity of forest land to urban and suburban areas and rural settlements: Forest lands of long-term commercial significance are located outside the urban and suburban areas and rural settlements.

(3) The size of the parcels: Forest lands consist of predominantly large parcels.

(4) The compatibility and intensity of adjacent and nearby land use and settlement patterns with forest lands of long-term commercial significance.

(5) Property tax classification: Property is assessed as open space or forest land pursuant to chapter 84.33 or 84.34 RCW.

(6) Local economic conditions which affect the ability to manage timberlands for long-term commercial production.

(7) History of land development permits issued nearby.

[Statutory Authority: RCW 36.70A.050. 91-07-041, § 365-190-060, filed 3/15/91, effective 4/15/91.]

WAC 365-190-070 Mineral resource lands. (1) Counties and cities shall identify and classify aggregate and mineral resource lands from which the extraction of minerals occurs or can be anticipated. Other proposed land uses within these areas may require special attention to ensure future supply of aggregate and mineral resource material, while maintaining a balance of land uses.

(2) Classification criteria. Areas shall be classified as mineral resource lands based on geologic, environmental,

and economic factors, existing land uses, and land ownership. The areas to be studied and their order of study shall be specified by counties and cities.

(a) Counties and cities should classify lands with long-term commercial significance for extracting at least the following minerals: Sand, gravel, and valuable metallic substances. Other minerals may be classified as appropriate.

(b) In classifying these areas, counties and cities should consider maps and information on location and extent of mineral deposits provided by the Washington state department of natural resources and the United States Bureau of Mines. Additionally, the department of natural resources has a detailed minerals classification system counties and cities may choose to use.

(c) Counties and cities should consider classifying known and potential mineral deposits so that access to mineral resources of long-term commercial significance is not knowingly precluded.

(d) In classifying mineral resource lands, counties and cities shall also consider the effects of proximity to population areas and the possibility of more intense uses of the land as indicated by:

(i) General land use patterns in the area;

(ii) Availability of utilities;

(iii) Availability and adequacy of water supply;

(iv) Surrounding parcel sizes and surrounding uses;

(v) Availability of public roads and other public services;

(vi) Subdivision or zoning for urban or small lots;

(vii) Accessibility and proximity to the point of use or market;

(viii) Physical and topographic characteristics of the mineral resource site;

(ix) Depth of the resource;

(x) Depth of the overburden;

(xi) Physical properties of the resource including quality and type;

(xii) Life of the resource; and

(xiii) Resource availability in the region.

[Statutory Authority: RCW 36.70A.050. 91-07-041, § 365-190-070, filed 3/15/91, effective 4/15/91.]

WAC 365-190-080 Critical areas. (1) Wetlands. The wetlands of Washington state are fragile ecosystems which serve a number of important beneficial functions. Wetlands assist in the reduction of erosion, siltation, flooding, ground and surface water pollution, and provide wildlife, plant, and fisheries habitats. Wetlands destruction or impairment may result in increased public and private costs or property losses.

In designating wetlands for regulatory purposes, counties and cities shall use the definition of wetlands in RCW 36.70A.030(22). Counties and cities are requested and encouraged to make their actions consistent with the intent and goals of "protection of wetlands," Executive Orders 89-10 and 90-04 as they exist on September 1, 1990. Additionally, counties and cities should consider wetlands protection guidance provided by the department of ecology including the model wetlands protection ordinance.

(a) Counties and cities that do not now rate wetlands shall consider a wetlands rating system to reflect the relative function, value and uniqueness of wetlands in their jurisdictions. In developing wetlands rating systems, counties and cities should consider the following:

(i) The Washington state four-tier wetlands rating system;

(ii) Wetlands functions and values;

(iii) Degree of sensitivity to disturbance;

(iv) Rarity; and

(v) Ability to compensate for destruction or degradation.

If a county or city chooses to not use the state four-tier wetlands rating system, the rationale for that decision must be included in its next annual report to department of community development.

(b) Counties and cities may use the National Wetlands Inventory as an information source for determining the approximate distribution and extent of wetlands. This inventory provides maps of wetland areas according to the definition of wetlands issued by the United States Department of Interior - Fish and Wildlife Service, and its wetland boundaries should be delineated for regulation consistent with the wetlands definition in RCW 36.70A.030(22).

(c) Counties and cities should consider using the methodology in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, cooperatively produced by the United States Army Corps of Engineers, United States Environmental Protection Agency, United States Department of Agriculture Soil Conservation Service, and United States Fish and Wildlife Service, that was issued in January 1989, and regulatory guidance letter 90-7 issued by the United States Corps of Engineers on November 29, 1990, for regulatory delineations.

(2) Aquifer recharge areas. Potable water is an essential life sustaining element. Much of Washington's drinking water comes from ground water supplies. Once ground water is contaminated it is difficult, costly, and sometimes impossible to clean up. Preventing contamination is necessary to avoid exorbitant costs, hardships, and potential physical harm to people.

The quality of ground water in an aquifer is inextricably linked to its recharge area. Few studies have been done on aquifers and their recharge areas in Washington state. In the cases in which aquifers and their recharge areas have been studied, affected counties and cities should use this information as the base for classifying and designating these areas.

Where no specific studies have been done, counties and cities may use existing soil and surficial geologic information to determine where recharge areas are. To determine the threat to ground water quality, existing land use activities and their potential to lead to contamination should be evaluated.

Counties and cities shall classify recharge areas for aquifers according to the vulnerability of the aquifer. Vulnerability is the combined effect of hydrogeological susceptibility to contamination and the contamination loading potential. High vulnerability is indicated by land uses that contribute contamination that may degrade ground water, and hydrogeologic conditions that facilitate degradation. Low vulnerability is indicated by land uses that do not contribute contaminants that will degrade ground water, and by hydrogeologic conditions that do not facilitate degradation.

(a) To characterize hydrogeologic susceptibility of the recharge area to contamination, counties and cities may consider the following physical characteristics:

(i) Depth to ground water;

(ii) Aquifer properties such as hydraulic conductivity and gradients;

(iii) Soil (texture, permeability, and contaminant attenuation properties);

(iv) Characteristics of the vadose zone including permeability and attenuation properties; and

(v) Other relevant factors.

(b) The following may be considered to evaluate the contaminant loading potential:

(i) General land use;

(ii) Waste disposal sites;

(iii) Agriculture activities;

(iv) Well logs and water quality test results; and

(v) Other information about the potential for contamination.

(c) Classification strategy for recharge areas should be to maintain the quality of the ground water, with particular attention to recharge areas of high susceptibility. In recharge areas that are highly vulnerable, studies should be initiated to determine if ground water contamination has occurred. Classification of these areas should include consideration of the degree to which the aquifer is used as a potable water source, feasibility of protective measures to preclude further degradation, availability of treatment measures to maintain potability, and availability of alternative potable water sources.

(d) Examples of areas with a critical recharging effect on aquifers used for potable water, may include:

(i) Sole source aquifer recharge areas designated pursuant to the Federal Safe Drinking Water Act.

(ii) Areas established for special protection pursuant to a ground water management program, chapters 90.44, 90.48, and 90.54 RCW, and chapters 173-100 and 173-200 WAC.

(iii) Areas designated for wellhead protection pursuant to the Federal Safe Drinking Water Act.

(iv) Other areas meeting the definition of "areas with a critical recharging effect on aquifers used for potable water" in these guidelines.

(3) Frequently flooded areas. Floodplains and other areas subject to flooding perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas should include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

Counties and cities should consider the following when designating and classifying frequently flooded areas:

(a) Effects of flooding on human health and safety, and to public facilities and services;

(b) Available documentation including federal, state, and local laws, regulations, and programs, local studies and maps, and federal flood insurance programs;

(c) The future flow floodplain, defined as the channel of the stream and that portion of the adjoining floodplain that is necessary to contain and discharge the base flood flow at build out without any measurable increase in flood heights;

(d) The potential effects of tsunami, high tides with strong winds, sea level rise resulting from global climate change, and greater surface runoff caused by increasing impervious surfaces.

(4) Geologically hazardous areas.

(a) Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible commercial, residential, or industrial development is sited in areas of significant hazard. Some geological hazards can be reduced or mitigated by engineering, design, or modified construction or mining practices so that risks to health and safety are acceptable. When technology cannot reduce risks to acceptable levels, building in geologically hazardous areas is best avoided. This distinction should be considered by counties and cities that do not now classify geological hazards as they develop their classification scheme.

(a) Areas that are susceptible to one or more of the following types of hazards shall be classified as a geologically hazardous area:

(i) Erosion hazard;

(ii) Landslide hazard;

(iii) Seismic hazard; or

(iv) Areas subject to other geological events such as coal mine hazards and volcanic hazards including: Mass wasting, debris flows, rockfalls, and differential settlement.

(b) Counties and cities should classify geologically hazardous area as either:

(i) Known or suspected risk;

(ii) No risk;

(iii) Risk unknown - data are not available to determine the presence or absence of a geological hazard.

(c) Erosion hazard areas are at least those areas identified by the United States Department of Agriculture Soil Conservation Service as having a "severe" rill and inter-rill erosion hazard.

(d) Landslide hazard areas shall include areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include any areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Example of these may include, but are not limited to the following:

(i) Areas of historic failures, such as:

(A) Those areas delineated by the United States Department of Agriculture Soil Conservation Service as having a "severe" limitation for building site development;

(B) Those areas mapped as class u (unstable), uos (unstable old slides), and urs (unstable recent slides) in the department of ecology coastal zone atlas; or

(C) Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published as the United States Geological Survey or department of natural resources division of geology and earth resources.

(ii) Areas with all three of the following characteristics:

(A) Slopes steeper than fifteen percent; and

(B) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

(C) Springs or ground water seepage;

(iii) Areas that have shown movement during the holocene epoch (from ten thousand years ago to the present) or which are underlain or covered by mass wastage debris of that epoch;

(iv) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

(v) Slopes having gradients steeper than eighty percent subject to rockfall during seismic shaking;

(vi) Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action;

(vii) Areas that show evidence of, or are at risk from snow avalanches;

(viii) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding;

(ix) Any area with a slope of forty percent or steeper and with a vertical relief of ten or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

(e) Seismic hazard areas shall include areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:

(i) The magnitude of an earthquake;

(ii) The distance from the source of an earthquake;

(iii) The type of thickness of geologic materials at the surface; and

(iv) The type of subsurface geologic structure.

Settlement and soil liquefaction conditions occur in areas underlain by cohesionless soils of low density, typically in association with a shallow ground water table.

(f) Other geological events:

(i) Volcanic hazard areas shall include areas subject to pyroclastic flows, lava flows, debris avalanche, inundation by debris flows, mudflows, or related flooding resulting from volcanic activity.

(ii) Mine hazard areas are those areas underlain by, adjacent to, or affected by mine workings such as adits, gangways, tunnels, drifts, or air shafts. Factors which should be considered include: Proximity to development, depth from ground surface to the mine working, and geologic material.

(5) Fish and wildlife habitat conservation areas. Fish and wildlife habitat conservation means land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean cooperative and coordinated land use planning is critically important among counties and cities in a region. In some cases, intergovernmental cooperation and coordination may show that it is sufficient to assure that a species will usually be found in certain regions across the state.

(a) Fish and wildlife habitat conservation areas include:

(i) Areas with which endangered, threatened, and sensitive species have a primary association;

(ii) Habitats and species of local importance;

(iii) Commercial and recreational shellfish areas;

(iv) Kelp and eelgrass beds; herring and smelt spawning areas;

(v) Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;

(vi) Waters of the state;

(vii) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; or

(viii) State natural area preserves and natural resource conservation areas.

(b) Counties and cities may consider the following when classifying and designating these areas:

(i) Creating a system of fish and wildlife habitat with connections between larger habitat blocks and open spaces;

(ii) Level of human activity in such areas including presence of roads and level of recreation type (passive or active recreation may be appropriate for certain areas and habitats);

(iii) Protecting riparian ecosystems;

(iv) Evaluating land uses surrounding ponds and fish and wildlife habitat areas that may negatively impact these areas;

(v) Establishing buffer zones around these areas to separate incompatible uses from the habitat areas; and

(vi) Restoring of lost salmonid habitat.

(c) Sources and methods

(i) Counties and cities should classify seasonal ranges and habitat elements with which federal and state listed endangered, threatened and sensitive species have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

(ii) Counties and cities should determine which habitats and species are of local importance. Habitats and species may be further classified in terms of their relative importance.

Counties and cities may use information prepared by the Washington department of wildlife to classify and designate locally important habitats and species. Priority habitats and priority species are being identified by the department of wildlife for all lands in Washington state. While these priorities are those of the department, they and the data on which they are based may be considered by counties and cities.

(iii) Shellfish areas. All public and private tidelands or bedlands suitable for shellfish harvest shall be classified as critical areas. Counties and cities should consider both commercial and recreational shellfish areas. Counties and cities should at least consider the Washington department of health classification of commercial and recreational shellfish growing areas to determine the existing condition of these areas. Further consideration should be given to the vulnerability of these areas to contamination. Shellfish protection districts established pursuant to chapter 90.72 RCW shall be included in the classification of critical shellfish areas.

(iv) Kelp and eelgrass beds; herring and smelt spawning areas. Counties and cities shall classify kelp and eelgrass beds, identified by department of natural resources aquatic lands division and the department of ecology. Though not an inclusive inventory, locations of kelp and eelgrass beds are compiled in the *Puget Sound Environmental Atlas, Volumes 1 and 2.* Herring and smelt spawning times and locations are outlined in WAC 220-110-240 through 220-110-260 and the *Puget Sound Environmental Atlas.*

(v) Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat.

Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farmponds, temporary construction ponds (of less than three years duration) and landscape amenities. However, naturally occurring ponds may include those artificial ponds intentionally created from dry areas in order to mitigate conversion of ponds, if permitted by a regulatory authority.

(vi) Waters of the state. Waters of the state are defined in Title 222 WAC, the forest practices rules and regulations. Counties and cities should use the classification system established in WAC 222-16-030 to classify waters of the state.

Counties and cities may consider the following factors when classifying waters of the state as fish and wildlife habitats:

(A) Species present which are endangered, threatened or sensitive, and other species of concern;

(B) Species present which are sensitive to habitat manipulation;

(C) Historic presence of species of local concern;

(D) Existing surrounding land uses that are incompatible with salmonid habitat;

(E) Presence and size of riparian ecosystems;

(F) Existing water rights; and

(G) The intermittent nature of some of the higher classes of waters of the state.

(vii) Lakes, ponds, streams, and rivers planted with game fish.

This includes game fish planted in these water bodies under the auspices of a federal, state, local, or tribal program or which supports priority fish species as identified by the department of wildlife.

(viii) State natural area preserves and natural resource conservation areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by department of natural resources.

[Statutory Authority: RCW 36.70A.050. 91-07-041, § 365-190-080, filed 3/15/91, effective 4/15/91.]

Chapter 365-195 WAC

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

WAC

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PART ONE
GENERAL CONSIDERATIONS

WAC 365-195-010 Background. Through the Growth Management Act, the legislature provided a new framework for land use planning and the regulation of development in Washington state in response to challenges posed to the quality of life by rapid growth. Major features of this framework include:

(1) A requirement that counties with specified populations and rates of growth and the cities within them adopt comprehensive plans and development regulations under the act. Other counties can choose to be covered by this requirement, thereby including the cities they contain.

(2) A set of common goals to guide the development of comprehensive plans and development regulations.

(3) The concept that the process should be a "bottom up" effort, involving early and continuous public participation, with the central locus of decision-making at the local level.

(4) Requirements for the locally developed plans to be consistent internally, consistent with county-wide planning policies and consistent with the plans of other counties and cities where there are common borders or related regional issues.

(5) A requirement that development regulations adopted to implement the comprehensive plans be consistent with such plans.

(6) The principle that development and the providing of public facilities and services needed to support development should occur concurrently.

(7) A determination that planning and plan implementation actions should address difficult issues that have resisted resolution in the past, such as:

(a) The timely financing of needed infrastructure;

(b) Providing adequate and affordable housing for all economic segments of the population;

(c) Concentrating growth in urban areas, provided with adequate urban services;

(d) The siting of essential public facilities;

(e) The designation and conservation of agricultural, forest, and mineral resource lands;

(f) The designation and protection of environmentally critical areas.

(8) An intention that economic development be encouraged and fostered within the planning and regulatory scheme established for managing growth.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-010, filed 11/17/92, effective 12/18/92.]

WAC 365-195-020 Purpose. Within the framework established by the act, a wide diversity of local visions of the future can be accommodated. Moreover, there is no exclusive method for accomplishing the planning and development regulation requirements of the act. However, in light of the complexity and difficulty of the task, the legislature assigned the department of community development the function of establishing a program of technical assistance. As part of that program, the department is directed to adopt by rule procedural criteria to assist counties and cities in adopting comprehensive plans and development regulations that meet the goals and requirements of the act. The purpose of this chapter is to carry out that directive.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-020, filed 11/17/92, effective 12/18/92.]

WAC 365-195-030 Applicability. (1) This chapter makes recommendations for meeting the requirements of the act. The recommendations set forth are intended as a listing of possible choices, but compliance with the requirements of the act can be achieved without using all of the suggestions made here or by adopting other approaches.

(2) These criteria are not meant to represent a minimum list of actions which must be taken for comprehensive plans and development regulations to meet the goals and requirements of the act.

(3) The growth planning hearings boards are authorized to determine, in cases brought before them, whether comprehensive plans or development regulations are in compliance with the goals and requirements of the act. In making such determinations, the boards are required to consider the procedural criteria contained in this chapter. However, compliance with these criteria is not a prerequisite to a finding of compliance with the act.

(4) Nothing in this chapter is intended to affect planning decisions and actions made pursuant to the act before this chapter became effective, including but not limited to the adoption of county-wide planning policies.

(5) This chapter does not apply to jurisdictions not required to plan or not choosing to plan under RCW 36.70A.040.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-030, filed 11/17/92, effective 12/18/92.]

WAC 365-195-040 General method. (1) This chapter identifies the act's mandatory provisions for creating comprehensive plans and development regulations. These statutory mandates are listed under headings labeled "**requirements**." Courses of action the department recommends in order to comply with the act's mandates are set forth under headings labeled "**recommendations for meeting requirements**."

(2) Definitions and interpretations made in this chapter by the department, but not expressly set forth in the act, are identified as such. The department's purpose is to provide assistance in interpreting the act, not to add provisions and meanings beyond those intended by the legislature.

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

WAC 365-195-050 Presumption of validity. Comprehensive plans and development regulations adopted under the act are presumed valid upon adoption. Nevertheless, jurisdictions whose plans are challenged will be obliged to furnish a record for the review process. Although the presumption of validity should discourage meritless appeals, if the presumption is overcome in any case, the county or city will be

required to demonstrate compliance with the act. Such a demonstration will be aided by a record which documents deliberations, shows data relied upon, and explains how conclusions were reached.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-050, filed 11/17/92, effective 12/18/92.]

WAC 365-195-060 Regional and local variations. (1) Regional and local variations and the diversity that exist among different counties and cities are to be reflected in the use and application of these procedural criteria. Local jurisdictions are expected to use a pick and choose approach. Following these criteria is appropriate, in any case, only to the extent necessary to fairly meet the intent of the act in the particular situation.

(2) To a major extent, recognition of variations and diversity is implicit in the framework of the act itself, with its emphasis on a "bottom up" planning process and on public participation. Such recognition is also inherent in the listing of goals without assignment of priority. Accordingly, this chapter seeks to accommodate regional and local differences by focusing on an analytical process, instead of on specific outcomes.

(3) Local plans and development regulations are expected to vary in complexity and in level of detail provided in the supporting record, depending on population size, growth rates, resources available for planning and scale of public facilities, and services provided.

(4) In general, smaller jurisdictions will not be expected to engage in extensive original research, but will be able to rely upon reasonable assumptions derived from available data of a statewide or regional nature or representative of jurisdictions of comparable size and growth rates.

(5) In commenting on plans and regulations proposed for adoption, state agencies including the department should be guided by a common-sense appreciation of the size of the jurisdiction involved and the magnitude of the problems addressed. It is anticipated that the growth planning hearings boards will be informed by the same awareness.

(6) The department has developed a model comprehensive plan for smaller jurisdictions which may be used to help guide local planning where local resources are limited.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-060, filed 11/17/92, effective 12/18/92.]

WAC 365-195-070 Interpretations. The following represent the department's interpretation of several critical concepts about which the express terms of the act are not clear. While not necessarily the only appropriate way to view the concepts involved, these interpretations appear to be supported by the overall statutory context.

(1) **Goals.** The act lists thirteen overall goals in RCW 36.70A.020. Comprehensive plans and development regulations are to be designed to meet these goals. The list of thirteen goals is not exclusive. Local governments may adopt additional goals. However, these additional goals must be supplementary. They may not conflict with the thirteen statutory goals. Comprehensive plans must show how each of the goals is to be pursued consistent with the planning entity's vision of its future. Differences in emphasis are expected from jurisdiction to jurisdiction. In some cases meeting certain of these goals may involve support for activities beyond jurisdictional boundaries. In most cases, if a comprehensive plan meets the statutory goals, development regulations consistent with the comprehensive plan will meet the goals.

(2) **Economic development.** The act lists economic development as one of the overall goals, but does not mandate an economic development element within comprehensive plans. This should not be read as a downgrading of the importance of economic development as a feature of the growth management planning and implementation process. Planning under the act in connection with all mandatory elements should be undertaken with the goal of economic development in mind. Whether the jurisdiction elects to develop a separate economic development element or not, desired levels of job growth, and of commercial and industrial expansion should be identified and supporting strategies should be integrated with the land use, housing, utilities transportation, and other features of the comprehensive plan.

(3) **Concurrency.** The achievement of concurrency should be sought with respect to public facilities in addition to transportation facilities. The list of such additional facilities should be locally defined. The department recommends that at least domestic water systems and sanitary sewer systems be added to concurrency lists applicable within urban growth areas, and that at least domestic water systems be added for lands outside urban growth areas. Concurrency describes the situation in which adequate facilities are available when the impacts of development occur, or within a specified time thereafter. With respect to facilities other than transportation facilities and water systems, local jurisdictions may fashion their own regulatory responses and are not limited to imposing moratoria on development during periods when concurrency is not maintained.

(4) **Essential public facilities.** The term "essential public facilities" is a specialized term applicable in the context of siting, and refers to facilities that are typically difficult to site. "Essential public facilities" do not necessarily include everything within the statutory definitions of "public facilities" and "public services," and should include additional items not listed in those definitions. Consistent with county-wide planning policies, local governments should create their own lists of "essential public facilities," guided by the examples set forth in RCW 36.70A.200, but not necessarily bound by those examples. For the purposes of identifying facilities to be subject to the "essential public facilities" siting process, it is not necessary that the facilities be publicly owned. If the services involved meet a locally accepted definition of public service, the supporting facilities for the services may be included on the list, regardless of ownership.

(5) **Urban growth areas.** The adoption of urban growth areas by counties should reflect a cooperative effort among jurisdictions to accomplish the requirements of the act on a regional basis. As growth occurs, most lands within urban growth areas should ultimately be provided with local urban services by cities, either directly or by contract. Other service providers are appropriate within urban growth areas for regional or county-wide services, or for isolated unincorporated pockets characterized by urban growth. Provisions should be made for the phasing of development within each urban growth area to ensure that services are provided as growth occurs. In proposing urban growth areas, cities should

endeavor to accommodate projected urban growth through infill within existing municipal boundaries. But in some cases expansion will be logical. Interlocal agreements should be negotiated regarding land use management and the provision of services to such potential expansion areas so that such growth can occur in a manner consistent with the cities' comprehensive plans and development regulations.

(6) **Affordable housing.** This is a term which applies to the adequacy of housing stocks to fulfill the housing needs of all economic segments of the population. The underlying assumption is that the market place will guarantee adequate housing for those in the upper economic brackets but that some combination of appropriately zoned land, regulatory incentives, financial subsidies, and innovative planning techniques will be necessary to make adequate provisions for the needs of middle and lower income persons. Each jurisdiction should incorporate a regional perspective into the identification of its housing planning area, with the understanding that the population to be planned for is county-wide. All jurisdictions should share in the responsibility for achieving a reasonable and equitable distribution of affordable housing to meet the needs of middle and lower income persons. While government policies and programs alone cannot ensure that everyone is adequately housed, attention should be given to removing regulatory barriers to affordable housing where such action is otherwise consistent with the act. In the overall implementation of the act an effort should be made to avoid an escalation of costs which will defeat the achievement of the act's housing aims.

(7) **Consistency.** The act calls for "consistency" in a number of contexts. In general, the phrase "not incompatible with" conveys the meaning of "consistency" most suited to preserving flexibility for local variations. An important example of the use of the term is the requirement that comprehensive plans be internally consistent. This requirement appears to mean that the parts of the plan must fit together so that no one feature precludes the achievement of any other. (E.g., the densities selected and the wetlands to be protected can both be achieved on the available land base.) A second significant example is the requirement that each comprehensive plan be consistent with other comprehensive plans of jurisdictions with common borders or related regional issues. Determining consistency in this interjurisdictional context is complicated by the differences in timing which will occur in the adoption of plans. Initially interjurisdictional consistency should be met by plans which are consistent with and carry out the relevant county-wide planning policies.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-070, filed 11/17/92, effective 12/18/92.]

PART TWO
DEFINITIONS

WAC 365-195-200 Statutory definitions. For the convenience of persons using these criteria the definitions contained in RCW 36.70A.030 are set forth below:

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock and that has long-term commercial significance for agricultural production.

(3) "City" means any city or town, including a code city.

(4) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(5) "Critical areas" include the following areas and ecosystems:

(a) Wetlands;

(b) Areas with a critical recharging effect on aquifers used for potable water;

(c) Fish and wildlife habitat conservation areas;

(d) Frequently flooded areas; and

(e) Geologically hazardous areas.

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

(7) "Development regulations" means any controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, subdivision ordinances, and binding site plan ordinances.

(8) "Forest land" means land primarily useful for growing trees, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, for commercial purposes, and that has long-term commercial significance for growing trees commercially.

(9) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(10) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(11) "Minerals" include gravel, sand, and valuable metallic substances.

(12) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(13) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(14) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(15) "Urban growth area" means those areas designated by a county pursuant to RCW 36.70A.110.

(16) "Urban governmental services" include those governmental services historically and typically delivered by cities, and include storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with nonurban areas.

(17) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted by the county or city.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-200, filed 11/17/92, effective 12/18/92.]

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 waterborne 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.]

PART THREE
FEATURES OF THE COMPREHENSIVE PLAN

WAC 365-195-300 Mandatory elements. (1) **Requirements**. The comprehensive plan shall consist of a map or maps and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map.

(a) Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(i) A land use element.

(ii) A housing element.

(iii) A capital facilities plan element.

(iv) A utilities element.

(v) A transportation element.

Counties shall also include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources.

(b) Additionally each plan shall contain a process for identifying and siting essential public facilities.

(2) **Recommendations for overall design.**

(a) The planning horizon for the comprehensive plan should be at least the twenty-year period following the adoption of the plan.

(b) Planning jurisdictions should consider including at the outset a separate section addressing the statutory goals and how the plan deals with each of them. This section should also identify any supplementary goals adopted.

(c) County-wide planning policies establish a county-wide framework from which county and city comprehensive plans are to be developed. How the applicable county-wide policies have been integrated into the plans should be made apparent.

(d) Each plan should contain a future land use map or maps, showing the proposed physical distribution and location of the various land uses during the planning period. This map should provide a graphic display of how and where development is expected to occur.

(e) The descriptive text covering objectives, principles, and standards used to develop the comprehensive plan will be expressive of the vision of the future of the planning entity. The text should articulate community values derived from the visioning and other citizen participation processes. The terms objectives, principles, and standards relate to methods chosen to meet planning goals or measurable steps on the path toward achieving such goals. The precise meaning of these terms should be locally defined.

(f) Jurisdictions are encouraged to include at the beginning of their comprehensive plans a section which summarizes, with graphics and a minimum of text, how the various pieces of the plan fit together. Plans may include overlay maps and other graphic displays depicting development patterns, phasing of development, neighborhoods or subarea definitions, and other plan features.

(g) A suggested detailed approach of how each element of the comprehensive plan may be prepared is provided through assistance manuals produced by the department.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-300, filed 11/17/92, effective 12/18/92.]

WAC 365-195-305 Land use element. (1) **Requirements**. This element shall contain at least the following features:

(a) Designation of the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, public utilities, public facilities, and other land uses.

(b) Population densities, building intensities, and estimates of future population growth.

(c) Provisions for protection of the quality and quantity of ground water used for public water supplies.

(d) Where applicable, a review of drainage, flooding, and storm water runoff in the area covered by the plan and nearby jurisdictions, and guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) **Recommendations for meeting requirements.** The following steps are recommended in preparing the land use element:

(a) Integration of relevant county-wide planning policies (and, where applicable, multicounty planning policies) into the local planning process.

(b) Identification of the existing general distribution and location of various land uses.

(c) Identification of the approximate acreage and general range of density or intensity of existing uses.

(d) Estimation using available data of the future population growth for the planning area and a projection of the level of commercial, industrial, and residential development likely to be experienced over at least the next twenty years.

(e) Selection of commercial, industrial, and residential densities sought to be achieved and their distribution for the purposes of accommodating the anticipated growth.

(f) Inventory of vacant, partially used and under-utilized land. Analysis of the extent to which existing buildings and housing, together with vacant, partially used and under-utilized land can support anticipated growth at the densities selected.

(g) Preparation of an implementation strategy for accomplishing the densities and distribution sought. To the extent that greater intensity of development is proposed, the strategy should include a description of the general range of physical forms contemplated for structures which will accommodate the new growth.

(h) Identification of the approximate spatial requirements for capital facilities (including transportation facilities) and utilities needed to support the planned level of development.

(i) Generalized location and estimation of quantity of land needed for utility corridors, open space corridors, critical areas, and natural resource lands to be included within the planning area.

(j) Preparation of the future land use map on the basis of the total analysis performed.

(k) Reevaluation of this scheme in light of:

(i) The projected capacity for financing the needed capital facilities over the planning period; and

(ii) An assessment of whether the densities and distribution of growth contemplated can be achieved within the capacity of available land and water resources and without environmental degradation.

(l) Creation of a ground water protection strategy, integrating the relevant planning requirements of other statutes, consistent with the designation of areas with a critical recharging effect on aquifers used for potable water. Consideration should be given to the adoption of nondegradation as a ground water protection goal.

(m) Consultation with neighboring jurisdictions and state agencies to formulate a cooperative, integrated, watershed based approach to identified pollution problems caused by drainage, flooding, storm water runoff, failing septic systems, agricultural runoff, and other nonpoint sources, taking advantage of existing plans dealing with these subjects. To the extent that county-wide planning policies are relevant, they should followed in arriving at interjurisdictional solutions.

(n) A schedule for the phasing of the development contemplated consistent with the availability of capital facilities as provided in the capital facilities element.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-305, filed 11/17/92, effective 12/18/92.]

WAC 365-195-310 Housing element. (1) **Requirements**. This element shall contain at least the following features:

(a) An inventory and analysis of existing and projected housing needs.

(b) A statement of the goals, policies, and objectives for the preservation, improvement, and development of housing.

(c) Identification of sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities.

(d) Adequate provisions for existing and projected housing needs of all economic segments of the community.

(2) **Recommendations for meeting requirements.** The following steps are recommended in preparing the housing element:

(a) Preparation of an inventory and analysis of the condition of existing housing stocks, using currently available data to the extent possible.

(b) An assessment of the needs for housing in the planning area, including both present needs and needs anticipated as a result of planned growth over the planning period.

(c) Evaluation of the extent to which the existing and projected market can provide housing at various costs and for various income levels.

(d) Estimation of the present and future extent of populations in the planning area which require assistance to obtain housing they can afford.

(e) Identification of existing programs and policies to promote adequate housing for population segments which cannot afford housing in the existing market and evaluation of their effectiveness.

(f) Incorporation of county-wide planning policies on affordable housing and parameters for the distribution of such housing. This should include identification of the share of affordable housing to be provided by the planning jurisdiction and how it will be achieved. In some cases, it may be appropriate for a jurisdiction to provide assistance for the location of affordable housing elsewhere.

(g) Planning jurisdictions should use the following ranges for various economic groupings in the planning area:

(i) Extremely low income - below thirty percent of median income.

(ii) Very low income - between thirty-one percent and fifty percent of median income.

(iii) Low income - between fifty-one percent and eighty percent of median income.

(iv) Moderate income - between eighty-one percent and ninety-five percent of median income.

(v) Middle income - between ninety-six percent and one hundred twenty percent of median income.

The parameters to be used in planning for affordable housing should be those adopted and annually adjusted for household size by the United States Department of Housing and Urban Development (HUD).

(h) Determination of housing goals, policies, and objectives in light of the needs identified. This process should include consideration of the locational needs of various types

of housing in light of proximity to employment and of access to transportation and services.

(i) Identification of new programs and policies which can be instituted to promote adequate housing for all economic segments of the population.

(j) Preparation of a strategy for preserving, improving, and developing housing which will attempt to meet the needs identified for all economic segments of the population in the planning area. The strategy should include:

(i) Consideration of the range of housing choices to be encouraged, including but not limited to, multifamily housing, mixed uses, manufactured homes, accessory living units, and detached homes.

(ii) Consideration of various lot sizes and densities, and of clustering and other design configurations.

(iii) Identification of sufficient appropriately zoned land to accommodate the identified housing needs over the planning period.

(iv) Evaluation of the capacity of local public and private entities and the availability of financing to produce housing to the meet the identified need.

(k) Emphasis should be placed on adequately providing for group homes, foster care facilities, and facilities for other special populations, while maintaining an equitable distribution of these facilities among neighboring jurisdictions.

(l) In developing the housing element attention should be directed to working with the desires of residents to preserve the character and vitality of existing neighborhoods, along with the rights of people to live in the neighborhood of their choice.

(m) The provisions of the housing element should be integrated with the provisions of the land use element.

(n) Provision for a program of ongoing review to monitor the performance of the housing strategy and for making adjustments and revisions as needed to achieve the goals, policies, and objectives. Such a program could include the collection and maintenance of information about the housing market, and where reasonably available from existing sources, data on the supply of developable residential building lots at various land-use densities and the supply of rental and for-sale housing at various price levels.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-310, filed 11/17/92, effective 12/18/92.]

WAC 365-195-315 Capital facilities element. (1) **Requirements.** This element shall contain at least the following features:

(a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities.

(b) A forecast of the future needs for such capital facilities.

(c) The proposed locations and capacities of expanded or new capital facilities.

(d) At least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes.

(e) A requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.

(2) **Recommendations for meeting requirements.** The capital facilities element should serve as a check on the practicality of achieving other elements of the plan. The following steps are recommended in preparing the capital facilities element:

(a) Inventory of existing capital facilities showing locations and capacities, including an inventory of the extent to which existing facilities possess presently unused capacity. Capital facilities involved should include water systems, sanitary sewer systems, storm water facilities, schools, parks and recreational facilities, police and fire protection facilities.

(b) The selection of levels of service or planning assumptions for the various facilities to apply during the planning period (twenty years or more) and which reflect community goals.

(c) A forecast of the future needs for such capital facilities based on the levels of service or planning assumptions selected and consistent with the growth, densities and distribution of growth anticipated in the land use element.

(d) The creation of a six-year capital facilities plan for financing capital facilities needed within that time frame. Projected funding capacities, are to be evaluated, followed by the identification of sources of public or private funds for which there is reasonable assurance of availability. The six-year plan should be updated at least biennially so that financial planning remains sufficiently ahead of the present for concurrency to be evaluated.

(e) The needs for capital facilities should be dictated by the phasing schedule set forth in the land use element.

(f) Provision should be made to reassess the land use element and other elements of the plan periodically in light of the evolving capital facilities plan. If the probable funding for capital facilities at any time is insufficient to meet existing needs, the land use element must be reassessed. At the same time funding possibilities and levels of service might also be reassessed. The plan should require that as a result of such reassessment, appropriate action must be taken to ensure the internal consistency of the land use and capital facilities portions of the plan. The plan should set forth how, if at all, pending applications for development will be affected while such a reassessment is being undertaken.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-315, filed 11/17/92, effective 12/18/92.]

WAC 365-195-320 Utilities element. (1) **Requirements.** This element shall contain at least the following features: The general location, proposed location, and capacity or all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(2) **Recommendations for meeting requirements.** The following steps are recommended in preparing the utilities element:

(a) Integration of the general location and capacity of existing and proposed utility facilities with the land use element of the plan. For the purposes of this step, proposed utilities are understood to be those awaiting approval when the comprehensive plan is adopted.

(b) An analysis of the capacity needs for various utilities over the planning period to serve the growth anticipated at the locations and densities proposed within the jurisdiction's planning area. The analysis of capacity needs should be developed in consultation with serving utilities, including consideration of comprehensive utility plans, least-cost plans, load forecasts, and other planning efforts.

(c) The general location of utility lines and facilities required to furnish anticipated capacity needs for the planning period within the jurisdiction's planning area. This should be developed in consultation with serving utilities as a part of the process of identifying lands useful for public purposes to be carried out by planning jurisdictions.

(d) Evaluation of whether any utilities should be identified and classified as essential public facilities, subject in cases of siting difficulty to the separate siting process established under the comprehensive plan for such facilities.

(e) Evaluation of whether any utilities within the planning area are subject to county-wide planning policies for siting public facilities of a county-wide or statewide nature and if so, the integration of those policies into the local plan for application as relevant.

(f) Creation of local criteria for siting utilities over the planning period, involving:

(i) Consideration of whether any siting proposal is consistent with the locations and densities for growth contemplated in the land use element.

(ii) Consideration of any public service obligations of the utility involved.

(iii) Evaluation of whether the siting decision will adversely affect the ability of the utility to provide service throughout its system.

(iv) Balancing of local design considerations against articulated needs for system-wide uniformity.

(g) Policies should be adopted which call for:

(i) Joint use of transportation rights of way and utility corridors, where possible.

(ii) Timely and effective notification of interested utilities of road construction, and of maintenance and upgrades of existing roads to facilitate coordination of public and private utility trenching activities.

(iii) Consideration of utility permits simultaneously with the proposals requesting service and, when possible, approval of utility permits when the project to be served is approved.

(h) Coordination among adjacent planning jurisdictions to ensure the consistency of each jurisdiction's utilities element and regional utility plans, and to develop a coordinated process for siting regional utility facilities in a timely manner.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-320, filed 11/17/92, effective 12/18/92.]

WAC 365-195-325 Transportation element. (1) **Requirements**. This element shall contain at least the following subelements:

(a) Land use assumptions used in estimating travel;

(b) Facilities and services needs, including:

(i) An inventory of air, water, and land transportation facilities and services, including transit alignments, to define existing capital facilities and travel levels as a basis for future planning;

(ii) Level of service standards for all arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(iii) Specific actions and requirements for bringing into compliance any facilities or services that are below an established level of service standard;

(iv) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(v) Identification of system expansion needs and transportation system management needs to meet current and future demands;

(c) Finance, including:

(i) An analysis of funding capability to judge needs against probable funding resources;

(ii) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems;

(iii) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(d) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(e) Demand-management strategies.

(2) **Recommendations for meeting requirements**. The following steps are recommended in preparing the transportation element:

(a) Local and regional transportation goals and policies for the following transportation modes, where applicable:

(i) Roadways;

(ii) Transit: Fixed route and demand response;

(iii) Nonmotorized travel: Bicycle and pedestrian;

(iv) Port and intermodal facilities: Water, rail, air, and industrial;

(v) Rail: Passenger and freight;

(vi) Freight mobility: Truck, rail, and barge.

(b) A discussion of how the transportation element implements the land use element, how the transportation and land use elements are consistent, and how the transportation element is consistent with the regional transportation plan. Discussion concerning regional development strategies which promote the regional transportation plan and an efficient transportation system should be included.

(c) Inventories, incorporating the level of detail appropriate for the planning jurisdiction:

(i) Air transportation facilities inventory can include but not necessarily be limited to: A description of the services provided by the facilities and location of the air transportation facilities; a capacity analysis to compare current and projected airport needs; a capacity analysis of roads, rail, and navigational routes to assess freight and passenger access to airport facilities. Consideration of the current and projected surrounding land uses should be made with respect to uses that are compatible and available for projected airport needs.

(ii) Inventory of water transportation can include but not necessarily be limited to:

(A) A description of the ferry service, ownership, a map of the routes, the number of vessels, frequency of the service, passenger capacity, and vehicle capacity impacting the planning area; a capacity analysis of ferry service compared to current and projected needs. Consideration of the current and projected surrounding land use should be made with respect to uses that are compatible and available for current and projected ferry needs.

(B) A description of the port facilities, service and location of the facilities; an analysis of freight movement showing the proportion of freight which is moved by rail and by truck to determine access adequacy. Consideration of the current and projected surrounding land use should be made in terms of compatibility and availability for current and projected port needs.

(iii) Inventory of land transportation can include but not necessarily be limited to:

(A) A map of arterials and limited access facilities; a description of the general travel market (**i.e.**, commuter, tourist, farm to market, etc.) served by the transportation network; traffic volumes, functional classification, ownership and physical and operational condition. Consideration of current and projected surrounding land use should be made with respect to uses that are compatible and available for current and projected transportation needs.

(B) A map of the rail lines and intermodal facilities; a description of ownership, condition, and identification of whether the rail lines are for passenger and/or freight movement. Consideration of current and projected surrounding land use should be made with respect to uses that are compatible and available for current and future projected land transportation needs.

(iv) Inventory of transit facilities and services within the planning area can include but not necessarily be limited to, a description of the service, service area, routes, major transfer centers, population base, passengers carried, number of vehicles including seating capacity, miles of route and vehicle hours within the local jurisdiction's boundaries. Analysis of projected transit needs should be made based on projected land use assumptions. For example, transit improvements should be planned in areas of projected residential and/or employment centers. Consideration of current and projected surrounding land use should be made with respect to uses that are compatible and available for current and projected transit needs.

(d) If the planning area is within a National Ambient Air Quality Standards nonattainment area, compliance with the Clean Air Act Amendments of l990 is required. The following should be included in the transportation element of the comprehensive plan as applicable to locally generated mobile sources of pollutants: A map of the area designated as the nonattainment area for ozone, carbon monoxide, and particulate matter (PM10); a discussion of the severity of the violation(s) contributed by transportation-related sources causing nonattainment and a description of measures that will be implemented consistent with the state implementation plan for air quality, in order to comply with the national standards for the air, land, water, and transit sections of the transportation element. Local jurisdictions should refer to local air quality agencies and metropolitan planning organizations for assistance.

(e) Provide a definition of the level of service (LOS) to be adopted for the transportation system that includes at least arterials and transit routes. The definition of level of service is not restricted to the traditional Highway Capacity Manual approach, but could include district, area-wide, corridor, or other nontraditional level of service standards. Provide an inventory of the current level of service of at least arterial and transit routes. Adopted level of service standards should reflect access, mobility, mode-split, or capacity goals for the transportation facility depending upon the surrounding development density and community goals, and should be developed in consultation with transit agencies serving the planning area.

(f) System expansion needs should include considerations for: Repair, replacement, or enhancement, and/or expansion.

(g) Transportation system management (TSM) and transportation demand management (TDM) implementation measures can include, but not necessarily be limited to: Signal coordination, channelization, high occupancy vehicle (HOV) lanes, ridesharing, trip substitution, trip shifting, increased public transportation, parking policies and high occupancy subsidy programs. Provision should be made for evaluating the effectiveness of these strategies, and funding sources should be identified.

(h) The finance subelement should include, but not necessarily be limited to:

(i) Results of the identification study of current and projected deficiencies;

(ii) Development of cost estimates to alleviate deficiencies;

(iii) Assessment of revenue forecasts/shortfalls;

(iv) Development of financing policies; and

(v) Development of a financing schedule which matches projects and funding availability.

If sufficient public and/or private funding cannot be found, land use assumptions will be reassessed to ensure that level of service standards will be met, or level of service standards will be adjusted.

(i) Intergovernmental coordination.

(i) Jurisdictions should assess the impacts of their transportation and land use decisions on adjacent jurisdictions. Impacts of those decisions should be identified and discussion of strategies to address inconsistencies should be included.

(A) A discussion of how the local transportation and land use goals relate to adjacent jurisdictions' transportation and land use goals, county-wide policies, regional land use and transportation strategies, and statewide goals outlined in the act.

(B) Local jurisdictions should refer to the Washington state transportation policy plan for guidance on statewide transportation policy.

(C) Local jurisdictions should refer to the regional transportation plan produced by the regional transportation planning organization for guidance concerning the designated regional transportation system. Local jurisdictions should also define their community's role in the regional transportation and land use strategy and produce transportation and

land use plans, and development regulations which promote that role.

(D) Local jurisdictions should refer to the responsible transportation agencies for information concerning current and projected plans for air, land, and water transportation facilities and services. Local jurisdictions and agencies responsible for air, land, and water transportation facilities and services should cooperate in identifying and resolving land use and transportation linkage issues.

(ii) All transportation projects which have an impact on the regional transportation system must be consistent with the regional transportation plan as defined by RCW 47.80.030. A regional transportation planning organization shall certify that the transportation elements of the adopted county, city, and town comprehensive plans within the region conform with RCW 36.70A.070. Regional transportation plans, state transportation plans, and county and city comprehensive plans shall be consistent with one another.

(iii) Traffic forecasts should be based on adopted regional growth strategies, the regional transportation plan, and comprehensive plans within the region to ensure consistency between jurisdictions. The forecast of at least ten years of travel demand should include vehicular, transit, and nonmotorized modes of transportation.

(iv) The state department of transportation and the transportation commission will develop a state transportation plan as required by RCW 47.01.071, and identify and jointly plan improvements and strategies within corridors of regional or statewide significance coordinated and consistent with the RTPO's.

Local jurisdictions should refer to the *Systems Plan* produced by the department of transportation for service objectives on state-owned transportation facilities, proposed improvements, and identification of deficiencies for the state-owned transportation facilities.

The department of transportation should be involved with the regionally coordinated effort to set level of service standards for arterials and transit routes.

(v) Key coordination efforts between interested public, private, and citizen groups should include: Transportation plan development; identification of needs; land use coordination; capital program development; prioritization of projects, financial plan, LOS standards development; capacity accounting procedures; development review process; timing of concurrency review; analysis methods; legal requirements (vesting, appeals); concurrency management system ordinance; LOS monitoring.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-325, filed 11/17/92, effective 12/18/92.]

WAC 365-195-330 Rural element. (1) **Requirements.** This element is required only of counties. This element shall include lands that are not designated for urban growth, agriculture, forest, or mineral resources. The rural element shall permit land uses that are compatible with the rural character of such lands and provide for a variety of rural densities.

(2) **Recommendations for meeting requirements.** The following steps are recommended in preparing the rural element:

(a) Identification of rural lands.

(b) Identification of the amount of population growth within the twenty-year planning period which will be permitted to live or work on rural lands. This population should be consistent with an area of low-density where the full array of urban governmental services is not available.

(c) Adoption of policies for the development of such lands, including:

(i) Identification of the general type of uses to be permitted;

(ii) Provision for a variety of densities for residential, commercial, and industrial development consistent with maintenance of the rural character of the area. Consideration should be given to policies allowing the approval of planned unit developments, density averaging, cluster housing, and innovative techniques of managing development within overall parameters of rural density.

(iii) Establishment of a definition of rural governmental services which identifies the limited public facilities and services which should be provided to persons living or working in rural areas.

(iv) Determination of appropriate buffers between agricultural, forest, and mineral resource lands of long-term commercial significance and rural lands.

(v) Provisions regulating development at the boundary of urban growth areas so as not to foreclose the possible eventual orderly inclusion of such areas within urban growth areas.

(d) Adoption of policies for preservation of the rural character of such lands, including:

(i) Preservation of critical areas, consistent with private property rights;

(ii) Continuation of agricultural uses, the cultivation of timber, and excavation of mineral resources on lands not designated as possessing long-term commercial significance for such uses;

(iii) Encouragement of the use of rural lands for recreational pursuits which preserve open space and are environmentally benign;

(iv) Adoption of strategies for the acquisition of natural areas of high scenic value;

(v) Establishment of criteria for environmental protection, including programs to control nonpoint sources of water pollution and to preserve and enhance habitat for fish and wildlife.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-330, filed 11/17/92, effective 12/18/92.]

WAC 365-195-335 Urban growth areas. (1) **Requirements.**

(a) Each county planning under the Act shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature.

(b) Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city.

(c) An urban growth area may include territory that is located outside a city if such territory already is characterized by urban growth or is adjacent to territory already characterized by urban growth.

(d) Based upon the population growth management planning population projection made for the county by the office of financial management, the urban growth areas in the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county for the succeeding twenty-year period. Each urban growth area shall permit urban densities and shall include greenbelt and open space areas.

(e) Urban growth should be located first in areas already characterized by urban growth that have existing public facility and service capacities to serve such development.

(f) Urban growth should be located second in areas already characterized by urban growth that will be served by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources.

(g) It is appropriate that urban government services be provided by cities and urban government services should not be provided in rural areas.

(2) **General procedure.**

(a) The designation process shall include consultation by the county with each city located within its boundaries.

(b) Each city shall propose the location of an urban growth area.

(c) The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located.

(d) If an agreement is not reached with each city located within the urban growth area, the county shall justify in writing why it so designated an urban growth area.

(3) **Recommendations for meeting requirements.** The following steps are recommended in developing urban growth areas:

(a) County-wide planning policies. In adopting urban growth areas, each county should be guided by the applicable county-wide (and in some cases multicounty) planning policies. To the maximum extent possible, the creation of urban growth areas should result from a cooperative effort among the jurisdictions involved.

(b) General considerations. For all jurisdictions planning under the act, the urban growth area should represent the physical area within which that jurisdiction's vision of urban development can be realized over the next twenty years. The urban growth area should be based on densities selected to promote goals of the act -densities which accommodate urban growth served by adequate public facilities and discourage sprawl.

(c) Development of city proposals. In developing the proposal for its urban growth area, each city should engage in a process of analysis which involves the steps set forth in (d), (e), and (f) of this subsection.

(d) Determination of the amount of land necessary to accommodate likely growth. This process should involve at least:

(i) A forecast of the likely future growth of employment and population in the community, utilizing the twenty-year population projection for the county in conjunction with data on current community population, recent trends in population, and employment in and near the community and assumptions about the likelihood of continuation of such trends. Where available, regional population and employment forecasts should be used.

(ii) Selection of community growth goals with respect to population, commercial and industrial development and residential development.

(iii) Selection of the densities the community seeks to achieve in relation to its growth goals.

(iv) Estimation of the amount of land needed to accommodate the likely level of development at the densities selected.

(v) Identification of the amount of land needed for the public facilities, public services, and utilities necessary to support the likely level of development.

(vi) Identification of the appropriate amount of greenbelt and open space to be preserved or created in connection with the overall growth pattern.

(e) Determination of the geographic area to be encompassed to provide the necessary land. This process should involve at least:

(i) An inventory of lands within existing municipal boundaries which is available for development, including vacant land, partially used land, and land where redevelopment is likely.

(ii) An estimate of lands within existing municipal boundaries which are potentially available for public capital facilities and utilities necessary to support anticipated growth.

(iii) An estimate of lands which should be allocated to greenbelts and open space and lands which should be protected as critical areas.

(iv) If the lands within the existing municipal boundaries are not sufficient to provide the land area necessary to accommodate likely growth, similar inventories and estimates should be made of lands in adjacent unincorporated territory already characterized by urban growth, if any such territory exists.

(v) The community's proposed urban growth area should encompass a geographic area which matches the amount of land necessary to accommodate likely growth. If there is physically no territory available into which a city might expand, it may need to revise its proposed densities or population levels in order to accommodate growth on its existing land base.

(f) Evaluation of the determination of geographic requirements. The community should perform a check on the realism of the area proposed by evaluating:

(i) The anticipated ability to finance by all means the public facilities, public services, and open space needed in the area over the planning period.

(ii) The effect that confining urban growth within the areas defined is likely to have on the price of property and the impact thereof on the ability of residents of all economic strata to obtain housing they can afford.

(iii) Whether the level of population and economic growth contemplated can be achieved within the capacity of available land and water resources and without environmental degradation.

(iv) The extent to which the plan of the county and of other communities will influence the area needed.

If, as a result of these evaluations, the area appears to have been drawn too small or too large, the city's proposal should be adjusted accordingly.

(g) County actions in adopting urban growth areas. The designation of urban growth areas should ultimately be incorporated into the comprehensive plan of each county that plans under the act. However, every effort should be made to complete the urban growth area designation process earlier, so that the comprehensive plans of both the county and the cities can be completed in reliance upon it. Before completing the designation process, counties should engage in a process which involves the steps set forth in (h) through (j) of this subsection.

(h) The county should determine how much of its twenty-year population projection is to be allocated to rural areas and other areas outside urban growth areas and how much should be allocated to urban growth.

(i) The county should attempt to define urban growth areas so as to accommodate the growth plans of the cities, while recognizing that physical location or existing patterns of service make some unincorporated areas which are characterized by urban growth inappropriate for inclusion in any city's potential growth area. The option of incorporation should be preserved for some unincorporated communities upon the receipt of additional growth.

(j) The total area designated as urban growth area in any county should be sufficient to permit the urban growth that is projected to occur in the county for the succeeding twenty-year period, unless some portion of that growth is allocated to a new community reserve established in anticipation of a proposal for one or more new fully contained communities.

(k) Actions which should accompany designation of urban growth areas. Consistent with county-wide planning policies, cities and counties consulting on the designation of urban growth areas should make every effort to address the following as a part of the process:

(i) Establishment of agreements regarding land use regulations and the providing of services in that portion of the urban growth area outside of an existing city into which it is eventually expected to expand.

(ii) Negotiation of agreements for appropriate allocation of financial burdens resulting from the transition of land from county to city jurisdiction.

(iii) Provision for an ongoing collaborative process to assist in implementing county-wide planning policies, resolving regional issues, and adjusting growth boundaries.

(l) Urbanized areas outside of urban growth areas.

(i) New fully contained communities. A county may establish a process, as part of its urban growth area designation, for reviewing proposals to authorize new fully contained communities located outside the initially designated urban growth areas. If such a process is established, the criteria for approval are as set forth in RCW 36.70A.350. The approval procedures shall be adopted as a development regulation. However, such communities may be approved only if a county reserves a portion of the twenty-year population projection for allocation to such communities. When a county establishes a new community reserve it shall reduce the urban growth area accordingly. The approval of an application for a new fully contained community shall have the effect of amending the comprehensive plan to include the new community as an urban growth area.

(ii) Master planned resorts. A county may establish procedures for approving master planned resorts constituting urban growth outside of an urban growth area. Such a resort may be authorized only if the comprehensive plan and development regulations of the county comply with the requirements of RCW 36.70A.360.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-335, filed 11/17/92, effective 12/18/92.]

WAC 365-195-340 Siting essential public facilities. (1) **Requirements.** Each comprehensive plan shall include a process for identifying and siting essential public facilities.

(a) Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities, state and local correctional facilities, state or regional transportation facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, and group homes.

(b) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. Facilities may be added to this list at any time.

(c) No local comprehensive plan may preclude the siting of essential public facilities.

(2) **Recommendations for meeting requirements.** Each comprehensive plan should include a process for siting essential public facilities. Where such facilities are of a county-wide or statewide nature this process should conform to the applicable county-wide planning policy.

(a) Identifying facilities.

(i) In the identification of essential public facilities, the broadest view should be taken of what constitutes a public facility, involving the full range of services to the public provided by government, substantially funded by government, contracted for by government, or provided by private entities subject to public service obligations.

(ii) The comprehensive plans should contain local criteria for the identification of essential public facilities, focusing on the public need for the services involved. There are three sources from which local lists of essential public facilities should be drawn:

(A) The state list. This is the list of essential state public facilities that are required or likely to be built within the next six years maintained by the office of financial management.

(B) The county-wide list. This is a list of essential public facilities of a county-wide or regional nature, made part of or pursuant to the county-wide planning policies adopted by counties in consultation with cities.

(C) The city or county list. This is a list of locally essential facilities, adopted by each planning jurisdiction. It is irrelevant to this listing that a facility may be funded by or operated by the state or another public or private entity other than the planning jurisdiction. The critical concern is that the facility be needed locally.

(iii) Not all essential public facilities are always difficult to site. Conversely, sometimes essential public facilities of a type usually easy to site will present siting difficulties. The initial step in the siting process should be a determination as

a threshold matter of whether the essential public facility in question presents siting difficulties.

(A) If the facility does not present siting difficulties, it should be relegated to the normal siting process otherwise applicable to a facility of its type.

(B) If the facility does present siting difficulties, it should be subjected to the siting process called for below.

(b) Siting process.

(i) The comprehensive plan should describe the components of a siting process for essential public facilities which are difficult to site to be implemented on a case-by-case basis through development regulations.

(ii) The process should provide for a cooperative interjurisdictional approach to siting of essential public facilities of a county-wide, regional, or statewide nature, consistent with county-wide planning policies.

(iii) Agreements among jurisdictions should be sought to mitigate any disproportionate financial burden which may fall on the jurisdiction which becomes the site of a facility of a statewide, regional, or county-wide nature.

(iv) Where essential public facilities may be provided by special districts, the plans under which those districts operate must be consistent with the comprehensive plan of the city or county. Cities and counties should adopt provisions for consultation to ensure that such districts exercise their powers in a way that does not conflict with the relevant comprehensive plan.

(v) The siting process should take into consideration the need for county-wide, regional, or statewide uniformity in connection with the kind of facility under review.

(vi) The siting process should include criteria which address the issues which make essential public facilities difficult to site, and involve a public participation component. Consideration should be given to the extent to which design conditions can be used to make a facility compatible with its surroundings, and to adoption of provisions for amenities or incentives for neighborhoods or jurisdictions in which facilities are sited.

(c) No preclusion. While it is clear that essential public facilities of a county-wide or statewide nature will not be sited within the jurisdictional boundaries of every jurisdiction planning under the act, no comprehensive plan may directly or indirectly preclude the siting of essential public facilities. Provision therefore should be made to establish a general use category which will provide for the siting of such facilities, should the occasion arise.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-340, filed 11/17/92, effective 12/18/92.]

WAC 365-195-345 Optional elements. (1) A comprehensive plan may include additional elements, items, or studies dealing with other subjects relating to the physical development within its jurisdiction, including, but not limited to:

(a) Conservation;

(b) Solar energy;

(c) Recreation.

(2) A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.

(3) The department recommends that strong consideration be given to including elements on the following within comprehensive plans:

(a) Economic development;

(b) Environmental protection (including critical areas);

(c) Natural resource lands (where applicable);

(d) Design.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-345, filed 11/17/92, effective 12/18/92.]

PART FOUR
INVENTORIES AND REVIEWS

WAC 365-195-400 Natural resource lands. (1) **Requirements.** Prior to the development of comprehensive plans, cities and counties planning under the act ought to have designated natural resource lands of long-term commercial significance and adopted development regulations to assure their conservation. Such lands include agricultural lands, forest lands, and mineral resource lands. The previous designations and development regulations shall be reviewed in connection with the comprehensive plan adoption process and where necessary be altered to ensure consistency. Forest land and agricultural land located within urban growth areas shall not be designated as forest land or agricultural land of long-term commercial significance unless the city or county has enacted a program authorizing transfer or purchase of development rights.

(2) **Recommendations for meeting requirements.** Much of the analysis which is the basis for the comprehensive plan will come later than the initial identification and regulation of natural resource lands. The result may be plan features which conflict with previous natural resource land provisions.

(a) The department has issued guidelines for the classification of natural resource lands which are contained in chapter 365-190 WAC.

(b) Generally natural resource lands should be located beyond the boundaries of urban growth areas. In most cases, the designated purposes of such lands are incompatible with urban densities.

(c) The review of existing designations should, in most cases, be limited to the question of consistency with the comprehensive plan, rather than a revisiting the entire prior designation and regulation process. However, to the extent that new information is available or errors have been discovered, the review process should take this information into account.

(d) Review for consistency in this context should include whether the planned use of lands adjacent to agricultural, forest, or mineral resource lands will interfere with the continued use in an accustomed manner and in accordance with the best management practices of the designated lands for the production of food, agricultural products, or timber or for the extraction of minerals.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-400, filed 11/17/92, effective 12/18/92.]

WAC 365-195-410 Critical areas. (1) **Requirements.** Prior to the development of comprehensive plans, cities and counties ought to have designated critical areas and adopted

regulations protective of them. Such areas are defined to include:

(a) Wetlands;

(b) Areas of critical recharging effect on aquifers used for potable water;

(c) Fish and wildlife habitat conservation areas;

(d) Frequently flooded areas; and

(e) Geologically hazardous areas.

The previous designations and regulations shall be reviewed in the comprehensive plan process to ensure consistency.

(2) **Recommendations for meeting requirements.** Much of the analysis which is the basis for the comprehensive plan will come later than the initial identification and regulation of critical areas. The result may be plan features which conflict with the previous critical area provisions.

(a) The department has issued guidelines for the classification of critical areas which are contained in chapter 365-190 WAC.

(b) Critical areas should be designated and protected wherever the applicable natural conditions exist, whether within or outside of urban growth areas.

(c) The review of existing designations should, in most cases, be limited to the question of consistency with the comprehensive plan, rather than a revisiting of the entire prior designation and regulation process. However, to the extent that new information is available or errors have been discovered, the review process should take this information into account.

(d) In connection with critical area protection, the department recommends that planning jurisdictions identify the policies by which decisions are made on when and how police powers will be used (regulation) and when and how other means will be employed (purchases, development rights, etc.).

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-410, filed 11/17/92, effective 12/18/92.]

WAC 365-195-420 Identification of open space corridors. (1) **Requirements.**

(a) Each county or city planning under the act shall identify open space corridors within and between urban growth areas. They shall include lands useful for recreation, wildlife habitat, trails, and connection of critical areas as defined in RCW 36.70A.030.

(b) The city or county may seek to acquire by purchase the fee simple or lesser interests in these open space corridors using funds authorized by RCW 84.34.230 or other sources.

(2) **Recommendations for meeting requirements.** The data for meeting this requirement should be acquired by the analysis which goes into developing the urban growth area designation and the land use element of comprehensive plans.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-420, filed 11/17/92, effective 12/18/92.]

WAC 365-195-430 Identification of lands useful for public purposes. (1) **Requirements.** Each county and city planning under the act shall identify land useful for public purposes such as utility corridors, transportation corridors, landfills, sewage treatment facilities, storm water management facilities, recreation, schools, and other public uses. The county shall work with the state and with the cities within the county's borders to identify areas of shared need for public facilities. The jurisdictions within the county shall prepare a prioritized list of lands necessary for the identified public uses including an estimated date by which the acquisition will be needed. The respective capital acquisition budgets for each jurisdiction shall reflect the jointly agreed upon priorities and time schedule.

(2) **Recommendations for meeting requirements.** The data for meeting this requirement should be acquired by the analysis which goes into developing the urban growth area designations and the land use, utilities and transportation elements of comprehensive plans. The department recommends that the information derived in meeting this requirement be made generally available only to the extent necessary to meet the requirements of the public disclosure laws.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-430, filed 11/17/92, effective 12/18/92.]

PART FIVE
CONSISTENCY

WAC 365-195-500 Internal consistency. Each comprehensive plan shall be an internally consistent document and all elements shall be consistent with the future land use map. This means that each part of the plan should be integrated with all other parts and that all should be capable of implementation together. Internal consistency involves at least two aspects:

(1) Ability of physical aspects of the plan to coexist on the available land.

(2) Ability of the plan to provide that adequate public facilities are available when the impacts of development occur (concurrency).

Each plan should provide mechanisms for ongoing review of its implementation and adjustment of its terms whenever internal conflicts become apparent.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-500, filed 11/17/92, effective 12/18/92.]

WAC 365-195-510 Concurrency. (1) Transportation. The aim of transportation planning for local jurisdictions is to achieve concurrency for transportation facilities. If concurrency for transportation facilities is not achieved, development may not be approved.

(2) Other public facilities. Each comprehensive plan should designate those public facilities in addition to transportation facilities for which concurrency is required.

(3) Levels of service. The concept of concurrency is based on the maintenance of specified levels of service with respect to each of the public facilities to which concurrency applies. For all such facilities, planning jurisdictions should designate appropriate levels of service.

(a) Transportation. The designation of levels of service in the transportation area will be influenced by regional considerations. For transportation facilities subject to regional transportation plans under RCW 47.80.030, local levels of service should conform to the regional plan. Other transportation facilities, however, may reflect local priorities.

(b) Levels of service should be set to reflect realistic expectations consistent with the achievement of growth aims.

Setting such levels too high could, under some regulatory strategies, result in no growth. As a deliberate policy, this would be contrary to the act.

(4) Regulatory response to the absence of concurrency. The plan should provide a strategy for what happens when approval of any particular development would cause levels of service for concurrency to fall below the locally adopted standards. Denial of approval is statutorily required only in the area of transportation facilities. To the extent that any jurisdiction uses denial of development as its regulatory response to the absence of concurrency, consideration should be given to defining this as an emergency for the purposes of the ability to amend or revise the comprehensive plan.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-510, filed 11/17/92, effective 12/18/92.]

WAC 365-195-520 Interjurisdictional consistency. Adopted county-wide planning policies are designed to ensure that city and county comprehensive plans are consistent. Each local comprehensive plan should demonstrate that such policies have been followed in its development.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-520, filed 11/17/92, effective 12/18/92.]

WAC 365-195-530 Coordination with other plans. Each planning jurisdiction should circulate its proposed comprehensive plan to other jurisdictions with which it shares a common border or has related regional issues. The proposed plan should be accompanied by the environmental documents concerning it. Reviewing jurisdictions should be considered to have concurred in the provisions of a plan, unless within a reasonable period of time, they provide written comment identifying plan features which will preclude or interfere with the achievement of any features of their own plans. All jurisdictions should attempt to resolve conflicts over interjurisdictional consistency through consultation and negotiation.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-530, filed 11/17/92, effective 12/18/92.]

WAC 365-195-540 Analysis of cumulative effects. It is recognized that the growth of each jurisdiction will have ripple effects which will reach across jurisdictional boundaries. Each city or county planning under the act should analyze what such effects are likely to be if the development it anticipates occurs. This analysis should be made as a part of the process of complying with the State Environmental Policy Act (SEPA) in connection with comprehensive plan adoption. Affected jurisdictions should be given an opportunity to comment on this analysis.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-540, filed 11/17/92, effective 12/18/92.]

PART SIX
ADOPTION PROCEDURES

WAC 365-195-600 Public participation. (1) **Requirements.** Each county and city planning under the act shall establish procedures for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans. The procedures shall provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, communication programs, information services, and consideration of and response to public comments. Errors in exact compliance with the established procedures shall not render the comprehensive plan or development regulations invalid if the spirit of the procedures is observed.

(2) **Recommendations for meeting requirements.** The recommendations made in this subsection are intended as a list of possible choices, but it is recognized that meaningful public participation can be accomplished without using all of the suggestions made here or by adopting other methods.

(a) Public involvement in plan and regulation development.

(i) In designing its public participation program, each planning jurisdiction should endeavor to involve the broadest cross-section of the community, so that groups not previously involved in planning become involved. The programs should include efforts to explain that citizen input is an essential part of the planning process and provide a framework for advising citizens about timelines for steps in the process and when citizen input will be sought.

(ii) Visioning. The public should be involved at the earliest possible time in the process of comprehensive planning under the act. This should begin with a visioning process in which the public is invited to participate in a broad definition of the kind of future to be sought for the community. The results of this process should then be incorporated into the plan features, including, but not limited to, locally adopted levels of service and densities selected for commercial, industrial, and residential development.

(iii) Planning commission. In the process of plan development, full use should be made of the planning commission as a liaison with the public.

(iv) Public meetings on draft plan. Once the plan is completed in draft form, or as parts of it are drafted, a series of public meetings or workshops should be held at various locations throughout the jurisdiction to obtain public reaction and suggestions.

(v) Public hearings. When the final draft of the plan has been completed, at least one public hearing should be held prior to the presentation of the final draft to the legislative authority of the jurisdiction adopting it. When the plan is proposed for adoption, the legislative authority should conduct another public hearing prior to voting on adoption.

(vi) Written comment. At each stage of the process when public input is sought, opportunity should be provided to make written comment.

(vii) Communication programs and information services. Each jurisdiction should make every effort to collect and disseminate public information explaining the act and the process involved in complying with it. In addition, locally relevant information packets and brochures should be developed and disseminated. Planners should actively seek to appear before community groups to explain the act and the plan development process.

(viii) Proposals and alternatives. Whenever public input is sought on proposals and alternatives, the relevant drafts

should be reproduced and made available to interested persons.

(ix) Notice. Notice of all events at which public input is sought should be broadly disseminated in advance through all available means, including flyers and press releases to print and broadcast media. Notice should be published in a newspaper of general circulation at least one week in advance of any public hearing. When appropriate, notices should announce the availability of relevant draft documents on request.

(x) All meetings and hearings to which the public is invited should be free and open. At hearings all persons desiring to speak should be allowed to do so, consistent with time constraints.

(xi) Consideration of and response to public comments. All comments and recommendations of the public should be reviewed. Adequate time should be provided between the time of any public hearing and the date of adoption of all or any part of the comprehensive plan to evaluate and respond to public comments. The proceedings and all public hearings should be recorded. A summary of public comments and an explanation of what action was taken in response to them should be made in writing and included in the record of adoption of the plan.

(xii) Every effort should be made to incorporate public involvement efforts into the SEPA process.

(xiii) Except for the visioning effort, the same steps should precede the adoption of development regulations as was used for the comprehensive plan.

(b) Continuous public involvement. The planning commission should monitor development of both the plan and the development regulations. After these are adopted, the commission should monitor compliance. The commission should report to the city or county at least annually on possible amendments to the plan or development regulations. In addition at least annually, the commission should convene a public meeting to provide information on how implementation is progressing and to receive public input on changes that may be needed. When any amendments are proposed for adoption, the same public hearing procedure should be followed as attended initial adoption.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-600, filed 11/17/92, effective 12/18/92.]

WAC 365-195-610 State Environmental Policy Act (SEPA). Adoption of comprehensive plans and development regulations are "actions" as defined under SEPA. This means that SEPA compliance is necessary. When a complete new plan is being written, in most instances, the preparation of an environmental impact statement (EIS) will be required prior to its adoption. SEPA compliance should be considered as part of the planning process rather than as a separate exercise. Indeed, the SEPA analysis and documentation can serve, in significant part, to fulfill the need to compile a record showing the considerations which went into the plan and why one alternative was chosen over another. SEPA compliance for development regulations should concentrate on the impact difference among alternative means of successfully implementing the plan. Detailed discussion of SEPA compliance is contained in Department of Ecology Publication No. 92-07, "*The Growth Management Act and the State Environmental Policy Act, A Guide to Interrelationships.*"

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-610, filed 11/17/92, effective 12/18/92.]

WAC 365-195-620 Submissions to state. (1) Each county or city proposing adoption of a comprehensive plan or development regulations shall notify the department of its intent at least sixty days prior to final adoption. Notification shall be made by filing with the department 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 many 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 365-195-630 Amendment. (1) Each plan should provide for an ongoing process of evaluation to ensure internal and interjurisdictional consistency of comprehensive plans and continuous consistency of development regulations with such plans. This evaluation should be an integral part of the amendment process.

(2) Each comprehensive plan shall contain provisions governing its amendment. Amendments to the plan shall not be considered more frequently than once every year, except in cases of emergency. The amendment process shall include a requirement that all proposed amendments in any year be considered concurrently so that the cumulative effect of the various proposals can be ascertained.

(3) Each county that designates urban growth areas shall review, at least every ten years, its designated urban growth areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review, each city located within the county shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within its urban growth area has located within its boundaries and the extent to which such growth has located within the unincorporated portions of the urban growth area. The urban growth areas and densities permitted in urban growth areas shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-630, filed 11/17/92, effective 12/18/92.]

WAC 365-195-640 Record of process. (1) Whenever a provision of the comprehensive plan or development regula-

tions is based on factual data, that data or a clear reference to its source should be made a part of the record of adoption.

(2) The record should contain a complete exposition of how the public participation requirements were met.

(3) All public hearings should be recorded and tape recordings kept of the proceedings.

(4) The record which accompanies any amendment to the comprehensive plan or development regulations should conform to the same requirements as the initial plan and regulations.

[Statutory Authority: RCW 36.70A.190 (4)(b). 92-23-065, § 365-195-640, filed 11/17/92, effective 12/18/92.]

PART SEVEN
RELATIONSHIP OF GROWTH MANAGEMENT PLANNING TO OTHER LAWS

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 statewide 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 statewide 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 relationship 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 plan-

ning 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 countywide 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 com-

prehensive 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.]

PART EIGHT
DEVELOPMENT REGULATIONS

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. (l) 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 statewide 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.

(l) 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.]

PART NINE
BEST AVAILABLE SCIENCE

WAC 365-195-900 Background and purpose. (1) Counties and cities planning under RCW 36.70A.040 are subject to continuing review and evaluation of their comprehensive land use plan and development regulations. Every five years they must take action to review and revise their plans and regulations, if needed, to ensure they comply with the requirements of the Growth Management Act. RCW 36.70A.130.

(2) Counties and cities must include the "best available science" when developing policies and development regulations to protect the functions and values of critical areas and must give "special consideration" to conservation or protection measures necessary to preserve or enhance anadromous fisheries. RCW 36.70A.172(1). The rules in WAC 365-195-900 through 365-195-925 are intended to assist counties and cities in identifying and including the best available science in newly adopted policies and regulations and in this periodic review and evaluation and in demonstrating they have met their statutory obligations under RCW 36.70A.172(1).

(3) The inclusion of the best available science in the development of critical areas policies and regulations is especially important to salmon recovery efforts, and to other decision-making affecting threatened or endangered species.

(4) These rules are adopted under the authority of RCW 36.70A.190 (4)(b) which requires the department of community, trade, and economic development (department) to adopt rules to assist counties and cities to comply with the goals and requirements of the Growth Management Act.

[Statutory Authority: RCW 36.70A.190 (4)(b). 01-08-056, § 365-195-900, filed 4/2/01, effective 5/3/01; 00-16-064, § 365-195-900, filed 7/27/00, effective 8/27/00.]

WAC 365-195-905 Criteria for determining which information is the "best available science." (1) This section provides assessment criteria to assist counties and cities in determining whether information obtained during development of critical areas policies and regulations constitutes the "best available science."

(2) Counties and cities may use information that local, state or federal natural resource agencies have determined represents the best available science consistent with criteria set out in WAC 365-195-900 through 365-195-925. The department will make available a list of resources that state agencies have identified as meeting the criteria for best available science pursuant to this chapter. Such information should be reviewed for local applicability.

(3) The responsibility for including the best available science in the development and implementation of critical areas policies or regulations rests with the legislative authority of the county or city. However, when feasible, counties and cities should consult with a qualified scientific expert or team of qualified scientific experts to identify scientific information, determine the best available science, and assess its applicability to the relevant critical areas. The scientific expert or experts may rely on their professional judgment based on experience and training, but they should use the criteria set out in WAC 365-195-900 through 365-195-925 and any technical guidance provided by the department. Use of

these criteria also should guide counties and cities that lack the assistance of a qualified expert or experts, but these criteria are not intended to be a substitute for an assessment and recommendation by a qualified scientific expert or team of experts.

(4) Whether a person is a qualified scientific expert with expertise appropriate to the relevant critical areas is determined by the person's professional credentials and/or certification, any advanced degrees earned in the pertinent scientific discipline from a recognized university, the number of years of experience in the pertinent scientific discipline, recognized leadership in the discipline of interest, formal training in the specific area of expertise, and field and/or laboratory experience with evidence of the ability to produce peer-reviewed publications or other professional literature. No one factor is determinative in deciding whether a person is a qualified scientific expert. Where pertinent scientific information implicates multiple scientific disciplines, counties and cities are encouraged to consult a team of qualified scientific experts representing the various disciplines to ensure the identification and inclusion of the best available science.

(5) Scientific information can be produced only through a valid scientific process. To ensure that the best available science is being included, a county or city should consider the following:

(a) **Characteristics of a valid scientific process.** In the context of critical areas protection, a valid scientific process is one that produces reliable information useful in understanding the consequences of a local government's regulatory decisions and in developing critical areas policies and development regulations that will be effective in protecting the functions and values of critical areas. To determine whether information received during the public participation process is reliable scientific information, a county or city should determine whether the source of the information displays the characteristics of a valid scientific process. The characteristics generally to be expected in a valid scientific process are as follows:

1. **Peer review.** The information has been critically reviewed by other persons who are qualified scientific experts in that scientific discipline. The criticism of the peer reviewers has been addressed by the proponents of the information. Publication in a refereed scientific journal usually indicates that the information has been appropriately peer-reviewed.

2. **Methods.** The methods that were used to obtain the information are clearly stated and able to be replicated. The methods are standardized in the pertinent scientific discipline or, if not, the methods have been appropriately peer-reviewed to assure their reliability and validity.

3. **Logical conclusions and reasonable inferences.** The conclusions presented are based on reasonable assumptions supported by other studies and consistent with the general theory underlying the assumptions. The conclusions are logically and reasonably derived from the assumptions and supported by the data presented. Any gaps in information and inconsistencies with other pertinent scientific information are adequately explained.

4. **Quantitative analysis.** The data have been analyzed using appropriate statistical or quantitative methods.

5. **Context.** The information is placed in proper context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge.

6. **References.** The assumptions, analytical techniques, and conclusions are well referenced with citations to relevant, credible literature and other pertinent existing information.

(b) **Common sources of scientific information.** Some sources of information routinely exhibit all or some of the characteristics listed in (a) of this subsection. Information derived from one of the following sources may be considered scientific information if the source possesses the characteristics in Table 1. A county or city may consider information to be scientifically valid if the source possesses the characteristics listed in (a) of this subsection. The information found in Table 1 provides a general indication of the characteristics of a valid scientific process typically associated with common sources of scientific information.

Table 1	CHARACTERISTICS					
SOURCES OF SCIENTIFIC INFORMATION	Peer review	Methods	Logical conclusions & reasonable inferences	Quantitative analysis	Context	References
A. Research. Research data collected and analyzed as part of a controlled experiment (or other appropriate methodology) to test a specific hypothesis.	**X**	**X**	**X**	**X**	**X**	**X**
B. Monitoring. Monitoring data collected periodically over time to determine a resource trend or evaluate a management program.		**X**	**X**	**Y**	**X**	**X**
C. Inventory. Inventory data collected from an entire population or population segment (e.g., individuals in a plant or animal species) or an entire ecosystem or ecosystem segment (e.g., the species in a particular wetland).		**X**	**X**	**Y**	**X**	**X**

Table 1	CHARACTERISTICS					
SOURCES OF SCIENTIFIC INFORMATION	Peer review	Methods	Logical conclusions & reasonable inferences	Quantitative analysis	Context	References
D. Survey. Survey data collected from a statistical sample from a population or ecosystem.		X	X	Y	X	X
E. Modeling. Mathematical or symbolic simulation or representation of a natural system. Models generally are used to understand and explain occurrences that cannot be directly observed.	X	X	X	X	X	X
F. Assessment. Inspection and evaluation of site-specific information by a qualified scientific expert. An assessment may or may not involve collection of new data.		X	X		X	X
G. Synthesis. A comprehensive review and explanation of pertinent literature and other relevant existing knowledge by a qualified scientific expert.	X	X	X		X	X
H. Expert Opinion. Statement of a qualified scientific expert based on his or her best professional judgment and experience in the pertinent scientific discipline. The opinion may or may not be based on site-specific information.			X		X	X

X = characteristic must be present for information derived to be considered scientifically valid and reliable

Y = presence of characteristic strengthens scientific validity and reliability of information derived, but is not essential to ensure scientific validity and reliability

(c) **Common sources of nonscientific information.** Many sources of information usually do not produce scientific information because they do not exhibit the necessary characteristics for scientific validity and reliability. Information from these sources may provide valuable information to supplement scientific information, but it is not an adequate substitute for scientific information. Nonscientific information should not be used as a substitute for valid and available scientific information. Common sources of nonscientific information include the following:

(i) Anecdotal information. One or more observations which are not part of an organized scientific effort (for example, "I saw a grizzly bear in that area while I was hiking").

(ii) Nonexpert opinion. Opinion of a person who is not a qualified scientific expert in a pertinent scientific discipline (for example, "I do not believe there are grizzly bears in that area").

(iii) Hearsay. Information repeated from communication with others (for example, "At a lecture last week, Dr. Smith said there were no grizzly bears in that area").

(6) Counties and cities are encouraged to monitor and evaluate their efforts in critical areas protection and incorporate new scientific information, as it becomes available.

[Statutory Authority: RCW 36.70A.190 (4)(b). 00-16-064, § 365-195-905, filed 7/27/00, effective 8/27/00.]

WAC 365-195-910 Criteria for obtaining the best available science. (1) Consultation with state and federal natural resources agencies and tribes can provide a quick and cost-effective way to develop scientific information and recommendations. State natural resource agencies provide numerous guidance documents and model ordinances that incorporate the agencies' assessments of the best available science. The department can provide technical assistance in obtaining such information from state natural resources agencies, developing model GMA-compliant critical areas policies and development regulations, and related subjects. The department will make available to interested parties a current list of the best available science determined to be consistent with criteria set out in WAC 365-195-905 as identified by state or federal natural resource agencies for critical areas.

(2) A county or city may compile scientific information through its own efforts, with or without the assistance of qualified experts, and through state agency review and the Growth Management Act's required public participation process. The county or city should assess whether the scientific information it compiles constitutes the best available science applicable to the critical areas to be protected, using the criteria set out in WAC 365-195-900 through 365-195-925 and any technical guidance provided by the department. If not, the county or city should identify and assemble additional scientific information to ensure it has included the best available science.

[Statutory Authority: RCW 36.70A.190 (4)(b). 00-16-064, § 365-195-910, filed 7/27/00, effective 8/27/00.]

WAC 365-195-915 Criteria for including the best available science in developing policies and development regulations. (1) To demonstrate that the best available science has been included in the development of critical areas policies and regulations, counties and cities should address each of the following on the record:

(a) The specific policies and development regulations adopted to protect the functions and values of the critical areas at issue.

(b) The relevant sources of best available scientific information included in the decision-making.

(c) Any nonscientific information—including legal, social, cultural, economic, and political information—used as a basis for critical area policies and regulations that depart from recommendations derived from the best available science. A county or city departing from science-based recommendations should:

(i) Identify the information in the record that supports its decision to depart from science-based recommendations;

(ii) Explain its rationale for departing from science-based recommendations; and

(iii) Identify potential risks to the functions and values of the critical area or areas at issue and any additional measures chosen to limit such risks. State Environmental Policy Act (SEPA) review often provides an opportunity to establish and publish the record of this assessment.

(2) Counties and cities should include the best available science in determining whether to grant applications for administrative variances and exemptions from generally applicable provisions in policies and development regulations adopted to protect the functions and values of critical areas. Counties and cities should adopt procedures and criteria to ensure that the best available science is included in every review of an application for an administrative variance or exemption.

[Statutory Authority: RCW 36.70A.190 (4)(b). 00-16-064, § 365-195-915, filed 7/27/00, effective 8/27/00.]

WAC 365-195-920 Criteria for addressing inadequate scientific information. Where there is an absence of valid scientific information or incomplete scientific information relating to a county's or city's critical areas, leading to uncertainty about which development and land uses could lead to harm of critical areas or uncertainty about the risk to critical area function of permitting development, counties and cities should use the following approach:

(1) A "precautionary or a no risk approach," in which development and land use activities are strictly limited until the uncertainty is sufficiently resolved; and

(2) As an interim approach, an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and nonregulatory actions achieve their objectives. Management, policy, and regulatory actions are treated as experiments that are purposefully monitored and evaluated to determine whether they are effective and, if not, how they should be improved to increase their effectiveness. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. To effectively implement an adaptive management program, counties and cities should be willing to:

(a) Address funding for the research component of the adaptive management program;

(b) Change course based on the results and interpretation of new information that resolves uncertainties; and

(c) Commit to the appropriate timeframe and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting critical areas protection and anadromous fisheries.

[Statutory Authority: RCW 36.70A.190 (4)(b). 00-16-064, § 365-195-920, filed 7/27/00, effective 8/27/00.]

WAC 365-195-925 Criteria for demonstrating "special consideration" has been given to conservation or protection measures necessary to preserve or enhance anadromous fisheries. (1) RCW 36.70A.172(1) imposes two distinct but related requirements on counties and cities. Counties and cities must include the "best available science" when developing policies and development regulations to protect the functions and values of critical areas, and counties and cities must give "special consideration" to conservation or protection measures necessary to preserve or enhance anadromous fisheries. Local governments should address both requirements in RCW 36.70A.172(1) when developing their records to support their critical areas policies and development regulations.

(2) To demonstrate compliance with RCW 36.70A.172 (1), a county or city adopting policies and development regulations to protect critical areas should include in the record evidence that it has given "special consideration" to conservation or protection measures necessary to preserve or enhance anadromous fisheries. The record should be developed using the criteria set out in WAC 365-195-900 through 365-195-925 to ensure that conservation or protection measures necessary to preserve or enhance anadromous fisheries are grounded in the best available science.

(3) Conservation or protection measures necessary to preserve or enhance anadromous fisheries include measures that protect habitat important for all life stages of anadromous fish, including, but not limited to, spawning and incubation, juvenile rearing and adult residence, juvenile migration downstream to the sea, and adult migration upstream to spawning areas. Special consideration should be given to habitat protection measures based on the best available science relevant to stream flows, water quality and temperature, spawning substrates, instream structural diversity, migratory access, estuary and nearshore marine habitat quality, and the maintenance of salmon prey species. Conservation or protection measures can include the adoption of interim actions and long-term strategies to protect and enhance fisheries resources.

[Statutory Authority: RCW 36.70A.190 (4)(b). 00-16-064, § 365-195-925, filed 7/27/00, effective 8/27/00.]

Chapter 365-197 WAC
PROJECT CONSISTENCY

WAC

365-197-010 Purpose of a project consistency rule.
365-197-020 Definitions.
365-197-030 Integrated project review—GMA project consistency analysis and environmental review under SEPA.
365-197-040 Definition and review of project consistency.
365-197-050 Criteria to analyze consistency of project actions.
365-197-060 Definition of plan "deficiency" identified in project review and how such deficiencies should be docketed.
365-197-070 Appeals of consistency.
365-197-080 An agency may deny a project based upon consistency analysis.

WAC 365-197-010 Purpose of a project consistency rule. The Local Project Review Act (chapter 36.70B RCW) authorizes the department of community, trade, and economic development to develop and adopt by rule criteria to assist local governments planning under RCW 36.70A.040 to analyze the consistency of project actions. These criteria are to be jointly developed with the department of ecology (RCW 36.70B.040(5)).

A basic principle of the Growth Management Act (GMA) and the Local Project Review Act is that land use decisions made in adopting a comprehensive plan and development regulations under chapter 36.70A RCW should not be revisited during project review. When review of a project indicates that it is consistent with earlier land use decisions, that project should not be reevaluated or scrutinized with respect to whether those decisions were appropriate. Given the number of jurisdictions and agencies in the state, it is essential to establish a uniform framework for jurisdictions planning under the GMA to consider the consistency of a proposed project with the applicable development regulations or, in the absence of applicable regulations, the adopted comprehensive plan.

Consistency should be considered in the project review process by analyzing four factors found in applicable regulations or plans. The four factors are:

(1) The type of land use allowed;

(2) The level of development allowed, such as dwelling units per acre or other measures of intensity;

(3) Infrastructure, such as the adequacy of public facilities and services to serve the proposed project; and

(4) The characteristics of the proposed development, such as assessment for compliance with specific development regulations or standards. This uniform approach is based upon existing project review practices and should not place a "new" burden on applicants or local government. The intent is that consistency analysis be largely a matter of code checking for most projects, which are simple or routine. More complex projects may require more analysis of these factors, including any required studies. During project review, a question may be raised about whether a project is consistent with applicable regulations or plans after some initial analysis. A project's consistency with applicable development regulations may not initially be clear due to the complexity of the project or the regulations. For example, provision for infrastructure. In these cases, the criteria in the rule are intended to provide guidance to local government, applicants, and reviewers in conducting a consistency analysis. The criteria are not intended for every aspect of the project, only for those aspects where there are still questions of consistency after the initial review.

This rule is advisory in nature. As provided by RCW 36.70B.040, local governments may develop and apply their own procedures for determining project consistency.

[Statutory Authority: RCW 36.70B.040. 01-13-039, § 365-197-010, filed 6/13/01, effective 7/14/01.]

WAC 365-197-020 Definitions. (1) "GMA" means the Growth Management Act, chapter 36.70A RCW and those statutes codified in other chapters of the Revised Code of Washington that were enacted or amended as part of chapter 17, Laws of 1990 1st ex. sess. and chapter 32, Laws of 1991 sp. sess.

(2) "GMA county/city" means a county or city that is planning under RCW 36.70A.040.

(3) "SEPA" means the State Environmental Policy Act of 1971, chapter 43.21C RCW, and the SEPA rules, chapter 197-11 WAC, as enacted or later amended.

[Statutory Authority: RCW 36.70B.040. 01-13-039, § 365-197-020, filed 6/13/01, effective 7/14/01.]

WAC 365-197-030 Integrated project review—GMA project consistency analysis and environmental review under SEPA. The GMA is a fundamental building block of regulatory reform. The GMA should serve as an integrating framework for other land use-related laws. (ESHB 1724, Section 1.)

Integration of permit review and environmental review is intended to eliminate duplication in processes and requirements. The legislature recognized that consistency analysis and determinations of whether environmental impacts have been adequately addressed involve many of the same studies and analyses. SEPA substantive authority should not be used to condition or deny a permit for those impacts adequately addressed by the applicable development regulations.

The primary role of environmental review under SEPA at the project level is to focus on those environmental impacts that have not been addressed by a GMA county's/city's development regulations and/or comprehensive plan adopted under chapter 36.70A RCW, or other local, state, and federal laws and regulations. SEPA substantive authority should only be used when the impacts cannot be adequately addressed by existing laws. As consistency analysis involves the application of development regulations and/or the comprehensive plan to a specific project, it will also help answer the question of whether a project's environmental impacts have been adequately addressed by the regulations and/or plan policies.

During project review, a GMA county/city may determine that some or all of the environmental impacts of the project have been addressed by its development regulations, comprehensive plan, or other applicable local, state, or federal laws or rules (RCW 43.21C.240 and WAC 197-11-158). The GMA county/city may make this determination during the course of environmental review and preparation of a threshold determination (including initial consistency review), if the impacts have been adequately addressed in the applicable regulations, plan policies, or other laws. "Adequately addressed" is defined as having identified the impacts and avoided, otherwise mitigated, or designated as acceptable the impacts associated with certain levels of service, land use designations, development standards, or other land use planning decisions required or allowed under the GMA. Once a determination has been made that an impact has been adequately addressed, the jurisdiction may not require additional mitigation for that impact under its SEPA substantive authority.

Thus, through the project review process:

(1) If the applicable regulations require studies that adequately analyze all of the project's specific probable adverse environmental impacts, additional studies under SEPA will not be necessary on those impacts;

(2) If the applicable regulations require measures that adequately address such environmental impacts, additional measures would likewise not be required under SEPA; and

(3) If the applicable regulations do not adequately analyze or address a proposal's specific probable adverse environmental impacts, SEPA provides the authority and procedures for additional review. (Note to RCW 43.21C.240.)

[Statutory Authority: RCW 36.70B.040. 01-13-039, § 365-197-030, filed 6/13/01, effective 7/14/01.]

WAC 365-197-040 Definition and review of project consistency. (1) "Project consistency" refers to whether a project is consistent with adopted and applicable development regulations, or in their absence, comprehensive plans adopted under chapter 36.70A RCW.

(2) Project review for consistency is not subject to the provisions of this chapter for regulations or plans that:

(a) Do not exist or have not been adopted under chapter 36.70A RCW; or

(b) Do not apply to the particular project (e.g., no need to review compliance with floodplain ordinances if the site is not in a floodplain).

(3) The adopted and applicable development regulations/plans that apply to a project fall into four basic categories, which are defined in different levels of detail by GMA counties/cities:

(a) Type of land use;

(b) Level of development (dwelling units per acre or other measures of density);

(c) Infrastructure to support the proposed project (public facilities and services); and

(d) The other characteristics of the development (how the project is sited or otherwise built and operated from a growth management/land use and environmental perspective).

(4) Reviewing consistency in these four categories will be largely a code-checking exercise for relatively simple or routine projects in GMA counties/cities with specific development regulations, while more complex projects or projects that affect critical areas may require more analysis.

[Statutory Authority: RCW 36.70B.040. 01-13-039, § 365-197-040, filed 6/13/01, effective 7/14/01.]

WAC 365-197-050 Criteria to analyze consistency of project actions. (1) In considering the four basic categories of project consistency, it may not be clear on initial review whether a project is consistent with a particular applicable development regulation, or in its absence, the comprehensive plan. The following criteria, in the form of questions, are intended to assist cities/counties, applicants, and reviewers in analyzing for consistency.

(a) **Type of land use:** Is the project's proposed land use within the range of allowable uses identified for this site in the comprehensive plan/development regulation? This would include uses that may be allowed under certain circumstances if they satisfy approval criteria, for example, planned unit developments, conditional uses, or special uses.

(b) **Level of development:** Is the project's proposed land use within the range of densities, including dwelling units per acre or other measures of intensity, as defined in the comprehensive plan/development regulations? Other measures of intensity may include, but are not limited to, such measures as square footage of nonresidential development, number of employees, or floor area ratio.

(c) **Infrastructure:** Are the system-wide public facilities and services necessary to serve the development available? To make this decision, the local jurisdiction should ask:

(i) Is the system-wide infrastructure sufficient to serve the development? (If yes, no need to ask the next question.)

(ii) Have any system improvements needed for the proposed development and site:

(A) Been identified as necessary to support development in the comprehensive plan; and

(B) Had provision for funding in the comprehensive plan (e.g., capital facilities plan, utilities element, transportation improvement plan)? Alternatively, can the applicant demonstrate capacity, e.g., through a certificate of concurrency process? (If yes, no need to ask the next question.)

(iii) Will the proposed project use more capacity than the usage or assumptions on which the capital facilities plan, utilities element, or transportation improvement plan were based, or will the project cause current service levels to fall below level of service standards identified in the comprehensive plan? (If yes, does the applicant want to pay for the improvements or allow the GMA county/city to docket the issue for future plan amendment?)

(d) **Characteristics of development:** Does the proposed project:

(i) Meet or fall within the range of numerical standards that apply? (Examples of numerical standards may include, but are not limited to, number of dwelling units per acre, floor area ratio, building setbacks, building height, lot size, lot coverage, minimum width and depth for new lots, parking requirements, and density/intensity bonuses or incentives. In applying some of these standards, some overlap may occur with the analysis for level of development, i.e., units per acre and floor area ratio.)

(ii) Promote or not substantially conflict with narrative standards that apply? (Examples of narrative standards include performance standards, engineering or design criteria, methods for determining compliance such as monitoring or contingency plans, and mandatory policies or criteria.) Analysis of consistency with narrative standards may be contingent upon preparation, completion, and approval of required studies, plans, determinations, or monitoring (e.g., delineation of critical areas, mitigation plans, etc.).

(e) For purposes of this section, "system-wide" infrastructure means those public services or facilities that may be needed to serve a geographic area greater than the specific site on which the project is located. For example, sewer systems, water systems, or transportation systems that serve a geographic area beyond the project site. Public services or facilities that are not system-wide and may be needed on or near a proposed project (such as drainage facilities, utility connections or transportation improvements to primarily serve the project) should be addressed through analysis of the characteristics of development.

(2) Analysis of project consistency should take into consideration regulatory standards and policies that provide a method to reconcile a project's proposed type of development, level of development, infrastructure needs, or characteristics of development with development regulation and/or

comprehensive plan requirements. Such provisions include, but are not limited to, variance and conditional use procedures, innovative land use techniques, developer funding for infrastructure construction or improvements, and project-specific mitigation measures.

(3) If the information needed to analyze project consistency does not exist in the applicable development regulations or comprehensive plan, the county or city should determine whether a deficiency exists pursuant to WAC 365-197-060.

[Statutory Authority: RCW 36.70B.040. 01-13-039, § 365-197-050, filed 6/13/01, effective 7/14/01.]

WAC 365-197-060 Definition of plan "deficiency" identified in project review and how such deficiencies should be docketed. (1) Project review may continue under SEPA and other applicable laws, if, during project review, a GMA county/city identifies a deficiency in the applicable development regulations or the policies in the comprehensive plan. The identified deficiency shall be docketed for possible future development regulation or plan amendments. The applicant may proceed as provided in subsection (4)(c) of this section. The project review process shall not be used as a comprehensive planning process. Docketed deficiencies shall be considered through the normal amendment process for comprehensive plans or development regulations.

(2) "Deficiency" in a development regulation or comprehensive plan refers to the absence of required or potentially desirable[1] contents of a comprehensive plan or development regulation. It does not refer to whether a development regulation adequately addresses a project's probable specific adverse environmental impacts, which the permitting agency could mitigate in the normal project review process. Some project-specific impacts could be identified that the agency will need to or prefer to address at the project level rather than in the comprehensive plan or development regulations.

For purposes of docketing, use of the term "deficiency" shall not mean that a comprehensive plan or development regulation adopted by a county or city under chapter 36.70A RCW is invalid or out of compliance with chapter 36.70A RCW. Docketing is intended to allow and encourage GMA counties/cities to improve their plans and regulations as a result of experience in reviewing projects, but without stopping review of the project that may have disclosed the "deficiency."

(3) A project should not be found to be inconsistent with applicable regulations or the plan if the inconsistency is the result of a deficiency of one of the four criteria for project consistency. The deficiency should be docketed for possible future regulation or plan amendments, and the project proponent can proceed with either of the options provided in subsection (4) of this section.

(4) If all of the information to analyze consistency does not exist in the regulations or plan, the absent policy or regulatory information should be docketed for possible future regulation or plan amendments. At this point the applicant may:

(a) Await docketing and decision on the proposed amendment to address the deficiency before proceeding with the project review process; or

(b) Proceed with the project review process under SEPA and other applicable laws.

[Statutory Authority: RCW 36.70B.040. 01-13-039, § 365-197-060, filed 6/13/01, effective 7/14/01.]

WAC 365-197-070 Appeals of consistency. (1) When and how appeals of consistency may fit into a GMA county's/city's appeal process depends upon the individual jurisdiction's project review and appeals process. Nothing in this section requires documentation or dictates a GMA county's/city's procedures for considering consistency.

(2) Fundamental land use planning decisions made in comprehensive plans and development regulations should not be revisited at the project level. During project review, the local government or any subsequent reviewing body shall not reexamine alternatives to or hear appeals on the planning decisions specified in subsection (3)(a) through (c) of this section, except for issues of code interpretation. The planning decisions in subsection (3)(a) through (c) of this section are a subset of the four basic categories of criteria for analyzing project consistency under WAC 365-197-050 (1)(a) through (d). The planning decisions in subsection (3)(a) through (c) of this section are identified in RCW 36.70B.030(2) as decisions that are determinative and cannot be reexamined at the project level if they have been addressed in the development regulations and/or comprehensive plan. As project review includes environmental review, the local government or subsequent reviewing body shall not reexamine or hear appeals on how the environmental impacts of those planning decisions in subsection (3)(a) through (c) of this section were addressed under chapter 43.21C RCW. However, if environmental information is required to analyze project consistency under subsection (3)(a) through (c) of this section and that information is not available, the decision may still be challenged under SEPA.

(3) During project review, a GMA county/city or any subsequent reviewing body shall determine whether the items listed in (a) through (c) of this subsection are defined in the development regulations applicable to the proposed project or, in the absence of applicable regulations, the adopted comprehensive plan under chapter 36.70A RCW. At a minimum, such applicable regulations or plans shall be determinative of the:

(a) Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied;

(b) Density of residential development in urban growth areas, including densities that may be allowed under certain circumstances, such as planned unit developments and density bonuses;

(c) Availability and adequacy of public facilities:

(i) That are needed to serve the proposed development;

(ii) That are identified in the comprehensive plan; and

(iii) For which the plan or development regulations identify the probable sources of funding, as required by chapter 36.70A RCW.

(4) Upon a determination of consistency of the project with the planning decisions in subsection (3)(a) through (c) of this section, no further analysis of the project with respect to those items will be required. However, because the planning decisions in subsection (3)(a) through (c) of this section do not include all of the project review criteria in WAC 365-

197-050 (1)(a) through (d), further analysis may be required to apply the remaining criteria listed in WAC 365-197-050 (1)(a) through (d) that are not addressed in the planning decisions in subsection (3)(a) through (c) of this section. For example, analysis of residential densities outside the urban growth area or the character of development may still need to be addressed.

(5) For purposes of this section, "code interpretation" includes the correct application of the applicable regulations or plan to the project. As part of its project review process, each GMA county/city must adopt procedures for obtaining a code interpretation pursuant to RCW 36.70B.030(3) and 36.70B.110(11). A GMA county/city may provide a formal or informal process for code interpretation. The GMA county or city or subsequent reviewing body may consider comments on the application of regulations or the plan to the project without requiring a formal code interpretation.

(6) As provided above, agencies should not be revisiting fundamental land use planning decisions made in comprehensive plans and development regulations at the project level. However, nothing is this chapter limits the authority of a permitting agency to approve, condition, or deny a project as provided in its development regulations adopted under chapter 36.70A RCW and in its SEPA substantive policies adopted under RCW 43.21C.060. An agency may still use its authority under adopted development regulations or SEPA substantive policies to condition a project. For example, an agency may condition a project to reduce neighborhood traffic or traffic impacts, which could have the effect of reducing the level of development otherwise permitted by zoning ordinance.

[Statutory Authority: RCW 36.70B.040. 01-13-039, § 365-197-070, filed 6/13/01, effective 7/14/01.]

WAC 365-197-080 An agency may deny a project based upon consistency analysis. (1) An agency has the authority to deny a project if it:

(a) Is inconsistent and does not comply with the applicable development regulations, or in their absence, the adopted comprehensive plan;

(b) Will result in significant adverse environmental impacts which cannot be mitigated per RCW 43.21C.060 and WAC 197-11-660; or

(c) Does not comply with other local, state, or federal law and rules, and the local jurisdiction has the authority to deny based upon these other laws and rules.

(2) This rule is not intended to modify any criteria developed by a GMA county/city for denying a project.

[Statutory Authority: RCW 36.70B.040. 01-13-039, § 365-197-080, filed 6/13/01, effective 7/14/01.]

Chapter 365-200 WAC
THE AFFORDABLE HOUSING PROGRAM

WAC

365-200-010 Authority.
365-200-020 Purpose.
365-200-030 Definitions.
365-200-040 Eligible applicants.
365-200-050 Content and criteria for approval of the needs assessment.
365-200-060 Notice.
365-200-070 Advice and input of the low-income assistance advisory committee.

WAC 365-200-010 Authority. These rules are adopted under the authority of chapter 43.185 RCW which provide that the department shall have the authority to promulgate rules governing the award of grants and loans.

[Statutory Authority: Chapter 43.185 RCW. 92-06-005 (Order 92-02), § 365-200-010, filed 2/20/92, effective 3/22/92.]

WAC 365-200-020 Purpose. The purpose of the affordable housing program is to provide financial assistance, and develop and coordinate public and private resources to meet the affordable housing needs of low-income households in the state.

[Statutory Authority: Chapter 43.185 RCW. 92-06-005 (Order 92-02), § 365-200-020, filed 2/20/92, effective 3/22/92.]

WAC 365-200-030 Definitions. (1) "Affordable housing" means residential housing for rental or private individual ownership which, as long as the same is occupied by low-income households, requires payment of monthly housing costs, including utilities other than telephone, of no more than thirty percent of the family's income.

(2) "Low-income" means a family or household earning eighty percent or lower of county median income.

(3) "Very low income" means a family or household earning fifty percent or lower of county median income.

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

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

[Statutory Authority: Chapter 43.185 RCW. 92-06-005 (Order 92-02), § 365-200-030, filed 2/20/92, effective 3/22/92.]

WAC 365-200-040 Eligible applicants. Eligible applicants for funding include local governments, local housing authorities, nonprofit community or neighborhood-based organizations, and regional or statewide nonprofit housing assistance organizations.

[Statutory Authority: Chapter 43.185 RCW. 92-06-005 (Order 92-02), § 365-200-040, filed 2/20/92, effective 3/22/92.]

WAC 365-200-050 Content and criteria for approval of the needs assessment. The department shall not approve a request for assistance unless it has received and approved a housing needs assessment. The affordable housing needs assessment shall:

(1) Describe the jurisdiction's current needs for housing assistance for very low-income households, low-income households, and special-needs populations;

(2) Estimate the need for a five-year period; and

(3) Contain a strategy to meet the need. The needs assessment shall:

(a) Contain population demographics including age, race, household income, and household type;

(b) Provide a ten-year summary of population changes and a projection of population changes for the next ten years;

(c) State the number and percentage of persons and households at eighty percent and lower of county median income;

(d) Identify the gap between the number of households at eighty percent of median and the number of affordable rental and for-sale units which are needed;

(e) Identify the amount of average assistance required to close the gap for a household at eighty percent of county median income with not more than thirty percent of household income to be used for housing costs including utilities; and

(f) Contain a description of local existing housing conditions including vacancy rates, average rents, average for-sale house prices, units in need of rehabilitation, units in need of weatherization, and the number of new units in the past five years and their type.

The department may accept a local housing element, a certified comprehensive housing affordability strategy, or a housing assistance plan, if consistent with the provisions of this section. To be approved a plan must contain the number of households at eighty percent or lower of county median income and state the average amount of assistance required per household to enable access to affordable housing at fair market rents or to average sales prices with no more than thirty percent of the household's income, including utilities, and comply with the above requirements.

[Statutory Authority: Chapter 43.185 RCW. 92-06-005 (Order 92-02), § 365-200-050, filed 2/20/92, effective 3/22/92.]

WAC 365-200-060 Notice. During each calendar year in which funds are available for use by the department for the affordable housing program the department shall announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days duration. This announcement shall be made as often as the director deems appropriate for proper utilization of resources.

[Statutory Authority: Chapter 43.185 RCW. 92-06-005 (Order 92-02), § 365-200-060, filed 2/20/92, effective 3/22/92.]

WAC 365-200-070 Advice and input of the low-income assistance advisory committee. With the advice and input of the low-income assistance advisory committee appointed by the director, the department shall develop criteria to evaluate applications for assistance.

[Statutory Authority: Chapter 43.185 RCW. 92-06-005 (Order 92-02), § 365-200-070, filed 2/20/92, effective 3/22/92.]

Chapter 365-210 WAC

MANUFACTURED HOUSING INSTALLER TRAINING AND CERTIFICATION PROGRAM

WAC

365-210-010 Authority.
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365-210-120 Manufactured home installation permit and inspections—Obligation of certified installer.
365-210-130 Manufactured home installer—Responsibilities to the consumer.
365-210-140 Manufactured home installation—Installer certification tags required.
365-210-150 Installer certification tag—Issuance by local enforcement agency.
365-210-160 Installer certification tag—Placement—Removal.
365-210-170 Monthly certification tag report.
365-210-180 Alternative education providers—Approval process and compliance.
365-210-190 Legal action—Installer certification required.

WAC 365-210-010 Authority. The following rules are adopted pursuant to chapter 43.63B RCW, Mobile and manufactured home installation, which provides that the department shall train and certify manufactured home installers.

[Statutory Authority: Chapter 43.63B RCW. 95-14-121, § 365-210-010, filed 6/30/95, effective 7/1/95.]

WAC 365-210-020 Effective date. These rules shall become effective July 1, 1995.

[Statutory Authority: Chapter 43.63B RCW. 95-14-121, § 365-210-020, filed 6/30/95, effective 7/1/95.]

WAC 365-210-030 Definitions. The following definitions shall apply to this chapter and to chapter 43.63B RCW:

(1) "Extension of the pressure relief valve for the water heater" means extension to the outside of the home as described in the Uniform Plumbing Code.

(2) "Manufactured home," in addition to the definition provided in RCW 43.63B.010(5) means mobile home as defined in RCW 43.63B.010(8).

(3) "Mobile or manufactured home installation" does not include installation of electrical wires and equipment that convey electrical power to the home or to an outlet in the home, and does not include the ground crossover. Installation of electrical wires and equipment that convey electrical power to the home or to an outlet in the home must be performed by a journeyman or specialty electrician as defined in chapter 19.28 RCW. Equipment does not include plug-in household appliances.

(4) "Other equivalent experience" means six months of hands-on experience installing manufactured homes under the guidance of a reputable, recognized manufactured home installer; or two years experience in residential construction.

(5) "Site" means the parcel of land designed to accommodate the dwelling and auxiliary structures.

(6) "May not," for the purposes of this chapter and as used in chapter 43.63B RCW, when used in reference to a particular act or action means the act or action is not allowed or not permitted.

(7) "Department" means the department of community, trade, and economic development.

[Statutory Authority: RCW 43.63B.005, [43.63B.]020, [43.63B.]040, [43.63B.]060, [43.63B.]035, [43.63B.]090, [43.63B.]800, 43.330.040. 03-07-035, § 365-210-030, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapter 43.63B RCW. 95-14-121, § 365-210-030, filed 6/30/95, effective 7/1/95.]

WAC 365-210-040 Training program. The training program shall include, but not be limited to, the following topics: Relevant federal, state and local laws and standards; supports; footings; anchors; site preparation; placement; closing in; plumbing; electrical; combustion appliances; skirting; interior and exterior finishing; operational checks and adjustments; auxiliary structures; and alterations. The department shall provide a training manual to each applicant as part of the training program, the contents of which shall include, but not be limited to, the above topics. The department shall be responsible for updating the training program to reflect changes in relevant federal, state and local codes and standards. The department shall, at a minimum, conduct the training program quarterly.

[Statutory Authority: Chapter 43.63B RCW. 95-14-121, § 365-210-040, filed 6/30/95, effective 7/1/95.]

WAC 365-210-050 Examination—Failure—Retaking. The examination shall only include topics covered in the training program. In order to pass the examination, applicants must answer 70% of the questions correctly. An applicant who fails the examination shall be permitted to retake the training course and/or the examination as often as is necessary to secure a passing rate of 70%.

[Statutory Authority: Chapter 43.63B RCW. 95-14-121, § 365-210-050, filed 6/30/95, effective 7/1/95.]

WAC 365-210-060 Application process. A person desiring to be certified as a manufactured home installer under RCW 43.63B.020 must first file with the department an application on a form prescribed by the department.

(1) The application must be accompanied by the application fee specified in WAC 365-210-063.

(2) The application must be completed in full and must be signed by the person applying for certification.

(3) The application must contain the full name and Social Security number of the person applying for certification. Social Security numbers are required on applications for professional licenses pursuant to RCW 26.23.150 and federal law PL 104-193, The Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(4) Any application received after the class cut-off date is subject to the late application fee specified in WAC 365-210-063. An application will be accepted at any scheduled training or certification exam provided classroom space is available and the application is accompanied by the application fee and late application fee specified in WAC 365-210-063.

(5) If the application is denied by the department as a result of the applicant's failure to meet the requirements of chapter 43.63B RCW and this chapter, the department will attempt to notify the applicant prior to the date the applicant is scheduled to attend the training and examination.

[Statutory Authority: RCW 43.63B.005, [43.63B.]020, [43.63B.]040, [43.63B.]060, [43.63B.]035, [43.63B.]090, [43.63B.]800, 43.330.040. 03-07-035, § 365-210-060, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapter 43.63B RCW. 95-14-121, § 365-210-060, filed 6/30/95, effective 7/1/95.]

WAC 365-210-061 Manufactured home installer—Continuing education requirements. Certified manufactured home installers must complete a minimum of four credit hours of continuing education every three years. The continuing education credit hours may be satisfied by attending classes offered by the department or classes offered by an alternative education provider approved by the department pursuant to WAC 365-210-180. All fees required by WAC 365-210-063 for continuing education classes must be paid to the department in advance.

(1) The department will offer continuing education classes every three years beginning January 2004.

Example: Continuing education classes will be offered in the years 2004, 2007, 2010, 2013, etc.

(2) Continuing education class curriculum will include statute, code, or rule changes and common installation problems.

(3) If a certified installer is unable to attend the continuing education classes offered by the department or alternative education provider, the installer may attend a regularly scheduled installer certification training course.

[Statutory Authority: RCW 43.63B.005, [43.63B.]020, [43.63B.]040, [43.63B.]060, [43.63B.]035, [43.63B.]090, [43.63B.]800, 43.330.040. 03-07-035, § 365-210-061, filed 3/13/03, effective 4/13/03.]

WAC 365-210-062 Manufactured home installer recertification—Application process. A certified manufactured home installer desiring to be recertified as a manufactured home installer under RCW 43.63B.040 must first file with the department a recertification application on a form prescribed by the department.

(1) The recertification application must be hand-delivered to the department or postmarked no later than midnight on the date of expiration of an installer's current certification.

(2) The recertification application must be accompanied by the recertification fee specified in WAC 365-210-063.

(3) If a certified installer fails to apply for recertification prior to the expiration of the installer's current certification, the installer must reapply for installer certification and meet all requirements for installer certification as set forth in chapter 43.63B RCW and this chapter.

(4) Before a new certification is issued, the certified installer must provide proof to the department that the certified installer has met the continuing education requirements set forth in this chapter.

(5) The department will attempt to notify installers prior to expiration; however, it is the installer's responsibility to ensure timely recertification.

[Statutory Authority: RCW 43.63B.005, [43.63B.]020, [43.63B.]040, [43.63B.]060, [43.63B.]035, [43.63B.]090, [43.63B.]800, 43.330.040. 03-07-035, § 365-210-062, filed 3/13/03, effective 4/13/03.]

WAC 365-210-063 Fees—Refunds. The following fees are payable to the department in advance:

Training and certification	$200.00
Training only	$100.00
Late application	$20.00
Recertification	$100.00
Continuing education class	$40.00

Retake failed examination and training:

First retake	$0.00
Subsequent retakes	$30.00
Manufactured home installer certification manual	$10.00
Installer certification tag	$7.00

(1) The department shall refund fees paid for training and certification or recertification as a manufactured home installer if the application is denied for failure of the applicant to comply with the requirements of chapter 43.63B RCW or these rules.

(2) If an applicant has paid fees to attend training or to take an examination and is unable to attend the scheduled training or examination, the applicant may:

(a) Change to another scheduled training and examination; or

(b) Request a refund.

(3) An applicant who fails the examination shall not be entitled to a refund.

[Statutory Authority: RCW 43.63B.005, [43.63B.]020, [43.63B.]040, [43.63B.]060, [43.63B.]035, [43.63B.]090, [43.63B.]800, 43.330.040. 03-07-035, § 365-210-063, filed 3/13/03, effective 4/13/03.]

WAC 365-210-070 Failure of examination—Brief adjudicative proceeding. Persons failing the examination may seek agency review as a brief adjudicative proceeding under RCW 34.05.482 through 34.05.494.

[Statutory Authority: Chapter 43.63B RCW. 95-14-121, § 365-210-070, filed 6/30/95, effective 7/1/95.]

WAC 365-210-080 Notification to employer. Where applicable, the department shall send notice to the certificate holder's employer regarding revocation of an installer certification.

[Statutory Authority: Chapter 43.63B RCW. 95-14-121, § 365-210-080, filed 6/30/95, effective 7/1/95.]

WAC 365-210-090 Requirement for applicable licenses and registrations. The issuance of a certificate of manufactured home installation by the department under chapter 43.63B RCW and these rules does not exempt the certified installer from compliance with any local, state, or federal requirements relative to any business or occupational licenses or registrations.

[Statutory Authority: RCW 43.63B.005, [43.63B.]020, [43.63B.]040, [43.63B.]060, [43.63B.]035, [43.63B.]090, [43.63B.]800, 43.330.040. 03-07-035, § 365-210-090, filed 3/13/03, effective 4/13/03.]

WAC 365-210-100 Manufactured home on-site work and equipment installation—Manufactured home installer certification required. On-site work or equipment installation work which falls within the scope of installation as set forth in RCW 43.63B.010(6) may not be performed on a manufactured home at any time after the initial installation of a manufactured home without the supervision of a certified manufactured home installer.

On-site work and equipment installation work may not be performed until a permit for such work has been issued by the local enforcement agency. On-site work and equipment installation work must be inspected upon completion by the local enforcement agency in the same manner initial home installations are inspected.

On-site work and equipment installation work include, but are not limited to:

(1) Releveling a home such as installing all new pier blocks or footings;

(2) Complete skirting replacement;

(3) Installing earthquake resistant bracing systems; and

(4) Any other work described in RCW 43.63B.010(6).

On-site work and equipment installation work does not include routine maintenance or other routine repairs such as periodic adjustments to piers, replacement of a damaged pier, or skirting repair.

[Statutory Authority: RCW 43.63B.005, [43.63B.]020, [43.63B.]040, [43.63B.]060, [43.63B.]035, [43.63B.]090, [43.63B.]800, 43.330.040. 03-07-035, § 365-210-100, filed 3/13/03, effective 4/13/03.]

WAC 365-210-110 Manufactured home installation, on-site work or equipment installation—Homeowner performing work on their own home—Exceptions. (1) The owner of a mobile or manufactured home may install or perform on-site work or equipment installation work on his or her own home without obtaining certification from the department as a certified manufactured home installer if the home is intended for use as the homeowner's primary residence.

(2) The installation, on-site work or equipment installation work must be performed in compliance with chapter 296-150M WAC, Washington installation code.

(3) If the owner of a manufactured home hires any individual or business to assist the owner in the installation, on-site work or equipment installation work, a certified installer is required to be on-site supervising such work and must meet all the requirements of this chapter.

(4) For the purposes of this chapter, an "owner" of a manufactured home does not include a manufactured home dealer, distributor, park owner or manager, or developer who installs or performs on-site work or equipment installation work on a manufactured home intended for resale or rental.

[Statutory Authority: RCW 43.63B.005, [43.63B.]020, [43.63B.]040, [43.63B.]060, [43.63B.]035, [43.63B.]090, [43.63B.]800, 43.330.040. 03-07-035, § 365-210-110, filed 3/13/03, effective 4/13/03.]

WAC 365-210-120 Manufactured home installation permit and inspections—Obligation of certified installer. If a certified installer obtains the manufactured home installation or placement permit from the local enforcement agency, the certified installer shall ensure that all required installation inspections, relative to the work performed by the certified installer, are completed.

[Statutory Authority: RCW 43.63B.005, [43.63B.]020, [43.63B.]040, [43.63B.]060, [43.63B.]035, [43.63B.]090, [43.63B.]800, 43.330.040. 03-07-035, § 365-210-120, filed 3/13/03, effective 4/13/03.]

WAC 365-210-130 Manufactured home installer—Responsibilities to the consumer. A certified manufactured home installer shall:

(1) Ensure all phases of the installation work performed by the installer or crew being supervised are complete and in compliance with chapter 296-150M WAC, Washington installation code;

(2) Notify the local enforcement agency upon completion of the installation work; and

(3) Correct all nonconforming aspects of the installation identified by the local enforcement agency or by an authorized representative of the department within thirty days of issuance of notice of the same.

[Statutory Authority: RCW 43.63B.005, [43.63B.]020, [43.63B.]040, [43.63B.]060, [43.63B.]035, [43.63B.]090, [43.63B.]800, 43.330.040. 03-07-035, § 365-210-130, filed 3/13/03, effective 4/13/03.]

WAC 365-210-140 Manufactured home installation—Installer certification tags required. (Effective July 1, 2003.) Prior to installing, performing on-site work or equipment installation work on a manufactured home, certified manufactured home installers or the retailers by whom they are employed shall obtain an "installer certification tag" from the department or from the local enforcement agency who participates in tag sales. The installer certification tag shall be in the form approved by the department. No manufactured home may be installed by a certified installer without an installer certification tag affixed thereto. Only currently certified manufactured home installers shall be issued installer certification tags.

Homeowners performing the installation, on-site work or equipment installation work on their own manufactured home are not required to acquire and affix an installer certification tag.

(1) Installer certification tags may only be purchased by a certified manufactured home installer or by a manufactured home retailer licensed by Washington state department of licensing.

(a) The certified manufactured home installer or manufactured home retailer purchasing the installer certification tag is responsible for complying with the security, use, and reporting requirements of this chapter.

(b) Manufactured home retailers may purchase installer certification tags in bulk and issue them to certified manufactured home installers employed by the manufactured home retailer.

(2) In order to purchase installer certification tags, the certified manufactured home installer or manufactured home retailer shall submit an application to the department or local enforcement agency on a form approved by the department. The application shall be accompanied by the appropriate installer certification tag fee as set forth in WAC 365-210-063.

(3) The department or manufactured home retailer may issue a maximum of thirty certification tags to a certified manufactured home installer. A certified manufactured home installer may not have more than thirty installer certification tags issued at any one time for which the reporting requirements of this section have not been met.

(4) Installer certification tags shall not be transferred or assigned without the written approval of the department. Fees paid for installer certification tags are not refundable.

(a) If a certified manufactured home installer's certification is suspended, revoked, or expires, all unused installer certification tags assigned to the certified manufactured home installer shall be returned to the department.

(b) If a certified manufactured home installer or manufactured home retailer ceases to do business, all unused installer certification tags shall be returned to the department.

(c) If a manufactured home retailer changes ownership, unused installer certification tags may be transferred to the new ownership if the department approves the transfer following receipt of a written request for transfer from the manufactured home retailer.

(5) Issuance of installer certification tags may be denied if:

(a) The certified manufactured home installer's certification has been revoked or suspended pursuant to chapter 43.63B RCW;

(b) The certified manufactured home installer has failed to comply with the reporting requirements of this chapter;

(c) The department has evidence that the certified manufactured home installer has misused the installer certification tag by not complying with the requirements of this chapter; or

(d) The certified manufactured home installer possesses installer certification tags in excess of the quantity authorized by subsection (3) of this section for which the reporting requirements of this chapter have not been met.

[Statutory Authority: RCW 43.63B.005, [43.63B.]020, [43.63B.]040, [43.63B.]060, [43.63B.]035, [43.63B.]090, [43.63B.]800, 43.330.040. 03-07-035, § 365-210-140, filed 3/13/03, effective 4/13/03.]

WAC 365-210-150 Installer certification tag—Issuance by local enforcement agency. A local enforcement agency may issue installer certification tags to certified manufactured home installer if:

(1) The local enforcement agency has entered into an agreement with the department to issue installer certification tags on a "per installation" basis; and

(2) The local enforcement agency has verified that the certified installer is qualified to purchase an installer certification tag under the requirements of this chapter; and

(3) The local enforcement agency shall file with the department a monthly report complying with the requirements of WAC 365-210-170.

[Statutory Authority: RCW 43.63B.005, [43.63B.]020, [43.63B.]040, [43.63B.]060, [43.63B.]035, [43.63B.]090, [43.63B.]800, 43.330.040. 03-07-035, § 365-210-150, filed 3/13/03, effective 4/13/03.]

WAC 365-210-160 Installer certification tag—Placement—Removal. (Effective July 1, 2003.) (1) The installer certification tag shall be placed on the home upon completion of the installation and prior to inspection by the local enforcement agency.

(2) The installer certification tags must be placed on the end of a home section directly above or below the HUD certification tag or temporarily located in plain sight within three feet of the home's front entry.

(3) The local enforcement agency may not issue final approval of a home installation until one or more installer certification tags have been affixed to the home indicating all installation work was performed by a certified manufactured home installer.

Exception: Installation work performed by a homeowner on his or her own residence does not require an installer certification tag.

(4) The installer certification tag shall be removed only by the owner of the home following final approval of the installation of the home by the local enforcement agency.

[Statutory Authority: RCW 43.63B.005, [43.63B.]020, [43.63B.]040, [43.63B.]060, [43.63B.]035, [43.63B.]090, [43.63B.]800, 43.330.040. 03-07-035, § 365-210-160, filed 3/13/03, effective 4/13/03.]

WAC 365-210-170 Monthly certification tag report. (Effective July 1, 2003.) Certified manufactured home installers and manufactured home retailers who purchase installer certification tags from the department shall submit a monthly report to the department on a form approved by the department relative to all installer certification tags issued.

(1) The report is due no later than the 15th day of each month following the month of installation work being performed on a home. A certification tag report is not required for those months in which no installation work was performed.

(2) A manufactured home retailer who assigns tags to a certified manufactured home installer is responsible for ensuring completion of the monthly report. The manufactured home retailer shall file a separate report for each certified manufactured home installer to which the manufactured home retailer assigned installer certification tag(s).

(3) The installer certification tag report shall contain the following information for each installation:

(a) The installer certification tag number;

(b) The address of the installation;

(c) The date of the installation;

(d) The name and certification number of the certified manufactured home installer; and

(e) Any other information required by the department.

[Statutory Authority: RCW 43.63B.005, [43.63B.]020, [43.63B.]040, [43.63B.]060, [43.63B.]035, [43.63B.]090, [43.63B.]800, 43.330.040. 03-07-035, § 365-210-170, filed 3/13/03, effective 4/13/03.]

WAC 365-210-180 Alternative education providers—Approval process and compliance. Pursuant to RCW 43.63B.035, the department may approve education providers to offer the certification training and/or continuing education required by RCW 43.63B.030, 43.63B.040 and this chapter. In order to be approved, an education provider must comply with the following requirements:

(1) The education provider must submit to the department a written proposal including the following:

(a) The education and experience of proposed instructors;

(b) A detailed description of course content and materials; and

(c) The proposed course schedule.

(2) All instructors identified by the education providers must meet the following requirements:

(a) Two years' experience in one or more of the following areas:

(i) Supervising manufactured home installation, service, or repair;

(ii) Design, engineering, or architectural work related to building construction;

(iii) Inspecting manufactured home installation or construction for a local, state, or federal agency;

(iv) Completion of a two-year educational program in a construction-related field; or

(v) A combination of any of the above to meet the two-year requirement; and

(b) Complete the department-sponsored training and pass the certification exam with a score of ninety percent or higher.

(3) The curriculum proposed by the education provider must meet or exceed the department-sponsored training curriculum.

(4) The department shall provide the education service provider written notice of approval or rejection as an alternative education service provider within sixty days of submittal of the complete proposal.

(5) All approved alternative education providers shall:

(a) Make all necessary arrangements (scheduling class dates/times and facilities) and provide all educational materials for the classes presented;

(b) Provide to the department a list of participants within ten days of each class;

(c) Provide to the participant a certificate of completion. Each certificate shall indicate:

(i) The name of participant;

(ii) The date of training;

(iii) A statement indicating the participant has completed the training as required by chapter 43.63B RCW.

(6) The alternative education provider shall notify the department in writing fourteen days prior to the scheduled class date of the date, time and location of each class. Department representatives shall be permitted to audit any class without fee.

(7) Curriculum changes must be submitted to and approved by the department prior to implementation.

[Statutory Authority: RCW 43.63B.005, [43.63B.]020, [43.63B.]040, [43.63B.]060, [43.63B.]035, [43.63B.]090, [43.63B.]800, 43.330.040. 03-07-035, § 365-210-180, filed 3/13/03, effective 4/13/03.]

WAC 365-210-190 Legal action—Installer certification required. No person may file a lien against a homeowner, or bring or maintain in any court of this state a suit or action, that seeks compensation for the performance of any work requiring certification under chapter 43.63B RCW or for the breach of any contract for installation work which is subject to chapter 43.63B RCW unless:

(1) The manufactured home installer was certified under chapter 43.63B RCW at the time the installer entered into contract for performance of the work and was certified continuously while performing the work for which compensation is sought; or

(2) The supervising manufactured home installer was the employee of the contractor or retailer seeking compensation and was certified under chapter 43.63B RCW continuously during performance of the work for which compensation is sought.

[Statutory Authority: RCW 43.63B.005, [43.63B.]020, [43.63B.]040, [43.63B.]060, [43.63B.]035, [43.63B.]090, [43.63B.]800, 43.330.040. 03-07-035, § 365-210-190, filed 3/13/03, effective 4/13/03.]

Chapter 365-212 WAC
MANUFACTURED HOUSING RELOCATION

WAC	
365-212-010	What definitions apply to this chapter?
365-212-020	How do I contact the office of manufactured housing?
365-212-030	Who is eligible to receive relocation assistance?
365-212-040	What constitutes a completed application?
365-212-050	If I meet the requirements, how much assistance could I be eligible for?
365-212-060	What expenses are allowable for reimbursement?
365-212-070	What documentation must I provide as adequate proof a home cannot be relocated?
365-212-080	What documentation must I provide to be reimbursed for a down payment on another home?
365-212-090	What criteria is used to determine park-owner fraud?

WAC 365-212-010 What definitions apply to this chapter? (1) **"Department"** means the department of community, trade and economic development.

(2) **"Office of manufactured housing"** means the same as the office of mobile home affairs as described in RCW 59.22.050.

[Statutory Authority: Chapter 59.21 RCW, RCW 43.330.040. 03-07-036, § 365-212-010, filed 3/13/03, effective 4/13/03.]

WAC 365-212-020 How do I contact the office of manufactured housing? (1) You may write the office of manufactured housing at:

CTED/OCD
Office of Manufactured Housing
P.O. Box 48350
Olympia, WA 98504-8350

(2) You may call the automated services request line at:

1-800-964-0852 (within WA state)
1-360-725-2971 (Olympia area or outside WA state)

[Statutory Authority: Chapter 59.21 RCW, RCW 43.330.040. 03-07-036, § 365-212-020, filed 3/13/03, effective 4/13/03.]

WAC 365-212-030 Who is eligible to receive relocation assistance? (1) Eligibility for relocation assistance is limited to low-income households. For purposes of this chapter, "low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the mobile or manufactured home is located at the time of closure.

(2) Persons who meet the low-income criteria are eligible for assistance if they:

(a) Owned their home and lived in the park at the time the notice of closure or conversion to another use was issued; and

(b) Maintained ownership of the home and either:

(i) Relocated their home; or

(ii) Disposed of a home that cannot be relocated; and

(c) Submit a completed application as set out in WAC 365-212-040.

(3) Relocation assistance shall be paid on a first-come-first-served basis.

[Statutory Authority: Chapter 59.21 RCW, RCW 43.330.040. 03-07-036, § 365-212-030, filed 3/13/03, effective 4/13/03.]

WAC 365-212-040 What constitutes a completed application? An application shall be considered complete when the applicant has submitted to the department an application on a form approved by the department together with:

(1) Income verification such as pay stubs, tax statements, documentation from a local, state or federal agency such as department of social and health services, employment security, Social Security, or any other documentation of income as determined by the department;

(2) A copy of the notice from the park owner, or other adequate proof, that the tenancy is terminated due to closure of the park or its conversion to another use;

(3) A copy of the rental agreement then in force or other proof that the applicant was a tenant at the time of notice of closure;

(4) A copy of the contract for relocating the home or other proof of actual relocation expenses. Documentation must include either the date of relocation or actual dates expenses were incurred;

(5) A statement of any other assistance received;

(6) For a home that cannot be relocated, applicants must provide:

(a) Adequate proof that the home cannot be relocated pursuant to WAC 365-212-070; and

(b) For applicants seeking reimbursement for a down payment on a new home, documentation of the purchase pursuant to WAC 365-212-080.

[Statutory Authority: Chapter 59.21 RCW, RCW 43.330.040. 03-07-036, § 365-212-040, filed 3/13/03, effective 4/13/03.]

WAC 365-212-050 If I meet the requirements, how much assistance could I be eligible for? (1) Eligible applicants may be reimbursed for actual relocation expenses up to:

(a) Three thousand five hundred dollars for a single-wide; or

(b) Seven thousand dollars for a double-wide home.

(2) These maximum amounts apply to all expenses incurred to:

(a) Relocate the existing home; or

(b) Demolishing the existing home and, if applicable, pay a down payment toward another home pursuant to RCW 59.21.010(6).

[Statutory Authority: Chapter 59.21 RCW, RCW 43.330.040. 03-07-036, § 365-212-050, filed 3/13/03, effective 4/13/03.]

WAC 365-212-060 What expenses are allowable for reimbursement? (1) The department is authorized to reimburse applicants for actual expenses, up to the maximum amounts, incurred in physically relocating their home. For homes that cannot be relocated, actual relocation expenses also include the costs for demolition of the existing home and the down payment toward the purchase of another home pursuant to RCW 59.21.010(6).

(2) Examples of reimbursable relocation expenses include, but are not limited to, the following:

(a) Breakdown of the home and preparation for transport. May include removing steps, decks, skirting, securing home for travel, etc.;

(b) Installation of the home at a new site. May include blocking, ERBS, plumbing, sewer connections, skirting, tie

downs, utility/electrical connections, vapor barrier, site preparation, etc.;

(c) Transportation of the home to a new site or to a disposal facility, if not included in breakdown or installation costs;

(d) Awnings - relocation of existing awnings or purchase of new awnings if required by park;

(e) Hotel accommodations - if new site is not available or relocation to new site takes more than one day;

(f) Insurance - one time only for transporting home, etc., if not included in transportation fee;

(g) Mileage-personal vehicle to/from new site for set up;

(h) Nonrefundable fees - application fees, credit/screening fees;

(i) Permits - local and state;

(j) Porch/decking - when originally attached to home;

(k) Loan interest fees - when loan is for the sole purpose of relocating;

(l) Relocating internal items - such as household goods or furniture;

(m) Rental moving equipment - car, hauling equipment, trucks, etc.;

(n) Septic tanks on private land - installation and hook up;

(o) Siding replacement/repair - when damaged due to relocation;

(p) Stairs - if originally connected to home;

(q) Temporary storage for home - if new site is not available;

(r) Telephone - disconnection/reconnection costs only;

(s) Utility conversion/upgrade - when necessary in new park;

(t) Utility/electrical connections from street - when relocating onto private land; and

(u) Any other actual expenses determined by the department to be reimbursable.

[Statutory Authority: Chapter 59.21 RCW, RCW 43.330.040. 03-07-036, § 365-212-060, filed 3/13/03, effective 4/13/03.]

WAC 365-212-070 What documentation must I provide as adequate proof a home cannot be relocated? Applicants who dispose of their homes must provide:

(1) The demolition certificate from the county; and

(2) One of the following:

(a) A detailed receipt from the disposal site, landfill or other recipient of your demolished home; or

(b) Any other documentation determined by the department to constitute adequate proof.

[Statutory Authority: Chapter 59.21 RCW, RCW 43.330.040. 03-07-036, § 365-212-070, filed 3/13/03, effective 4/13/03.]

WAC 365-212-080 What documentation must I provide to be reimbursed for a down payment on another home? Applicants must provide proof of down payment expenses that includes:

(1) A copy of the purchase and sale agreement; and

(2) One of the following forms of documentation:

(a) Canceled checks to the retailer or private party that detail the transaction;

(b) A copy of the department of licensing's title-transfer form for your home;

(c) A copy of the receipt for the purchase; or

(d) Any other proof of down payment as determined by the department.

[Statutory Authority: Chapter 59.21 RCW, RCW 43.330.040. 03-07-036, § 365-212-080, filed 3/13/03, effective 4/13/03.]

WAC 365-212-090 What criteria is used to determine park-owner fraud? In order to demonstrate that a park was closed as the result of park-owner fraud, the applicant must provide a judgment or order of a court of law indicating a finding that the park was closed due to park-owner fraud.

[Statutory Authority: Chapter 59.21 RCW, RCW 43.330.040. 03-07-036, § 365-212-090, filed 3/13/03, effective 4/13/03.]

Chapter 365-220 WAC

DEVELOPMENTAL DISABILITIES ENDOWMENT TRUST FUND

WAC

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GENERAL

WAC 365-220-005 What is the purpose and scope of this chapter? The purpose of this chapter is to establish the rules for the developmental disabilities endowment trust fund to implement RCW 43.330.195 through 43.330.240.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-005, filed 3/12/02, effective 4/12/02.]

WAC 365-220-010 How may a member of the public appear before the governing board? Members of the public may appear before the governing board at their regularly scheduled meetings or submit written comments to the governing board for consideration at their regularly scheduled meetings. Requests for meeting schedules and agendas should be made to the program manager.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-010, filed 3/12/02, effective 4/12/02.]

WAC 365-220-015 What definitions apply to this chapter? "Beneficiary" means an eligible person for whom an individual trust account has been established within the trust fund.

"Department" means the department of community, trade and economic development, office of community development.

"Disbursement plan" means a plan, submitted by the primary donor at the time of enrollment as part of the joinder agreement, that identifies the goods or services most likely to be appropriate to the supplemental needs of the beneficiary. The primary donor may periodically change the disbursement plan by amending the joinder agreement.

"Disposition plan" means a plan, submitted by the primary donor at the time of enrollment as part of the joinder agreement, that directs how any remaining private funds will be disbursed from the individual trust account on the death of the beneficiary.

"Governing board" means the seven-member group established according to RCW 43.330.210 to design and administer the trust fund.

"Individual trust account" means the account that holds assets for the benefit of an individual beneficiary within the trust fund.

"Joinder agreement" means an agreement establishing the primary donor's consent to the master trust document for the trust fund. The joinder agreement shall include the disbursement plan and the disposition plan for the individual trust account, and designate the primary representative and additional persons authorized to request disbursements.

"Primary donor" means the person who sets up an account for a beneficiary and submits and signs the joinder agreement. Under conditions described in the master trust document, the primary donor may be the beneficiary.

"Primary representative" means the person named in the joinder agreement with whom the governing board and/or the trust manager is authorized to communicate regarding an individual beneficiary's interests.

"Program manager" means the person designated by the department to manage the developmental disabilities endowment fund and act as the department liaison with other state agencies to facilitate governing board activities.

"Resident" means a person who lives in the state of Washington. For purposes of the trust fund, a beneficiary must be a resident.

"Trust manager" means the person or persons or entity designated by the governing board pursuant to RCW 43.330.200 to authorize disbursements from the trust fund. The trust manager is authorized to make disbursements in its discretion consistent with and as authorized under this chapter and will consider the disbursement plan filed by the primary donor as part of the joinder agreement when making decisions regarding disbursements. The trust manager shall take into account how any individual disbursement will affect the ability of the account to sustain the needed disbursements over a significant portion of the beneficiary's anticipated remaining life.

"Vested account" means an account that has initially qualified for matching funds by meeting requirements over a three-year period.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-015, filed 3/12/02, effective 4/12/02.]

DISBURSEMENTS

WAC 365-220-020 Who authorizes disbursements? The trust manager will review all disbursement requests submitted by persons authorized in the joinder agreement. Only the governing board and/or the trust manager may authorize disbursements. In the event of disbursement denial, the trust manager will provide a written explanation for such a denial on the request of the primary representative.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-020, filed 3/12/02, effective 4/12/02.]

WAC 365-220-025 What types of disbursements are allowed? Recommended supplemental services and supports include, but are not limited to:

(1) Education, information, and training opportunities.

(2) Living arrangements, including personal assistance services, skill building, financial management, medical monitoring, meal preparation, shopping, home maintenance, and house cleaning.

(3) Unusual or extraordinary disability-related shelter expenses.

(4) Capital expenses, including environmental modifications and transportation.

(5) Employment supports and tuition.

(6) Social productivity and personal fulfillment activities, such as volunteering, club membership, and recreation.

(7) Assistive technology, including computers and electronic equipment.

(8) Specialized clothing, or clothing not covered by public benefits.

(9) Respite care.

(10) Disability-related support groups.

(11) Medical care, counseling, therapies, and other health related services, including alternative practitioners, not covered by public benefits.

(12) Utility and transportation costs, including the purchase of a vehicle.

(13) Vacation, travel, and recreation.

(14) Birthday and holiday presents for the beneficiary to give to others.

(15) Advocacy and legal services.

(16) Individual trust account expenses including enrollment, bookkeeping, tax return preparation and filing, tax payments, annual management expenses, and other trust related fees.

(17) Items the trust manager deems appropriate and reasonable within the guidelines of the governing board.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-025, filed 3/12/02, effective 4/12/02.]

WAC 365-220-030 Who may request disbursements on behalf of the beneficiary? The primary representative and any additional persons designated by the primary donor in the joinder agreement may make disbursement requests on behalf of the beneficiary. The primary donor may amend this part of the joinder agreement.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-030, filed 3/12/02, effective 4/12/02.]

WAC 365-220-035 When may disbursements be requested? Disbursements may be requested at any time after the enrollment process is completed.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-035, filed 3/12/02, effective 4/12/02.]

DISPOSITION PLAN

WAC 365-220-040 What happens to an account when the beneficiary dies? At the time of enrollment, the primary donor will designate in the joinder agreement how any remaining private funds, and any earnings attributable to remaining private funds, will be distributed on the death of the beneficiary. The primary donor will indicate the amount of funds to be disbursed and to whom they will be disbursed. In some cases, state and federal law may require certain distributions of remaining funds notwithstanding the disposition plan. When an individual trust account is closed by reason of the death of the beneficiary, the unexpended state matching money and any earnings attributable to the unexpended state matching money revert to the developmental disabilities endowment trust fund.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-040, filed 3/12/02, effective 4/12/02.]

WAC 365-220-045 Can the disposition plan be changed? Once an individual trust account is funded, the primary donor cannot amend the joinder agreement to change the disposition plan. A change to the disposition plan may be made only by court order or other dispute resolution mechanism available under state law, including a nonjudicial resolution of dispute agreement under chapter 11.96A RCW.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-045, filed 3/12/02, effective 4/12/02.]

DISPUTES

WAC 365-220-050 What decisions may be appealed? Primary donors or primary representatives may appeal governing board decisions, or decisions made on the governing board's behalf, regarding enrollment, account closure, disbursement decisions, extensions related to matching funds, and access to matching funds. For decisions made by contracting agencies or individuals, the dispute must first be addressed through the agency's or individual's dispute process. If the dispute is not resolved at that level, the appellant will have the option of appealing to the governing board or its representative.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-050, filed 3/12/02, effective 4/12/02.]

WAC 365-220-055 What is the dispute process? (1) To appeal a board decision, a primary donor or primary representative must send a letter addressed to the program manager at the department. The letter of appeal must be signed by the appealing party and be received by the program manager within thirty calendar days of the date of the decision. The letter must include:

(a) The name and mailing address of the appealing party;

(b) A description of the decision being appealed; and

(c) A statement explaining why the appealing party believes the decision was incorrect, outlining the facts surrounding the decision and including supporting documentation.

(2) On receiving the letter of appeal, the program manager will send written notice to the appealing party within fourteen days, confirming the appeal has been received and indicating when a decision can be expected.

(3) The governing board or its designee will conduct appeals according to RCW 34.05.485. The governing board or its designee will review and decide the appeal based on the submitted documents unless the governing board or its designee and the appealing party agree to hold a hearing in person or by telephone.

(4) The program manager will send the appealing party written notification of the governing board or its designee's initial decision within ninety days of receiving the letter of appeal. The notice will include the reasons for the initial decision, and instructions on further appeal rights.

(5) The initial decision of the governing board or its designee becomes the final decision unless the program manager receives a request for a review hearing from the appealing party within thirty days of the date of the decision. The appealing party may, by written notice, request review of the initial decision. The person requesting review must reference the initial decision and provide any additional written information that the appealing party would like considered in the review. A review officer designated by the governing board

will review the decision through a hearing conducted under RCW 34.05.488 through 34.05.494.

(6) The officer will review and decide the appeal based on submitted documents unless the governing board or its designee and the appealing party agree to hold a hearing in person or by telephone.

(7) The review officer will make any inquiries necessary to determine whether the proceeding must become a formal adjudicative proceeding under the provisions of chapter 34.05 RCW.

(8) If the appealing party disagrees with a review decision under subsection (6) of this section, the appealing party may request judicial review of the decision, as provided for in RCW 34.05.542. Request for judicial review must be filed with the court within thirty days of service of the final agency decision.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-055, filed 3/12/02, effective 4/12/02.]

ELIGIBILITY

WAC 365-220-060 Who is eligible to be a beneficiary in the trust fund? Individuals are eligible to be beneficiaries if they meet two conditions at the time of enrollment:

(1) Beneficiaries must reside in Washington state; and

(2) Must meet the definition of developmental disability in RCW 71A.10.020(3).

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-060, filed 3/12/02, effective 4/12/02.]

WAC 365-220-065 How is eligibility determined? At the time of enrollment, a prospective beneficiary must meet the definition of developmental disability in RCW 71A.10.-020(3), as determined by a representative of the division of developmental disabilities of the department of social and health services. The primary donor must make arrangements for notification of this determination to be sent to the trust fund office.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-065, filed 3/12/02, effective 4/12/02.]

WAC 365-220-070 What happens if a beneficiary moves out of the state of Washington? If the beneficiary moves out of the state of Washington, the governing board may elect, in its discretion, one of three options:

A The balance of the beneficiary's individual trust account will be placed in another existing special needs trust established for the beneficiary. Any costs relating to the transfer will be charged to the beneficiary's individual trust account.

-OR-

B The individual trust account will remain open, and the account will be assessed fees at a level that will support all costs of maintaining the account. The beneficiary will no longer be eligible for the state match as of the date the beneficiary ceases to be a resident of Washington.

-OR-

C The beneficiary's individual trust account will be terminated and distributed as if the beneficiary had died.

The primary representative is required to notify the trust manager if the beneficiary moves out of the state of Washington.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-070, filed 3/12/02, effective 4/12/02.]

WAC 365-220-075 What happens if a beneficiary is determined to no longer meet the Washington state definition of developmental disability in RCW 71A.10.020 (3)? If the beneficiary is determined to no longer meet the definition of a person with a developmental disability in RCW 71A.10.020(3), the governing board may elect, at its discretion, one of three options:

A The balance of the beneficiary's individual trust account will be placed in another existing special needs trust established for the beneficiary. Any costs relating to the transfer will be charged to the beneficiary's individual trust account.

-OR-

B The beneficiary's individual trust account will remain open, and the account will be assessed fees at a level that will support all costs of maintaining the account. The beneficiary will no longer be eligible for the state match as of the date the beneficiary is determined to no longer meet the definition of a person with a developmental disability in RCW 71A.10.020(3).

-OR-

C The trust manager will make or direct distributions to or for the benefit of the beneficiary.

The primary representative is required to notify the trust manager if the beneficiary is found to no longer meet the definition of a person with a developmental disability in RCW 71A.10.020(3).

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-075, filed 3/12/02, effective 4/12/02.]

FEES

WAC 365-220-080 What fees must be paid to enroll in and participate in the trust fund? The following fees may be charged by entities or individuals associated with the developmental disabilities endowment trust fund as a condition of participation:

(1) State investment board fees. All investment and operating costs associated with the investment of money shall be paid to the state investment board from the trust fund, as required by RCW 43.33A.160 and 43.84.160.

(2) State treasurer fees. Fees charged for the services of the state treasurer will not exceed .00274% per day while funds remain in the custody of the state treasurer, as specified in RCW 43.08.190. State treasurer fees will be deducted from the trust fund.

(3) Annual management fees. An annual management fee will be charged to each individual trust account for services including bookkeeping, banking services, governing

board and department activities, legal services, and other expenses deemed necessary by the governing board. The governing board shall authorize all changes in the annual management fees. The governing board may establish a minimum and a maximum annual management fee. Primary representatives of existing accounts will be notified sixty days in advance of the effective date of any changes in the minimum or maximum annual management fees.

(4) Enrollment fees. Each individual trust account will be charged a six hundred dollar enrollment fee. The governing board may increase the enrollment fee on an annual basis, within the limits set forth in RCW 43.135.055. The governing board shall authorize all changes in enrollment fees.

(5) Trust manager fees. Fees for trust manager services will be charged by the entity under contract for trust management according to the terms of the contract between the trust manager and the developmental disabilities endowment trust fund. Current fee levels will be disclosed prior to enrollment. The governing board shall authorize all changes in the trust manager fees. Primary representatives of existing accounts will be notified sixty days in advance of the effective date of any changes in trust manager fees.

(6) Tax return preparation and filing fees. As necessary, the fees associated with preparing and filing tax returns for individual trust accounts will be deducted from those accounts. Current fee levels will be disclosed prior to enrollment. The governing board shall authorize all changes in tax return preparation and filing fees. Primary representatives of existing accounts will be notified sixty days in advance of the effective date of any changes in tax return preparation and filing fees.

(7) Fees for locating remainder beneficiaries named in the disposition plan. The trust fund reserves the right to charge fees to cover the costs associated with locating any remainder beneficiary under the disposition plan. Fees for locating a remainder beneficiary of an individual trust account will be levied only against such accounts.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-080, filed 3/12/02, effective 4/12/02.]

WAC 365-220-085 Is it possible to be placed on the list for state matching funds, and delay payment of the enrollment fees? Yes. At the time the program initially opens, there will be one hundred spaces reserved for delayed enrollment. For the first one hundred people who request delayed enrollment and meet all eligibility requirements, state matching money will be reserved for one year. Reserved spaces for delayed enrollment fees will be awarded on a first come, first served basis. The governing board may use its discretion to set aside additional spaces for delayed enrollment.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-085, filed 3/12/02, effective 4/12/02.]

WAC 365-220-090 Are fees refundable? No. Fees are not refundable.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-090, filed 3/12/02, effective 4/12/02.]

WAC 365-220-095 What happens when fees are past due? Accounts with fees that are not paid for a period of ninety days will be closed. The primary representative of an account will be sent notification that the account will be closed prior to its closure. The trust manager will make a determination regarding the disposition of any remaining money in the individual trust account.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-095, filed 3/12/02, effective 4/12/02.]

TRANSFERRING ACCOUNTS

WAC 365-220-100 When and how may individual accounts be transferred? A primary representative may request governing board approval for a transfer of an account to another special needs trust. This must be done through written correspondence to the governing board stating the reasons for the request. The governing board shall review all requests for transfers. Only the governing board or its designee may approve transfers.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-100, filed 3/12/02, effective 4/12/02.]

MATCHING MONEY AND EARNINGS

WAC 365-220-105 Are there any guarantees related to the availability of matching money or earnings on investments? No. There is no guarantee that any individual trust account will receive matching money from the state of Washington or from any other source. The availability and extent of the state match is dependent on the availability of matching money in the trust fund. The governing board has the exclusive discretion to determine availability.

The state of Washington, the state investment board, and the governing board make no guarantee related to the return on investments of money placed in the individual trust accounts or in the trust fund.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-105, filed 3/12/02, effective 4/12/02.]

WAC 365-220-110 Who establishes matching policies? All matching policies applicable to state matching money are established by the governing board.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-110, filed 3/12/02, effective 4/12/02.]

WAC 365-220-115 How will access to state matching money be determined? The state matching money is limited. Individual trust accounts will be assigned access to state matching money on a first come, first served basis. Matching policies apply only to those individual trust accounts that have been assigned access to matching funds.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-115, filed 3/12/02, effective 4/12/02.]

WAC 365-220-120 How does an individual trust account initially qualify to receive state matching money? Individual trust accounts become vested, or initially qualified to receive state matching money, by meeting requirements over a three-year period. Accounts vest by accumulating a minimum of twenty-five dollars per month of private contributions for three consecutive years. This may be accomplished through regular, periodic, or one time only contribu-

tions. However, contributions will not be credited for past months for the purposes of vesting. If the minimum contributions are withdrawn during the three-year vesting period, the account will not vest. Below are three examples of individual trust accounts that would vest after three years. In these examples, at least twenty-five dollars a month is contributed into the accounts. Contributions in excess of twenty-five dollars may be applied to future months for the purpose of vesting, but may not be applied to past months.

MONTH	ACCOUNT 1	ACCOUNT 2	ACCOUNT 3
1	$25.00	$300.00	$900.00
2	$25.00		
3	$25.00		
4	$25.00		
5	$25.00		
6	$25.00		
7	$25.00		
8	$25.00		
9	$25.00		
10	$25.00		
11	$25.00		
12	$25.00		
13	$25.00	$300.00	
14	$25.00		
15	$25.00		
16	$25.00		
17	$25.00		
18	$25.00		
19	$25.00		
20	$25.00		
21	$25.00		
22	$25.00		
23	$25.00		
24	$25.00		
25	$25.00	$300.00	
26	$25.00		
27	$25.00		
28	$25.00		
29	$25.00		
30	$25.00		
31	$25.00		
32	$25.00		
33	$25.00		
34	$25.00		
35	$25.00		
36	$25.00		
Total	$900.00	$900.00	$900.00

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-120, filed 3/12/02, effective 4/12/02.]

WAC 365-220-125 How does an individual trust account maintain qualification for state matching money? After vesting, an individual trust account must maintain active participation in order to remain qualified for state matching money. Active participation is defined as the equivalent of twenty-five dollars of contributions into the individual trust account each month. This may be accomplished through regular, periodic, or one time only contributions. However, contributions will not be credited for past months during which active participation was not maintained. If the minimum contribution is withdrawn during the year it is contributed, the contribution will not count for purposes of qualification.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-125, filed 3/12/02, effective 4/12/02.]

WAC 365-220-130 What happens when an individual trust account becomes inactive? When an individual trust account becomes inactive, it is no longer qualified to receive state matching money and will be removed from the list of individual trust accounts assigned access to state matching money. The primary representative of an individual trust account will be notified prior to that account's loss of assigned access to state matching money.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-130, filed 3/12/02, effective 4/12/02.]

WAC 365-220-135 Are there time limits for earning the match? As long as an individual trust account qualifies for state matching money, the individual trust account can continue to receive the match for as long as it takes to receive the lifetime maximum.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-135, filed 3/12/02, effective 4/12/02.]

WAC 365-220-140 Are extensions allowed? One twelve-month extension may be granted to each individual trust account to extend the time to become vested or to maintain active participation to receive the match. To obtain the extension, a written request must be approved by the governing board.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-140, filed 3/12/02, effective 4/12/02.]

WAC 365-220-145 What is the matching rate on contributions? The state matching rate on private contributions is twenty-five percent, applied to the annual and lifetime maximums. The matching rate and maximums may be changed at the discretion of the governing board. State matching money is not available for private contributions withdrawn in the same year that they are contributed.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-145, filed 3/12/02, effective 4/12/02.]

WAC 365-220-150 What is the amount of maximum annual contributions eligible for state matching money? The amount of maximum annual private contributions eligible for state matching money is three thousand one hundred dollars. The maximum annual state match available for each beneficiary is seven hundred fifty dollars. The amount of the state match is based on the amount of private contributions, and does not take into account any return on the investment of the private contributions. This maximum may be changed at the discretion of the governing board.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-150, filed 3/12/02, effective 4/12/02.]

WAC 365-220-155 What is the amount of maximum lifetime contributions eligible for state matching money? The amount of maximum allowable lifetime private contributions eligible for state matching money is thirty-one thousand dollars. The maximum lifetime state match available for each beneficiary is seven thousand seven hundred fifty dollars. The amount of the state match is based on the amount of private contributions, and will not take into account any return on the investment of the private contributions. This maxi-

mum may be changed at the discretion of the governing board.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-155, filed 3/12/02, effective 4/12/02.]

WAC 365-220-160 Is there a limit on individual savings? There is no limit on savings in an individual trust account; there is only a limit on the amount of state matching money for which an individual trust account will qualify.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-160, filed 3/12/02, effective 4/12/02.]

WAC 365-220-165 May donors make lump sum contributions? Private contributions may be deposited regularly, or in one or more lump sums.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-165, filed 3/12/02, effective 4/12/02.]

WAC 365-220-170 How many individual trust accounts for each beneficiary are eligible to receive state matching money? Each beneficiary may have only one individual trust account that is qualified to receive state matching money at any given time. Additional individual trust accounts may be established, but will not be eligible to receive state matching money unless the first account is closed. If the individual trust account qualified to receive state matching money is closed, another individual trust account may be qualified to receive state matching money, as allowed in WAC 365-220-175.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-170, filed 3/12/02, effective 4/12/02.]

WAC 365-220-175 For beneficiaries with multiple individual trust accounts, how is it determined which individual trust account is eligible for state matching money? For beneficiaries with multiple individual trust accounts, the first individual trust account assigned access to the state match will be eligible to receive the state match, provided it is qualified.

If a beneficiary has only one individual trust account, and that account is closed after it has vested, the next individual trust account opened for that beneficiary and assigned access to state matching money will be eligible to receive matching funds, subject to the first come, first served policy.

If a beneficiary has multiple individual trust accounts, and if an individual trust account for which they have vested is closed, vesting and access to the match are automatically transferred to another individual trust account for that beneficiary, with the transfer made to the longest existing account first.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-175, filed 3/12/02, effective 4/12/02.]

WAC 365-220-180 In what proportion are state matching funds spent? State matching money will only be disbursed from an individual trust account after that individual trust account has vested. For every disbursement made from an individual trust account that has vested, the amount of state matching money disbursed will be equal to the percentage of state matching money (plus the earnings on the state matching money) for which the individual trust account has qualified, multiplied by the amount of the disbursement.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-180, filed 3/12/02, effective 4/12/02.]

WAC 365-220-185 What is the enrollment match? After two hundred dollars of the enrollment fee is paid, the enrollment fee will be matched at the rate of one dollar to one dollar. The maximum enrollment match is four hundred dollars per beneficiary. The governing board may increase the maximum enrollment match at its discretion. The enrollment match may be earned prior to vesting but may not be spent prior to vesting. Matching funds allocated for this purpose will not count against the beneficiary's maximum annual or lifetime match. The enrollment match will be credited to the individual trust account and begin to accumulate earnings when the enrollment process is completed for that individual trust account.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-185, filed 3/12/02, effective 4/12/02.]

WAC 365-220-190 What is the annual management fee match? The annual management fee match will be applied to individual trust accounts that are levied annual management fees in excess of two percent of the account balance. This match will be applied at a rate of one dollar for each dollar the annual management fee exceeds two percent of the account balance. This match only applies when two percent of the account balance is greater than the minimum annual management fee.

The annual management fee match may be earned prior to vesting but may not be spent prior to vesting. Matching funds allocated for this purpose will not count against the beneficiary's maximum annual or lifetime match.

[Statutory Authority: RCW 43.330.240. 02-07-026, § 365-220-190, filed 3/12/02, effective 4/12/02.]

Chapter 365-230 WAC

ACCREDITATION OF LEAD-BASED PAINT TRAINING PROGRAMS AND THE CERTIFICATION OF FIRMS AND INDIVIDUALS CONDUCTING LEAD-BASED PAINT ACTIVITIES

WAC

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WAC 365-230-010 Authority, purpose and scope. (1) The authority for these regulations is chapter 70.103 RCW.

(2) Purpose.

(a) These regulations address Washington's need for a qualified and properly trained work force to perform inspection, risk assessment and abatement of hazards associated with lead-based paint, as defined in these rules, to safeguard the environment and protect human health, especially for children under six years of age and other high-risk groups from lead-based paint hazards.

(b) These regulations prescribe the accreditation requirements for training providers offering lead-based paint activities training courses to qualify individuals for lead-based paint certification and will require that all lead-based paint training courses be offered or provided only by accredited training providers.

(c) These regulations prescribe the certification requirements of individuals and firms engaged in lead-based paint activities in target housing and child occupied facilities.

(d) These regulations establish work practice standards for the performance of lead-based paint inspection, risk assessment, and abatement activities for individuals and firms and will require that only certified individuals and firms perform lead-based paint activities.

(3) Scope.

(a) These rules apply to all individuals and firms that are engaged in lead-based paint activities as defined in these regulations, (WAC 365-230-200) except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level.

(b) These rules establish the requirement that lead-based paint activities be performed only by certified individuals and firms.

(c) These rules prescribe the requirements for, and the manner of, certifying competency of applicants for certification of lead-based paint inspector, risk assessor, supervisor, project designer, and worker, and of legally registered firms employing such individuals.

(d) These rules prescribe work practice standards for the abatement of lead-based paint hazards and for the performance of lead-based paint inspection and risk assessment, and those actions or circumstances that constitute failure to achieve or maintain competency, or that otherwise are contrary to the public interest, for which the department may deny, suspend, revoke, or modify certification.

(e) These rules establish application fees for certification and accreditation.

(f) These rules establish a procedure by which training providers may apply for and obtain accreditation to offer initial lead-based paint activity courses in any of the following disciplines: Inspector, risk assessor, supervisor, project designer, and abatement worker. A training program accredited in a discipline may also seek accreditation to offer refresher courses for the discipline.

(g) These rules prescribe the requirements for training programs to provide, offer, or claim to provide accredited lead-based paint activities courses.

(h) These rules prescribe those actions or circumstances that constitute failure to achieve or maintain competency, or that otherwise are contrary to the public interest, for which the department may deny, suspend, revoke or modify accreditation.

(i) These rules describe the actions or failures to act that constitute violations of these rules and for which the department may issue fines.

(j) These rules establish a schedule of penalties for failure to comply with these rules.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-010, filed 4/29/04, effective 5/30/04.]

WAC 365-230-015 Adoption by reference. All standards, listings and publications referred to in these rules are by those references made a part of these rules as though fully set forth.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-015, filed 4/29/04, effective 5/30/04.]

WAC 365-230-016 Contact information for accreditation and certification matters. Application materials and information concerning lead-based paint accreditation and certification as described in these rules can be obtained from the lead-based paint program via the following contact information:

(1) Mailing address: Lead-Based Paint Program, P.O. Box 42525, Olympia, WA 98504-2525

(2) Telephone number: 360-725-2949

(3) Fax number: 360-586-5880

(4) Website: www.cted.wa.gov

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-016, filed 4/29/04, effective 5/30/04.]

WAC 365-230-020 Definitions. As used in these rules unless otherwise required by context:

(1) "Abatement" means any measure or set of measures designed to permanently eliminate lead-based paint hazards including, but not limited to:

(a) The removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or covering of soil, when lead-based paint hazards are present in such paint, dust or soil; and

(b) All preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

Specifically, abatement includes, but is not limited to:

(i) Projects for which there is a written contract or other documentation, which provides that an individual or firm will be conducting activities in or to a residential dwelling or child-occupied facility that results in permanent elimination of lead-based paint hazards or designed to permanently eliminate lead-based paint hazards and described in (a) and (b) of this subsection.

(ii) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by certified and licensed firms or individuals, unless such projects are covered under (c) of this subsection.

(iii) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals who, through the their company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities, unless such projects are covered under (c) of this subsection.

(iv) Projects resulting in the permanent elimination of lead-based paint hazards, that are conducted in response to state or local abatement orders.

(c) Abatement does not include renovation, remodeling, landscaping or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Furthermore, abatement does not include interim controls, operations and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.

(2) "Accreditation" means the process whereby the department has reviewed and approved a training provider's written application with associated materials for accreditation, and has conducted an on-site audit finding the training program is in compliance as specified in these rules.

(3) "Accredited training program" means a training program accredited by the department, either directly or through a reciprocity agreement with other jurisdictions, to provide training for individuals engaged in lead-based paint activities.

(4) "Accredited training course" means either an initial or a refresher training course accredited by the department, either directly or through a reciprocity agreement with other jurisdictions, that provides training for individuals engaged in lead-based paint activities.

(5) "Accredited training provider" means an individual, corporation, partnership or other unincorporated association or public entity to which the department has approved accreditation to offer one or more lead-based paint courses.

(6) "Adequate quality control" means a plan or design that ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or paint film samples. Adequate quality control also includes provisions for representative sampling.

(7) "Administrator" means the director of the department of community, trade and economic development, or the director's designee.

(8) "Approved" means approved in writing by the department.

(9) "Arithmetic mean" means the algebraic sum of data values divided by the number of data values (e.g., the sum of the concentration of lead in several soil samples divided by the number of samples).

(10) "Business day" means Monday through Friday with the exception of legal Washington state holidays.

(11) "Certified" means issued a certificate by the department based on meeting requirements for the appropriate discipline. Those requirements include, but are not limited to, the following:

(a) Successful completion of a training program accredited by the department; and

(b) Receiving a passing score on a certification examination administered by the department; and

(c) Satisfaction of any other requirements for the appropriate discipline; and

(d) Submittal and approval of the appropriate application by the department for inspection, risk assessment or abatement activities in target housing and child-occupied facilities.

(12) "Certified firm" means a company, partnership, corporation, sole proprietorship, association, or other business entity that performs lead-based paint activities to which the department has issued a certificate under these rules.

(13) "Chewable surface" means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew. A chewable surface is the same as an "accessible surface" as defined in 42 U.S.C. 4851b(2). Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

(14) "Child-occupied facility" means a building, or a portion of a building, constructed prior to 1978, visited regularly by the same child, under the age of six, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least three hours and the combined weekly visit lasts at least six hours, and the combined annual visits last at least sixty hours. Child-occupied facilities may include, but are not limited to, day care centers, preschools and kindergarten classrooms.

(15) "Clearance levels" are values that indicate the maximum amount of lead permitted in dust on a surface following completion of an abatement activity.

(16) "Clearance examination standards" means a maximum of 40 micrograms of lead in dust per square foot on floors, 250 micrograms of lead in dust per square foot on interior window sills, and 400 micrograms of lead in dust on window troughs.

(17) "Common area" means a portion of a building that is generally accessible to all occupants that may include, but that is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences.

(18) "Common area group" means a group of common areas that are similar in design, construction, and function. Common area groups include, but are not limited to, hallways, stairwells, and laundry rooms.

(19) "Component or building component" means specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location.

These include, but are not limited to, interior components such as: Ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills or stools and troughs), built in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners; and exterior components such as: Painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascias, rake boards, cornerboards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes and wells, and air conditioners.

(20) "Concentration" means the relative content of a specific substance contained within a larger mass, such as the amount of lead (in micrograms per gram or parts per million by weight) in a sample of dust or soil.

(21) "Containment" means a process to protect workers and the environment by controlling exposures to the lead-contaminated dust and debris created during an abatement.

(22) "Course agenda" means an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

(23) "Course test" means an evaluation of the overall effectiveness of the training which shall test the trainees' knowledge and retention of the topics covered during the course.

(24) "Course completion date" means the final date of classroom instruction and/or student examination of an accredited lead-based paint training course.

(25) "Course completion certificate" means documentation issued by an accredited training provider to an individual as proof of successful completion of a department-approved lead-based paint course or initial training course. All course completion certificates are valid for six months from the course completion date.

(26) "Course test blue print" means written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

(27) "Demonstration testing" means the observation and scoring of a student's job task and equipment use skills taught during an initial or refresher training course.

(28) "Department" means the Washington department of community, trade, and economic development.

(29) "Deteriorated paint" means any interior or exterior paint or other coating that is peeling, chipping, chalking or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

(30) "Discipline" means one of the specific types or categories of lead-based paint activities identified in this subpart for which individuals may receive training from accredited programs and become certified by the department. For example, "abatement worker" is a discipline.

(31) "Distinct painting history" means the application history, as indicated by the visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

(32) "Documented methodologies" are written methods or protocols used to sample for the presence of lead in paint, dust, and soil as recommended in U.S. Department of Housing and Urban Development "*Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing,*" revised, October, 1997; "*Agency Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead-Contaminated Soil,*" September, 1995; and "*EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling,*" March 1995. These materials can be downloaded from the following website: www.epa.gov/lead or www.hud.gov/lead/offices.

(33) "Dripline" means the area within three feet surrounding the perimeter of a building.

(34) "Dust-lead hazard" means surface dust in a residential dwelling or child-occupied facility that contains a mass-per-area concentration of lead equal to or exceeding 40 $\mu g/ft^2$ on floors or 250 $\mu g/ft^2$ on interior window sills based on wipe samples.

(35) "Elevated blood lead level (EBL)" means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 μg/dl (micrograms of lead per deciliter of whole blood) for a single venous test or of 15-19 μg/dl in two consecutive tests taken three to four months apart.

(36) "Encapsulant" means a substance that forms a barrier between lead-based paint and the environment using a liquid applied coating (with or without reinforcement materials) or an adhesively bonded covering material.

(37) "Encapsulation" means the application of an encapsulant.

(38) "Enclosure" means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

(39) "EPA" means the Environmental Protection Agency.

(40) "Firm" means a sole proprietorship, corporation, association, firm, partnership, or joint stock company legally registered with the Washington department of licensing to conduct business in the state of Washington.

(41) "Friction surface" means an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, certain window, floor, and stair surfaces.

(42) "Guest instructor" means an individual designated by the training program manager or principal instructor to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

(43) "Hands-on training" means training during which students practice skills that they will be expected to perform at the worksite.

(44) "Hands-on skills assessment" means an evaluation which tests the trainees' ability to satisfactorily perform the work practices and procedures identified in WAC 365-230-200 as well as any other skill taught in a training course.

(45) "Hazardous waste" means any waste as defined in chapter 173-303 WAC.

(46) "Impact surface" means an interior or exterior surface that is subject to damage by repeated sudden force such as certain parts of door frames.

(47) "Initial training course" means a full, accredited lead-based paint training course required for certification. It is different than a refresher course.

(48) "Inspection" means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report, in writing, explaining the results of the investigation.

(49) "Inspector" means an individual who is certified by the department to conduct in target housing and child-occupied facilities a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report, in writing; and conduct clearance procedures in accordance with WAC 365-230-200. An inspector may also collect dust and soil samples and perform clearance testing. An inspector may cite the applicable standard for the medium being sampled, but may not evaluate the results or assess risk.

(50) "Interactive/participatory teaching methods" mean instruction which consists of active participation of the students, such as brainstorming, hands-on training, demonstration and practice, small group problem solving, learning games, discussions, risk mapping, field visits, walk-throughs, problem posing, group work assignments, homework review sessions, question-and-answer periods, skits, or role-playing sessions. Lecture is not considered an interactive/participatory teaching method.

(51) "Interim controls" mean a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

(52) "Interior window sill" means the portion of the horizontal window ledge that protrudes into the interior of the room.

(53) "Job tasks" mean the specific activities performed in the context of work.

(54) "Lead abatement professional" means an individual certified to conduct lead-based paint activities under WAC 365-230-200 as a worker, supervisor, project designer, inspector, or risk assessor.

(55) "Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

(56) "Lead-based paint activities" mean, in the case of target housing and child-occupied facilities, inspection, risk assessment, and abatement, as defined in these rules.

(57) "Lead-based paint activities courses" mean training courses (worker, supervisor, inspector, risk assessor, project designer) provided by accredited training providers.

(58) "Lead-based paint hazard" means hazardous lead-based paint, dust-lead hazard or soil-lead hazard as identified in these rules.

(59) "Lead-hazard screen" is a limited risk assessment activity that involves limited paint and dust sampling as described in WAC 365-230-200.

(60) "Lead hazard standard" means the amount of lead the department considers to be a hazard in target housing or child-occupied facilities. The standards are: Greater than 40 micrograms of lead in dust per square foot on floors, or greater than 250 micrograms of lead in dust per square foot on interior window sills, or 250 parts per million of lead in bare soil.

(61) "Licensed" means a person who has been certified by the department in one or more disciplines.

(62) "Living area" means any area of a residential dwelling used by one or more children under the age of six, including, but not limited to, living rooms, kitchen areas, dens, play rooms, and children's bedrooms.

(63) "Loading" means the quantity of specific substance present per unit of surface area, such as the amount of lead in micrograms contained in the dust collected from a certain surface area divided by the surface area in square feet or square meters.

(64) "Multifamily dwelling" means a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

(65) "Multifamily housing" means a housing property consisting of more than four dwelling units.

(66) "Paint in poor condition" means more than ten square feet of deteriorated paint on exterior components with large surface areas; or more than two square feet of deteriorated paint on interior components with large surface areas (e.g., walls, ceilings, floors, doors); or more than ten percent of the total surface area of the component is deteriorated on interior or exterior components with small surface areas (window sills, baseboards, soffits, trim).

(67) "Paint-lead hazard" means any of the following:

(a) Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill, or floor) are equal to or greater than the dust-lead hazard levels identified in these rules.

(b) Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against its door frame).

(c) Any chewable lead-based painted surface on which there is evidence of teeth marks.

(d) Any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

(68) "Permanent" means having an expected design life of twenty years.

(69) "Permanently covered soil" means soil which has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as pavement or concrete. Grass, mulch, and other landscaping materials are not considered permanent covering.

(70) "Person" means any natural or judicial person including any individual, corporation, partnership, or association; any Indian tribe, state, or political subdepartment thereof; any interstate body; and any department, agency, or instrumentality of the federal government.

(71) "Play area" means an area of frequent soil contact by children of less than six years of age as indicated by, but not limited to, such factors including the following: The presence of play equipment (e.g., sandboxes, swing sets, and sliding boards), toys, or other children's possessions, obser-

vations of play patterns, or information provided by parents, residents, care givers, or property owners.

(72) "Preliminary clearance" means clearance of interior living areas according to which an inspector or risk assessor determines that residual lead levels (as determined by laboratory analysis) do not exceed clearance levels.

(73) "Principal instructor" means the individual who has the primary responsibility for organizing and teaching a particular course.

(74) "Proficiency test" means any alternative to a conventional written examination that is used to measure a trainee's mastery of course content. An oral examination offered to a trainee with a manual disability is an example of a proficiency test.

(75) "Project designer" means an individual who is certified by the department to interpret lead inspection or risk assessment reports and to develop plans, specifications, and project procedures for lead abatement projects in target housing and child-occupied facilities, including occupant notification and protection, cleanup and clearance, and abatement reports.

(76) "Recognized laboratory" means an environmental laboratory recognized by EPA pursuant in accordance with the National Lead Laboratory Accreditation Program (NLLAP) as being capable of performing an analysis for lead compounds in paint, soil, and dust.

(77) "Refresher training course" means a minimum seven-hour training course (or four hours for project designer) accredited by the department to update an individual's knowledge and skills in the discipline in which training is offered.

(78) "Residential dwelling" means:

(a) A detached single-family dwelling unit, including attached structures such as porches and stoops; or

(b) A single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be occupied, in whole or in part, as the home or residence of one or more persons.

(79) "Risk assessment" means an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and the provision of a report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

(80) "Risk assessor" means an individual who is certified by the department to conduct in target housing and child-occupied facilities on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and to provide a report explaining the results of the investigation and options for reducing lead-based paint hazards; and who may conduct a lead-hazard screen, in accordance with WAC 365-230-200.

(81) "Room" means a separate part of the inside of a building, such as a bedroom, living room, dining room, kitchen, bathroom, laundry room, or utility room. To be considered a separate room, the room must be separated from adjoining rooms by built-in walls or archways that extend at least six inches from an intersecting wall. Half walls or bookcases count as room separators if built-in. Movable or collapsible partitions or partitions consisting solely of shelves or cabinets are not considered built-in walls. A screened-in porch that is used as a living area is a room.

(82) "Sample quality control" means a plan or design which ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or film samples. Sample quality control also includes provisions for representative sampling and control samples.

(83) "Scope of work" means a written description of all of the abatement activities to be conducted at a specific abatement project site.

(84) "Soil-lead hazard" means bare soil on residential real property or on the property of a child-occupied facility that contains total lead equal to or exceeding 250 parts per million (mg/g) based on soil samples.

(85) "Soil sample" means a sample collected in a representative location using ASTM E1727, "*Standard Practice for Field Collection of Soil Samples for Lead Determination by Atomic Spectrometry Techniques,*" or equivalent method. ASTM standards can be obtained from ASTM International, P.O. Box C700, West Conshohocken, PA 19428-2929, via phone at 610-832-9525, or electronically at www.astm.org

(86) "Supervisor" means an individual who is certified by the department to either conduct or oversee and direct the work-site conduct of lead-based paint abatement and clearance activities in target housing and child-occupied facilities, and to prepare occupant protection plans and abatement reports in accordance with WAC 365-230-200.

(87) "Target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any one or more children under the age of six resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling.

(88) "These rules" means Washington Administrative Code (WAC) 365-230-010 through 365-230-270.

(89) "Train-the-trainer course" means a course that includes, but is not limited to, instruction in the planning and teaching of adult education, adult learning principles, designing training objectives, selecting and designing training activities, creating an effective learning environment, facilitating group involvement and discussions, and strategies for dealing with difficult training situations and difficult learners.

(90) "Training curriculum" means an established set of course topics for instruction in an accredited training program for a particular discipline designed to provide specialized knowledge and skills.

(91) "Training hour" means at least fifty minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and/or hands-on experience.

(92) "Training manager" means the individual responsible for administering a training program and monitoring the performance of principal instructors and guest instructors.

(93) "Training provider" means any business entity accredited under WAC 365-230-035 and 365-230-040 that offers lead-based paint activities courses.

(94) "Weighted arithmetic mean" means the arithmetic mean of sample results weighted by the number of subsamples in each sample. Its purpose is to give influence to a sample relative to the surface area it represents. A single surface sample is comprised of a single subsample. A composite

sample may contain from two to four subsamples of the same area as each other and of each single surface sample in the composite. The weighted arithmetic mean is obtained by summing, for all samples, the product of the sample's result multiplied by the number of subsamples in the sample, and dividing the sum by the total number of subsamples contained in all samples. For example the weighted arithmetic mean of a single surface sample containing 60 $\mu g/ft^2$, a composite sample (three subsamples) containing 100 $\mu g/ft^2$, and a composite sample (four subsamples) containing 110 mg/ft^2 is 100 $\mu g/ft^2$. This result is based on the equation [60+(3*100)+(4*110)]/(1+3+4).

(95) "Window trough" means for a typical double-hung window, the portion of the exterior window sill between the interior window sill (or stool) and the frame of the storm window. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered. The window trough is sometimes referred to as the window "well."

(96) "Wipe sample" means a sample collected by wiping a representative surface of known area, as determined by ASTM E1728, "*Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques*," or equivalent method, with an acceptable wipe material as defined in ASTM E 1792, "*Standard Specification for Wipe Sampling Materials for Lead in Surface Dust*." ASTM standards can be obtained from ASTM International, P.O. Box C700, West Conshohocken, PA 19428-2929, via phone at 610-832-9525, or electronically at www.astm.org

(97) "Worker" means an individual who is certified by the department and licensed by the construction contractors' board to conduct lead-based paint abatement activities in target housing and child-occupied facilities in accordance with WAC 365-230-200.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-020, filed 4/29/04, effective 5/30/04.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

WAC 365-230-030 Accreditation required. (1) No person shall provide, offer, or claim to provide an accredited lead-based paint activities course unless the person has received accreditation from the department.

(2) Training courses may be accredited for the initial inspector, risk assessor, abatement worker, supervisor, and project designer training courses or for refresher training courses within the same disciplines.

(3) Only accredited training providers are eligible to offer initial and refresher training courses for lead-based paint discipline courses.

(4) To qualify for and maintain accreditation, a training provider shall:

(a) Propose and offer at least one accredited or accredited lead-based paint training course.

(b) Conform to personnel, operational and curriculum requirements.

(c) Comply with accreditation application and procedural requirements.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-030, filed 4/29/04, effective 5/30/04.]

WAC 365-230-035 Application process. The following are procedures a training program must follow to receive accreditation by the department to offer lead-based paint training courses:

(1) Submission of a completed application for course accreditation or renewal. Information that must be provided with the application is as follows:

(a) Name, address, and phone number of training provider and training program manager.

(b) List of course(s) for which accreditation is being applied.

(c) A statement signed by the training program manager certifying that the training program meets the requirements under WAC 365-230-040.

(d) A copy of the entire course instruction curriculum, including, but not limited to: Learning objectives; documentation of course agenda with time allocation for each course topic; the sequence of topics to be covered during the course(s); student and instructor manuals, or other materials to be used for the course.

(e) Copy of the test blueprint describing the portion of test questions devoted to each major course topic.

(f) Description of the facilities and equipment to be used for lecture and hands-on training, respectively.

(g) Description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course.

(h) A copy of the quality control plan developed by the training manager. The plan shall be used to maintain and improve the training program and contain at least the following elements:

(i) Procedures for periodic revision of training materials and course test to be current with innovations in the field.

(ii) Procedures for the training manager's annual review of principal instructor competency.

(2) Documentation of accreditation by other state or federal agencies, if applicable.

(3) Submit a check or money order made out to the department of community, trade, and economic development in the amount as described in WAC 365-230-120.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-035, filed 4/29/04, effective 5/30/04.]

WAC 365-230-040 Requirements for the accreditation of training programs. For a training program to obtain accreditation from department to offer lead-based paint activities courses, the program shall meet the following requirements:

(1) The training program shall employ a training manager who has:

(a) At least two years of experience, education, or training in teaching workers or adults; or

(b) A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration or program management or a related field; or

(c) Two years of experience in managing a training program specializing in environmental hazards; and

(d) Demonstrated experience, education, or training in the construction industry including: Lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

(2) The training manager shall designate a qualified principal instructor for each course who has:

(a) Demonstrated experience, education, or training in teaching workers or adults; and

(b) Successfully completed at least sixteen hours of any department-accredited, EPA-accredited or tribal-accredited lead-specific training; and

(c) Demonstrated experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

(3) The principal instructor shall be responsible for the organization of the course and oversight of the teaching of all course material. The training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

(4) The following documents shall be recognized by the department as evidence that training managers and principal instructors have the education, work experience, training requirements or demonstrated experience, specifically listed in subsections (1), (2) and (3) of this section. This documentation need not be submitted with the accreditation application, but, if not submitted, shall be retained by the training program as required by WAC 365-230-090. Those documents include the following:

(a) Official academic transcripts or diploma as evidence of meeting education requirements.

(b) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(c) Certificates from train-the-trainer courses and lead-specific training courses, as evidence of meeting the training requirements.

(5) The training program shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities as needed.

(6) To become accredited in the following disciplines, the training program shall provide training courses that meet the following training hour requirements:

(a) The inspector course shall last a minimum of twenty-four training hours, with a minimum of eight hours devoted to hands-on training activities. The minimum curriculum requirements for the inspector course are contained in WAC 365-230-050.

(b) The risk assessor course shall last a minimum of sixteen training hours, with a minimum of four hours devoted to hands-on training activities. The minimum curriculum requirements for the risk assessor course are contained in WAC 365-230-050.

(c) The supervisor course shall last a minimum of thirty-two training hours, with a minimum of eight hours devoted to hands-on activities. The minimum curriculum requirements for the supervisor course are contained in WAC 365-230-050.

(d) The project designer course shall last a minimum of eight training hours. The minimum curriculum requirements for the project designer course are contained in WAC 365-230-050.

(e) The abatement worker course shall last a minimum of sixteen training hours, with a minimum of eight hours devoted to hands-on training activities. The minimum curriculum requirements for the abatement worker course are contained in WAC 365-230-050.

(7) If a training program uses EPA-developed model training materials, or training materials approved by a state or Indian tribe that has been authorized by EPA under 40 CFR 745.324 to develop its initial training course materials, the training manager shall include a statement certifying that, as well.

(8) If the initial training course materials are not based on EPA-developed model training materials or training materials approved by an authorized state or Indian tribe, the training program's application for accreditation shall include:

(a) A copy of the student and instructor manuals to be used for each course.

(b) A copy of the course agenda for each course.

(9) All initial training courses shall include in their application for accreditation the following:

(a) A description of the facilities and equipment to be used for lecture and hands-on training.

(b) A copy of the course test blueprint for each course.

(c) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course (if applicable).

(d) A copy of the quality control plan as described in WAC 365-230-040.

(10) If a training program meets the requirements listed in this section, then the department shall approve the application for accreditation. In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, the department may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. The department may also request additional materials retained by the training provider described under WAC 365-230-090. If an initial training program's application is disapproved, the program may reapply for accreditation at any time.

(11) For each course offered, the training program shall conduct either a course test at the completion of the course, and if applicable, a hands-on skills assessment, or in the alternative, a proficiency test for that discipline. Each individual must successfully complete the hands-on skills assessment and receive a passing score on the course test to pass any course, or successfully complete a proficiency test.

(a) The training manager is responsible for maintaining the validity and integrity of the hands-on skills assessment or proficiency test to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in WAC 365-230-050.

(b) The training manager is responsible for maintaining the validity and integrity of the course test to ensure that it

accurately evaluates the trainees' knowledge and retention of the course topics.

(c) The course test shall be developed in accordance with the test blueprint submitted with the training accreditation application.

(12) The training program shall issue unique course completion certificates to each individual who passes the training course. The course completion certificate shall include:

(a) The name, a unique identification number, and address of the individual.

(b) The name of the particular course that the individual completed.

(c) Dates of course completion/test passage.

(d) The name, address, and telephone number of the training program.

(13) The training manager shall develop and implement a quality control plan. The plan shall be used to maintain and improve the quality of the training program over time. This plan shall contain at least the following elements:

(a) Procedures for periodic revision of training materials and the course test to reflect innovations in the field.

(b) Procedures for the training manager's annual review of principal instructor competency.

(14) The training program shall offer courses that teach the work practice standards for conducting lead-based paint activities contained in WAC 365-230-200, and other standards developed by EPA pursuant to Title IV of TSCA. These standards shall be taught in the appropriate courses to provide trainees with the knowledge needed to perform the lead-based paint activities they are responsible for conducting.

(15) The training manager shall be responsible for ensuring that the training program complies at all times with all of the requirements in this section.

(16) A course audit shall include, but not be limited to, a review of: Instructional curriculum; examination design, administration and security procedures, and results, including those of demonstration testing; classroom instruction; audio-visual materials; course content; coverage; and teaching facilities.

(17) An accredited training provider may not implement changes in method or content that affect one half-hour or more of contact instruction without ten business days advance notice of the changes to department.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-040, filed 4/29/04, effective 5/30/04.]

WAC 365-230-050 Minimum training curriculum requirements. To become accredited to offer lead-based paint courses instruction in the specific disciplines listed below, training programs must ensure that their courses of study include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on activities as an integral component of the course.

(1) Inspector.

(a) Role and responsibilities of an inspector.

(b) Background information on lead and its adverse health effects.

(c) Background information on federal, state, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities.

(d) Lead-based paint inspection methods, including selection of rooms and components for sampling or testing.*

(e) Paint, dust, and soil sampling methodologies.*

(f) Clearance standards and testing, including random sampling.*

(g) Preparation of the final inspection report.*

(h) Recordkeeping.

(2) Risk assessor.

(a) Role and responsibilities of a risk assessor.

(b) Collection of background information to perform a risk assessment.

(c) Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food.

(d) Visual inspection for the purposes of identifying potential sources of lead-based paint hazards.*

(e) Lead hazard screen protocol.

(f) Sampling for other sources of lead exposure.*

(g) Interpretation of lead-based paint and other lead sampling results, including all applicable state or federal guidance or regulations pertaining to lead-based paint hazards.*

(h) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards.

(i) Preparation of a final risk assessment report.

(3) Supervisor.

(a) Role and responsibilities of a supervisor.

(b) Background information on lead and its adverse health effects.

(c) Background information on federal, state, and local regulations and guidance that pertain to lead-based paint abatement.

(d) Liability and insurance issues relating to lead-based paint abatement.

(e) Risk assessment and inspection report interpretation.*

(f) Development and implementation of an occupant protection plan and abatement report.

(g) Lead-based paint hazard recognition and control.*

(h) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices.*

(i) Interior dust abatement/cleanup or lead-based paint hazard control and reduction methods.*

(j) Soil and exterior dust abatement or lead-based paint hazard control and reduction methods.*

(k) Clearance standards and testing.

(l) Cleanup and waste disposal.

(m) Recordkeeping.

(4) Project designer.

(a) Role and responsibilities of a project designer.

(b) Development and implementation of an occupant protection plan for large scale abatement projects.

(c) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects.

(d) Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale abatement projects.

(e) Clearance standards and testing for large scale abatement projects.

(f) Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large scale abatement projects.

(5) Abatement worker.

(a) Role and responsibilities of an abatement worker.

(b) Background information on lead and its adverse health effects.

(c) Background information on federal, state and local regulations and guidance that pertain to lead-based paint abatement.

(d) Lead-based paint hazard recognition and control.*

(e) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices.*

(f) Interior dust abatement methods/cleanup or lead-based paint hazard reduction.*

(g) Soil and exterior dust abatement methods or lead-based paint hazard reduction.*

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-050, filed 4/29/04, effective 5/30/04.]

WAC 365-230-060 Requirements for the accreditation of refresher training courses. A training program may seek accreditation to offer refresher training courses in any of the following disciplines: Inspector, risk assessor, supervisor, project designer, and abatement worker. To obtain department accreditation to offer refresher training, a training program must meet the following minimum requirements:

(1) Each refresher course shall review the curriculum topics of the full-length courses listed under WAC 365-230-050, as appropriate. In addition, to become accredited to offer refresher training courses, training programs shall ensure that their courses of study include, at a minimum, the following:

(a) An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

(b) Current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

(c) Current technologies relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

(2) Each refresher course, except for the project designer course, shall last a minimum of eight training hours. The project designer refresher course shall last a minimum of four training hours.

(3) For each course offered, the training program shall conduct a hands-on assessment (if applicable), and at the completion of the course, a course test.

(4) A training program may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding training course as described in WAC 365-230-035. If so, the department shall use the approval procedure described in WAC 365-230-035. In addition, the minimum requirements contained in WAC 365-230-040 (except for the training hour requirements of refresher training courses). For these purposes, the hourly training requirements of WAC 365-230-060 shall also apply.

(5) A training program seeking accreditation to offer refresher training courses only shall submit a written application to the department containing the following information:

(a) The refresher training program's name, address, and telephone number.

(b) A list of courses for which it is applying for accreditation.

(c) A statement signed by the training program manager certifying that the refresher training program meets the minimum requirements established in the WAC 365-230-040 except for the training hour requirements of refresher training courses. If a training program uses EPA-developed model training materials, or training materials approved by a state or Indian tribe that has been authorized by EPA under 40 CFR 745.324 to develop its refresher training course materials, the training manager shall include a statement certifying that, as well.

(d) If the refresher training course materials are not based on EPA-developed model training materials or training materials approved by an authorized state or Indian tribe, the training program's application for accreditation shall include:

(i) A copy of the student and instructor manuals to be used for each course.

(ii) A copy of the course agenda for each course.

(e) All refresher training programs shall include in their application for accreditation the following:

(i) A description of the facilities and equipment to be used for lecture and hands-on training.

(ii) A copy of the course test blueprint for each course.

(iii) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course (if applicable).

(iv) A copy of the quality control plan as described in WAC 365-230-040.

(f) The requirements of WAC 365-230-040 (1) through (5), and (7) through (12) apply to refresher training providers.

(g) If a refresher training program meets the requirements listed in this paragraph, then the department shall approve the application for accreditation. In the case of approval, a certificate of accreditation shall be sent to the applicant. In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, the department may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. The department may also request additional materials retained by the refresher training program described under WAC 365-230-090. If a refresher training program's application is disapproved, the program may reapply for accreditation at any time.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-060, filed 4/29/04, effective 5/30/04.]

WAC 365-230-070 Reaccreditation of training programs. (1) Unless reaccredited, a training program's accreditation for both initial and refresher training courses shall expire four years after the date of issuance of the course accreditation.

(2) A training provider seeking reaccreditation shall submit an application to the department no later than one hundred eighty days before its accreditation expires. If a training

program does not submit its application by that date, the department cannot guarantee that the program will be reaccredited before the end of the accreditation period.

(3) The training program's application for reaccreditation shall contain:

(a) The training program's name, address, and telephone number.

(b) A list of courses for which it is applying for reaccreditation.

(c) A description of any changes to the training facility, equipment or course materials since its last application was approved that adversely affects the students' ability to learn or that affects more than thirty minutes of a training hour.

(d) A statement signed by the program manager stating:

(i) That the training program complies at all times with all the Requirements for the accreditation of training programs (WAC 365-230-040) and Requirements for the accreditation of refresher training programs (WAC 365-230-035), as applicable; and

(ii) The training program recordkeeping (WAC 365-230-090) and Notification requirements (WAC 365-230-100) shall be followed.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-070, filed 4/29/04, effective 5/30/04.]

WAC 365-230-080 Approval/disapproval of application for accreditation or renewal of accreditation. The department may disapprove an application for accreditation or renewal of an initial or refresher training course for any of the following reasons:

(1) Failure to complete application in accordance with these rules, or department policy or instructions.

(2) Failure to meet Training curriculum requirements (WAC 365-230-050) as set forth in these rules.

(3) Failure to meet Requirements for accreditation of training programs (WAC 365-230-040) as set forth in these rules.

(4) Failure to meet the Requirements for the accreditation of refresher training programs (WAC 365-230-060) as set forth in these rules.

(5) In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, the department may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. The department may also request additional materials retained by the training provider described under the Training program recordkeeping requirements (WAC 365-230-090). If a training provider's application for accreditation of an initial or refresher training course is disapproved, the provider may reapply for accreditation at any time.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-080, filed 4/29/04, effective 5/30/04.]

WAC 365-230-090 Training program recordkeeping requirements. (1) Accredited training programs shall maintain, and make available to the department if requested, the following records:

(a) All documents specified in the Requirements of the accreditation of training programs (WAC 365-230-040) as set forth in these rules that demonstrate the qualifications for training manager and principal instructors.

(b) Current curriculum, course materials and documents reflecting any changes made to these materials.

(c) The course test blueprint.

(d) Information regarding how the hands-on assessment is conducted including, but not limited to, who conducts the assessment, how skills are graded, what facilities are used, and the pass/fail rate.

(e) The quality control plan as described in the Requirements of the accreditation of training programs (WAC 365-230-040) as set forth in these rules.

(f) Results of student's hands-on skills assessments and course tests, and a copy of each student's course completion certificate.

(g) Any other material submitted as part of the program's application for accreditation.

(2) The training provider shall retain these records at the address specified on the training provider's accreditation application (or as modified as the result of notification of change of address) shall be retained a minimum of three years and six months.

(3) A training provider shall notify the department in writing within thirty days of changing the address specified on its training program accreditation, or transferring the records from that address.

(4) Accreditation is transferable in the case of acquisition of the accredited training provider by another entity. The new entity must notify the department within thirty days of the change of ownership and any other changes to information included in the original application.

(5) A training provider shall submit to the department the two notifications described in WAC 365-230-100.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-090, filed 4/29/04, effective 5/30/04.]

WAC 365-230-100 Notification of lead-based paint training activity. (1) The training manager shall provide notification of lead-based paint activities courses offered.

(a) The training manager shall provide the department with notice of all lead-based paint activities courses offered. The original notice must be received by the department at least ten business days prior to offering any lead-based paint activities course.

(b) The training manager shall provide the department updated notice when lead-based paint activities courses will begin on a date other than the one specified in the original notification, as follows:

(i) For lead-based paint activities courses beginning prior to the original start date an updated notice must be received by the department at least ten business days before the revised start date.

(ii) For lead-based paint activities courses beginning after the original start date an updated notice must be received by the department at least two business days before the original start date.

(c) The training manager shall update the department of any change in location of lead-based paint activities courses

at least ten business days prior to the scheduled course start date.

(d) The training manager shall also update the department regarding any course cancellations, or any other change to the original notice. Updated notices must be received by the department at least two business days prior to the scheduled course start date.

(e) Each notice, including updates, shall include the following:

(i) Notification type (original, update, cancellation).

(ii) Training program name, department accreditation number, address, and phone number.

(iii) Course discipline, type (initial/refresher), and the language in which instruction will be given.

(iv) Date(s) and time(s) of training.

(v) Training location(s) phone number, and street address.

(vi) Principal instructor's name.

(vii) Training manager's name and signature.

(f) Notification shall be accomplished using any of the following methods: Written notice, or by e-mail. All notices submitted by e-mail must be followed with written notice within twenty-four hours of submission. Written notification of lead-based paint activities course schedules can be accomplished by using either the sample form titled "Lead-Based Paint Activities Training Course Schedule" or a similar form developed by the training program containing the required information. All written notices shall be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery. (Persons submitting notification by U.S. Postal Service are reminded that they should allow three additional business days for delivery in order to ensure that the department receives the notification by the required date.) Instructions and sample forms can be obtained from the department at 360-725-2949, or on the internet at http:// www.cted.wa.gov

(g) Lead-based paint activities courses shall not begin on a date, or at a location other than that specified in the original notice unless an updated notice identifying a new date or location is submitted, in which case the course must begin on the date and location specified in the updated notice.

(h) No training program shall provide lead-based paint activities courses without first notifying the agency of such activities in accordance with the requirements of this paragraph.

(2) The training manager shall provide notification following completion of lead-based paint activities courses.

(a) The training manager shall provide the department with notice after the completion of any lead-based paint activities course that shall be received by the department no later than twenty business days following course completion.

(b) The notice shall include the following:

(i) Training program name, department accreditation number, address, and phone number.

(ii) Course discipline and type (initial/refresher).

(iii) Date(s) of training.

(iv) The following information for each student who took the course:

(A) Name.

(B) Address.

(C) Social Security number.

(D) Course completion certificate number.

(E) Student test score.

(v) Training manager's name and signature.

(c) Notification shall be accomplished using any of the following methods: Written notice, or by e-mail. All notices submitted by e-mail must be followed with written notice within twenty-four hours of submission. Written notification following lead-based paint activities training courses can be accomplished by using either the sample form titled "Lead-Based Paint Activities Training Course Follow-up" or a similar form developed by the training program containing the required information. All written notices shall be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery. (Persons submitting notification by U.S. Postal Service are reminded that they should allow three additional business days for delivery in order to ensure that the department receives the notification by the required date.) Instructions and sample forms can be obtained from department at 360-725-2949, or on the internet at http://www.cted.gov

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-100, filed 4/29/04, effective 5/30/04.]

WAC 365-230-110 Reciprocity. The department will accept for purposes of certification, valid course completion certificates issued by an accredited training program duly accredited by either the Environmental Protection Agency (EPA) or an EPA state or tribal lead-based paint program authorized by EPA according to 40 CFR 745.324.

(1) The EPA state or tribal lead-based paint program shall accept, by written agreement, for purposes of certification the valid course completion certificates issued by a training program duly accredited according to these rules.

(2) The department may withdraw reciprocity from any accredited training program following a finding by the department, in its sole discretion, that the training program does not meet the standards of these rules.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-110, filed 4/29/04, effective 5/30/04.]

WAC 365-230-120 Accreditation fees. The following fees are established for accreditation:

(1) A nonrefundable application fee of two hundred dollars for accreditation of an initial or refresher lead-based paint training course.

(2) A nonrefundable application fee of two hundred dollars for reaccreditation of an initial or a refresher lead-based paint training course.

(3) If an initial or refresher course provides instruction for more than one discipline, a separate application fee of two hundred dollars for each discipline is required.

(4) All fees shall be in the form of a check or money order made out to the department of community, trade, and economic development.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-120, filed 4/29/04, effective 5/30/04.]

CERTIFICATION OF INDIVIDUALS AND FIRMS ENGAGED IN LEAD-BASED PAINT ACTIVITIES: TARGET HOUSING AND CHILD-OCCUPIED FACILITIES

WAC 365-230-130 Certification of individuals. (1) Individuals seeking certification by the department to engage in lead-based paint activities must either:

(a) Submit to the department an application demonstrating that they meet the requirements established in these rules for the inspector, risk assessor, supervisor, project designer or worker for the particular discipline for which certification is sought; or

(b) Submit to the department an application with a copy of a valid lead-based paint activities certification (or equivalent) from a state or tribal program that has been authorized by EPA pursuant to 40 CFR 745.324.

(i) Applicants for certification based on certification from another state or tribal program must complete a refresher course in the discipline accredited by the department.

(ii) Certifications from another state or tribe will be recognized if there is a written reciprocity agreement between the department and that state or tribe.

(2) Individuals may first apply to the department for certification to engage in lead-based paint activities pursuant to this section on or after the effective date of these rules.

(3) Following the submission of an application demonstrating that all the requirements of this section have been met, the department shall certify an applicant as an inspector, risk assessor, supervisor, project designer, or abatement worker, as appropriate.

(4) Upon receiving the department certification, individuals conducting lead-based paint activities shall comply with the work practice standards for performing the appropriate lead-based paint activities as established in the Work practice standards section (WAC 365-230-200).

(5) It shall be a violation of these rules for an individual to conduct any of the lead-based paint activities described in the Work practice standards section (WAC 365-230-200) has not been certified by the department within one hundred twenty days of the effective date of these rules.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-130, filed 4/29/04, effective 5/30/04.]

WAC 365-230-132 Inspector, risk assessor, or supervisor. (1) To become certified by the department as an inspector, risk assessor, supervisor, pursuant to WAC 365-230-130, an individual must:

(a) Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Pass the certification exam in the appropriate discipline offered by the department; and

(c) Meet or exceed the following experience and/or education requirements:

(i) Inspectors. No additional experience and/or education requirements.

(ii) Risk assessors.

(A) Successful completion of an accredited training course for inspectors; and

(B) Bachelor's degree and one year of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction), or an associates degree and two years experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or

(C) Certification as an industrial hygienist, an engineer, a registered architect, certified safety professional, registered sanitarian, or registered environmental specialist; or

(D) A high school diploma (or equivalent), and at least three years of experience in a related field (e.g., lead, asbestos, environmental remediation work or construction).

(iii) Supervisor:

(A) One year of experience as a certified lead-based paint abatement worker; or

(B) At least two years of experience in a related field (e.g., lead, asbestos, or environmental remediation work) or in the building trades.

(2) The following documents shall be recognized by the department as evidence of meeting the experience or education requirements described in this section of these rules:

(a) Official academic transcripts or diploma, as evidence of meeting the education requirements.

(b) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(c) Course completion certificates from lead-specific or other related training courses, issued by accredited training programs, as evidence of meeting the training requirements.

(3) In order to take the certification examination for a particular discipline an individual must:

(a) Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Meet or exceed the education and/or experience requirements described in this section.

(4) After successfully completing the appropriate training courses and application requirements and meeting any other qualifications as described in inspector, risk assessor and supervisor section of these rules, an individual shall be certified by the department.

(5) To maintain certification, an individual must be recertified as described in WAC 365-230-160.

(6) An individual may take the certification exam no more than three times within six months of receiving a course completion certificate.

(7) If an individual does not pass the certification exam and receive a certificate within six months of receiving his/her course completion certificate, the individual must successfully complete the appropriate lead-based paint course from an accredited training program before reapplying for certification from the department.

(8) A passing score on third-party, qualifying examination administered by the department is seventy or above.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-132, filed 4/29/04, effective 5/30/04.]

WAC 365-230-134 Abatement worker and project designers. (1) To become certified by the department as an

abatement worker or project designer, pursuant to the certification of individuals section of these rules, an individual must:

(a) Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Meet or exceed the following additional experience and/or education requirements:

(i) Abatement workers. No additional experience and/or education requirements.

(ii) Project designers.

(A) Successful completion of an accredited training course for supervisors; and

(B) Successful completion of an accredited training course for project designers; and

(C) Bachelor's degree in engineering, architecture, or a related profession, and one year of experience in building construction and design or a related field; or

(D) Three years of experience as an AHERA-certified project designer; or

(E) Four years experience as an AHERA-certified supervisor or as a certified lead-based paint abatement supervisor; and

(F) Pass the supervisor or project designer examination administered by the department, the latter being required when available.

(2) The following documents shall be recognized by the department as evidence of meeting the requirements listed in this paragraph:

(a) Official academic transcripts or diploma, as evidence of meeting the education requirements.

(b) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(c) Course completion certificates from lead-specific or other related training courses, issued by accredited training programs, as evidence of meeting the training requirements.

(3) After successfully completing the appropriate training courses and application requirements and meeting any other qualifications as described in abatement worker and project designer section of these rules, an individual shall be certified by the department.

(4) To maintain certification, an individual must be recertified as described in the recertification section of these rules.

(5) An individual may take the certification exam no more than three times within six months of receiving a course completion certificate.

(6) If an individual does not pass the certification exam and receive a certificate within six months of receiving his/her course completion certificate, the individual must successfully complete the appropriate lead-based paint course from an accredited training program before reapplying for certification from the department.

(7) Certification shall be nontransferable.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-134, filed 4/29/04, effective 5/30/04.]

WAC 365-230-140 Accreditation and certification based on prior licensing. (1) All current and valid accreditations and certifications issued by the EPA for practice in the state of Washington, and their respective dates of expiration, shall be recognized by the department on the effective date of the self-certification of the state lead-based paint program and for a period not to exceed one hundred twenty days thereafter.

(2) Any accredited or certified person or entity may apply for accreditation or certification without fee on forms available from the department by submitting documentation of current and valid accreditation or certification issued by EPA, as described in subsection (1) of this section.

(3) Persons or entities with accreditations or certifications that expire within one hundred twenty days of the effective date of these rules, and who wish to apply on the basis of prior licensing, as provided for in this section of these rules, must have completed the application process by the expiration date.

(4) Applicants not holding a valid and current accreditation or certification issued by EPA for practice in the state of Washington must follow the application procedures described in WAC 365-230-150.

(5) Applicants for certification based on prior licensing must submit two, recent passport-size photographs with their application.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-140, filed 4/29/04, effective 5/30/04.]

WAC 365-230-150 Application requirements for an individual. (1) Applications for an individual shall be submitted on forms prescribed by the department and shall be accompanied, as appropriate, by:

(a) Documentation of applicant's training, experience, and education including:

(i) Lead-based paint training course completion certificate issued by a department-accredited training provider.

(ii) Documentation of experience must include name and address of employer, name and telephone number of supervisor; or indicate if self-employed. Documentation must also include employment dates, description of specific duties performed, estimated percentage of time associated with conducting inspections and assessing health, safety or environmental hazards. This documentation must be signed by supervisor or employer verifying that the information is true and correct. A self-employed individual must submit a notarized affidavit attesting to the work experience claimed for the purposes of application.

(iii) Evidence of completion of educational requirements under WAC 365-230-130, such as a transcript or diploma, if applicable.

(b) Two current, passport-size photos.

(c) Applicant's name, signature and date.

(2) A check or money order made out to the department of community, trade, and economic development in the amount as described in the certification fees section of these rules.

(3) Application materials can be obtained by mail from Department of Community, Trade, and Economic Development, Lead-Based Paint Program, P.O. Box 42525, Olympia, WA 98504-2525, or electronically at http://www.cted.wa.gov

(4) The following documents shall be recognized by the department as evidence of meeting the application requirements listed in this section:

(a) Official academic transcripts or diploma, as evidence of meeting the education requirements.

(b) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(c) Course completion certificates from lead-specific or other related training courses, issued by accredited training programs, as evidence of meeting the training requirements.

(5) For the purposes of application, photocopies of original documents are acceptable.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-150, filed 4/29/04, effective 5/30/04.]

WAC 365-230-160 Recertification. (1) To maintain certification in a particular discipline, a certified individual shall apply to and be recertified by the department in that discipline either:

(a) Every three years after the original date of issue if the individual completed a training course with a course test and hands-on assessment; or

(b) Every five years if the individual completed a training course with a proficiency test.

(2) An individual shall be recertified if the individual:

(a) Successfully completes the appropriate accredited refresher training course; and

(b) Submits a valid copy of the appropriate refresher course completion certificate; and

(c) Complies with the following application requirements established by the department:

(i) Submit a complete and signed application; and

(ii) Submit two recent passport-size photographs; and

(iii) Submit a check or money order made out to the department of community, trade, and economic development in the amount as described in WAC 365-230-260.

(3) Application materials can be obtained by mail from Department of Community, Trade, and Economic Development, Lead-Based Paint Program, P.O. Box 42525, Olympia, WA 98504-2525, or electronically at http://www.cted.wa.gov

(4) An individual whose certification expires may obtain certification by completing the requirements described in WAC 365-230-150 and 365-230-130.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-160, filed 4/29/04, effective 5/30/04.]

WAC 365-230-170 Certification of firms. (1) All firms which perform or offer to perform any of the lead-based paint activities described in WAC 365-230-200 shall be certified by the department no later than one hundred twenty days after the date of self-certification of the state lead-based paint program.

(2) A firm seeking certification shall submit to the department an application provided by the department and a letter attesting that the firm shall only employ appropriately certified employees to conduct lead-based paint activities, and that the firm and its employees shall follow the work practice standards set forth in WAC 365-230-200 for conducting lead-based paint activities.

(3) The application for a state-licensed contractor seeking certification shall include documentation that the firm meets the current minimum requirements of the department of labor and industries regarding a surety bond and insurance.

(4) The application of a firm that is not a state-licensed contractor shall include documentation that the firm has in force a business, e.g., liability, errors and omissions, insurance policy in the minimum amount of five hundred thousand dollars.

(5) A certified firm may not conduct lead-based paint activities, as described in WAC 365-230-200, if, at any time, it does not have in force the minimum bonding or insurance coverage described in this section.

(6) The firm shall maintain all records pursuant to WAC 365-230-200.

(7) Certification is transferable in the instance of acquisition of a certified firm by another entity. The acquiring firm must notify the department within thirty days of the change of ownership of any changes to information submitted on the original application.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-170, filed 4/29/04, effective 5/30/04.]

WAC 365-230-180 Application requirements for a firm. (1) Applications for a firm shall be submitted on forms prescribed by the department and shall be accompanied, by the following:

A letter of compliance, signed by an officer of the firm, or an individual authorized to sign on the firm's behalf, certifying the following:

(a) The firm will employ only certified employees of the appropriate discipline to conduct lead-based paint activities as prescribed in these rules.

(b) The firm will follow the standards for conducting lead-based paint activities as prescribed in these rules.

(c) The firm shall maintain all records pursuant to these rules.

(2) A check or money order made out to the department of community, trade, and economic development in the amount as described in WAC 365-230-260.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-180, filed 4/29/04, effective 5/30/04.]

WAC 365-230-190 Approval or disapproval of certification. (1) The department may disapprove an application for certification for the following reasons, including, but not limited to:

(a) Failure to complete application in accordance with these rules, or department policy or instructions;

(b) Failure to satisfy eligibility requirements for certification;

(c) Failure to satisfy training requirements;

(d) Failure to provide required documentation or information requested by the department;

(e) History of citations or violations of existing regulations or these rules, regulations including execution of a consent agreement in settlement of an enforcement action;

(f) History of revocation of a certificate;

(g) Making false or misleading statements in the application;

(h) Permitting the duplication or use of the individual's own certificate by another;

(i) Having been subject to a final administrative order imposing a civil penalty or a criminal conviction for engaging in a prohibited act under department.

(2) In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, the department may, at its discretion, work with the applicant to address inadequacies in the application for certification. The department may also request additional materials under the recordkeeping requirements of WAC 365-230-200(8). If an individual or firm's application for certification has been disapproved, the program may reapply for certification at any time.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-190, filed 4/29/04, effective 5/30/04.]

WAC 365-230-200 Work practice standards. (1) When performing any lead-based paint activity described by a certified and licensed individual as an inspection, lead hazard screen, risk assessment or abatement, a certified and licensed person must perform that activity in compliance with these rules, documented methodologies, procedures and work practice standards.

(2) Inspection. An inspection shall be conducted only by a person certified by the department as an inspector or risk assessor.

(a) Locations shall be selected according to documented methodologies and tested for the presence of lead as follows:

(i) In target housing and child-occupied facilities, each component with a distinct painting history shall be tested, except those components determined to have been replaced after 1978 or to not contain lead-based paint; and

(ii) In a multifamily dwelling or child-occupied facility, each component with a distinct painting history in every common area shall be tested, except those components determined to have been replaced after 1978 or to not contain lead-based paint.

(b) Paint shall be tested for the presence of lead using documented methodologies which incorporate sampling quality control procedures and all paint chip, dust, and soil samples shall be analyzed for detectable levels of lead by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP).

(c) Inspection reports shall be prepared and include at least:

(i) Inspection date;

(ii) Building address;

(iii) Date of construction;

(iv) Apartment identification (numbers, letters, names if applicable);

(v) Name, address and telephone number of owner or owners of each unit;

(vi) Name, signature, and certification number of each inspector and/or risk assessor conducting testing;

(vii) Name, address and telephone number of the certified firm employing each inspector and/or risk assessor;

(viii) Each testing method and device and/or sampling procedure employed for paint analysis, including sample quality control data, and if used, the serial number of any X-ray fluorescence (XRF) device; and

(ix) Specific locations of each painted component tested and the results of the inspection expressed in appropriate units for the sampling method used.

(3) Lead hazard screen. A lead hazard screen shall be conducted only by a person certified by the department as a risk assessor and shall be conducted as follows:

(a) Background information shall be collected about the physical characteristics of the target housing or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age six years and under shall be collected.

(b) A visual inspection shall be conducted to determine the presence of any deteriorated paint and locate at least two dust sampling locations.

(c) If deteriorated paint is present, each deteriorated paint surface determined, using documented methodologies, to be in poor condition and to have a distinct painting history shall be tested for the presence of lead.

(d) In residential dwellings, two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways or stairwells where one or more children age six or under are likely to come in contact with dust.

(e) In multifamily dwellings and child-occupied facilities, floor and window composite dust sampling shall be conducted as specified for conducting lead hazard screens in residential dwellings in the Work Practice Standard section of these rules. In addition, composite dust samples shall be collected in common areas where one or more children age six or under are likely to come in contact with dust.

(f) All dust samples shall be collected using documented methodologies that incorporate sample quality control procedures and analyzed by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP) to determine detectable lead.

(g) A lead hazard screen report shall be prepared by the risk assessor and include:

(i) Information in a risk assessment report as specified in subsection (4) including (i)(i) through (xiv) and excluding (i)(xv) through (xviii). Additionally, any background information collected pursuant to the lead hazard screen shall be included.

(ii) Any recommendations for follow-up risk assessment and other further actions.

(4) Risk assessment. A risk assessment of target housing or child-occupied facility shall be conducted only by a person certified by the department. A risk assessment shall be conducted as follows:

(a) A visual inspection shall be conducted to locate the existence of deteriorated paint, assess the extent and cause of deterioration, and other potential lead-based hazards.

(b) Background information shall be collected regarding the physical characteristics and occupant use patterns that may cause lead-based paint exposure to one or more children age six years and under.

(c) The following surfaces which are determined, using documented methodologies, to have a distinct painting history, shall be tested for the presence of lead:

(i) Each friction surface or impact surface with visibly deteriorated paint.

(ii) All other surfaces with visibly deteriorated paint.

(d) In residential dwellings, dust samples (either composite or single-surface samples) from the interior window sill(s) and floor shall be collected and analyzed for lead concentration in all living areas where one or more children, age six and under, are most likely to come in contact with dust.

(e) For multifamily dwellings and child-occupied facilities, the samples required in "residential dwellings" as described in subsection (4) of this section shall be taken. In addition, interior window sill and floor dust samples (either composite or single-surface samples) shall be collected and analyzed for lead concentration in the following locations:

(i) Common areas adjacent to sampled target house or child-occupied facility; and

(ii) Other common areas in the building where the risk assessor determines that one or more children, age six and under, are likely to come in contact with dust.

(f) For child-occupied facilities, interior window sill and floor dust samples (either composite or single-surface samples) shall be collected and analyzed in each room, hallway or stairwell utilized by one or more children, age six and under, and in other common areas in the child-occupied facility where the risk assessor determines one or more children, age six and under, are likely to come in contact with dust.

(g) Soil samples shall be collected and analyzed for lead concentrations from the following locations:

(i) Exterior play areas where bare soil is present; and

(ii) The rest of the yard (i.e., nonplay areas) where bare soil is present.

(h) Any paint, dust or soil sampling or testing shall be conducted using documented methodologies that incorporate sample quality control procedures and analyzed by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP) to determine detectable lead.

(i) The certified risk assessor shall prepare a risk assessment report which shall include as a minimum the following information:

(i) Assessment date.

(ii) Address of each building.

(iii) Date of construction of buildings.

(iv) Apartment identification (numbers, letters, names if applicable).

(v) Name, address and telephone number of each owner of each building.

(vi) Name, signature, and certification number of each risk assessor conducting the assessment.

(vii) Name, address and telephone number of the certified firm employing each risk assessor.

(viii) Name, address and telephone number of each laboratory conducting analysis of collected samples.

(ix) Results of the visual inspection.

(x) Testing method and sampling procedure employed for paint analysis.

(xi) Specific locations of each painted component tested for the presence of lead.

(xii) All data collected from on-site testing, including quality control data, and if used, the serial number of any X-ray fluorescence (XRF) device.

(xiii) All results of laboratory analysis on collected paint, soil, and dust samples.

(xiv) Any other sampling results.

(xv) Any background information collected pursuant to subsection background information portion of the risk assessment work practice standard of this section.

(xvi) To the extent used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint related hazards.

(xvii) A description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards.

(xviii) A description of interim controls and/or abatement options for each identified lead-based paint hazard and a recommended prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

(5) Abatement. An abatement shall be conducted only by a person certified by the department. Abatement shall be conducted as follows:

(a) A certified and licensed supervisor or project designer is required for each abatement project and shall be on-site during all worksite preparation and during postabatement cleanup of work areas. At all other times, the certified supervisor or project designer shall be on-site or available by telephone, pager, or answering service, and be able to be present at the worksite in no more than two hours.

(b) A certified and licensed project designer is required for each abatement project that:

(i) Consists of ten or more target housing units built prior to 1960; or

(ii) Consists of twenty or more target housing units built during or after 1960; or

(iii) Consists of twenty-five thousand square feet or more of target housing.

(c) The certified and licensed supervisor or project designer, as well as the certified and licensed firm employing that supervisor shall ensure that all abatement activities are conducted according to the requirements of these rules and all federal, state and local requirements.

(d) A certified and licensed project designer may replace and assume the responsibilities of a certified and licensed supervisor required for an abatement project. If a certified and licensed project designer provides supervision on an abatement project, the project designer shall be responsible for preparing the occupant protection plan and the abatement report.

(e) A written occupant protection plan shall be developed prior to all abatement projects, be prepared by a certified and licensed supervisor or project designer, be unique to each target housing or child-occupied facility, describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards. The written occupant protection plan shall be present at the project site and must be made available on demand for inspection.

(f) A scope of work for the abatement project shall be present at the project site and must be made available on demand for inspection.

(g) These work practices shall be restricted during abatement and paint removal:

(i) Open-flame burning or torching of lead-based paint is prohibited;

(ii) Uncontained hydro blasting or high-pressure washing of lead-based paint is prohibited;

(iii) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with high efficiency particulate air (HEPA) exhaust control which removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency;

(iv) Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two square feet in any room, hallway or stairwell or totaling no more than twenty square feet on exterior surfaces; and

(v) Operating a heat gun on lead-based paint is permitted only at temperatures below 1100°F.

(h) When soil abatement is conducted, if the soil is removed:

(i) The soil shall be replaced by soil with a lead concentration as close to local background as practicable, but no greater than 250 ppm.

(ii) The soil that is removed shall not be used as top soil at another residential property or child-occupied facility.

(iii) If the soil is not removed, the soil shall be permanently covered as defined in these rules.

(i) The following clearance procedures shall be performed only by a certified and licensed inspector or risk assessor and according to the following procedures:

(i) A visual inspection shall be performed to determine if deteriorated painted surfaces and/or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or residue are present, these conditions must be eliminated prior to the continuation of the clearance procedures.

(ii) If exterior work on a project cannot be completed due to inclement weather or other factors, the project supervisor or designer may apply in writing to the department for authorization of a preliminary clearance. The application must include the following:

(A) The project address.

(B) The name and certification number of the abatement project supervisor or project designer.

(C) A description of the conditions that justify issuance of a waiver.

(D) A description of the abatement work that remains to be done on the project.

(E) A schedule for completion of the abatement work that remains to be done.

(F) A plan for monitoring and controlling potential lead-based paint contamination until work can be completed.

(G) At the conclusion of all work on a project for which preliminary clearance has been authorized, the project supervisor or designer shall present the department with documentation that clearance testing has been performed on exterior and interior areas according to these rules and that all clearance test results are below clearance levels.

(iii) Following the visual inspection and any postabatement cleanup required in subsection (5)(i) of this section, clearance sampling for lead in dust shall be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques.

(iv) Dust samples for clearance purposes shall be taken using documented methodologies that incorporate sample quality control procedures and shall be taken a minimum of one hour after completion of final cleanup activities.

(v) Postabatement clearance activities shall be conducted based upon the extent or manner of work activities conducted in or on the target housing or child-occupied facility as follows:

(j) After conducting an abatement with containment between containment and noncontainment areas, one dust sample shall be taken from one interior window sill and from one window trough (if present) and one dust sample shall be taken from the floors of no less than four rooms, hallways or stairwells within the containment area. In addition, one dust sample shall be taken from the floor outside the containment area. If there are fewer than four rooms, hallways or stairwells within the containment area, then all rooms, hallways or stairwells shall be sampled.

(i) After conducting an abatement with no containment, two dust samples shall be taken from no fewer than four rooms, hallways or stairwells in the residential dwelling or child-occupied facility. One dust sample shall be taken from one interior window sill and from one window trough (if present) and one dust sample shall be taken from the floor of each room, hallway or stairwell selected. If there are fewer than four rooms, hallways or stairwells within the target housing or child-occupied facility then all rooms, hallways or stairwells shall be sampled.

(ii) Following exterior paint abatement, a visual inspection shall be conducted. All horizontal surfaces in the outdoor living area closest to the abated surfaces shall be found to be cleaned of visible dust and debris. The surfaces shall be recleaned when visible dust and debris is present. The visual inspection shall be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior abated surface. Paint chips, if present, shall be removed from the site and disposed of according to federal, state and local requirements.

(iii) The rooms, hallways or stairwells selected for sampling shall be selected according to documented methodologies.

(iv) The certified and licensed inspector or risk assessor shall compare residual lead levels (as determined by laboratory analysis) from each single surface dust sample with clearance examination standards as defined in these rules for lead in dust on floors and interior window sills, and window troughs, divided by half the number of subsamples in the composite sample. If the residual lead level in a single surface dust sample equals or exceeds the applicable clearance examination refresher or if the residual lead level in a composite dust sample equals or exceeds the applicable clearance examination refresher divided by half the number of subsamples in the composite sample, the components represented by the failed sample shall be recleaned and retested until clearance examination standards are met.

(k) In a multifamily dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted provided:

(i) The certified individuals who work on or clean the residential dwellings do not know which residential dwelling will be selected for the random sample.

(ii) The randomly selected residential dwellings shall be sampled and evaluated for clearance according to subsection (5)(i) of this section.

(iii) A sufficient number of residential dwellings are selected for dust sampling to provide a ninety-five percent level of confidence that no more than five percent or fifty of the residential dwellings (whichever is smaller) in the randomly sampled population exceeds the appropriate clearance examination standards.

(l) An abatement report shall be prepared by a certified and licensed supervisor or project designer and shall include as a minimum the following information:

(i) Start and completion dates of abatement.

(ii) The name, address and telephone number of each certified firm conducting the abatement and the name of each supervisor or project designer assigned to the abatement project.

(iii) The occupant protection plan.

(iv) The name, address and signature of each certified and licensed inspector or risk assessor conducting clearance sampling and the date(s) that clearance sampling was performed.

(v) The results of clearance sampling and all soil analyses and the name of each laboratory conducting analysis of collected samples.

(vi) A detailed written description of the abatement, including abatement methods, location of rooms and/or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.

(m) A clearance report shall be prepared by a certified inspector or risk assessor. The clearance report shall include the following information:

(i) The property address where the clearance sampling occurred.

(ii) The abatement clean-up completion date and time.

(iii) The date and time of clearance sampling.

(iv) Name and certification number of each inspector or risk assessor conducting the clearance.

(v) The signature of the inspector or risk assessor conducting the clearance.

(vi) Name, address, telephone number, and certification number of the certified firm employing the inspector or risk assessor.

(vii) Results of the visual inspection.

(viii) Identification of containment or noncontainment applications.

(ix) Identification of location(s) where clearance samples were collected.

(x) Name, address, and telephone number of the laboratory analyzing the collected samples.

(xi) All results of laboratory analysis on collected samples, including quality control results.

(xii) Documented methodology used for sampling.

(6) Sampling. Any paint chip, dust, or soil samples collected pursuant to this section shall be collected by a certified and licensed inspector or risk assessor. Such samples shall be analyzed by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP).

(7) Composite sample. Composite dust sampling may only be conducted when conducting a lead hazard screen, risk assessment, or postabatement activities. If conducted, the composite dust samples shall consist of at least two subsamples, every component that is being tested shall be included in the sampling, and shall not consist of subsamples from more than one type of component.

(8) Reports or plans. All lead-based paint activity reports or plans shall be maintained by the certified firms or individual who prepared the report for no fewer than three years and six months.

(a) The following reports must be submitted to the department as specified in WAC 365-230-100 and 365-230-220:

(i) Notification of lead-based paint activities course to take place.

(ii) Notification of lead-based paint activities course that has taken place.

(iii) Notice of abatement.

(b) All reports required by these rules may be submitted on forms available from the department. The exhibit referred to in this rule is not printed in this WAC. Copies are available as follows from department of community, trade, and economic development:

Lead-Based Paint Program, P.O. Box 42525, Olympia, WA 98504-2525

Telephone number: 360-725-2949

Fax number: 360-586-5880

Website: www.cted.wa.gov

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-200, filed 4/29/04, effective 5/30/04.]

WAC 365-230-210 Determinations of lead-based paint and lead-based paint hazards. (1) Lead-based paint is present:

(a) On any surface that is tested and found to contain lead equal to or in excess of 1.0 milligrams per square centimeter or equal to or in excess of 0.5% by weight; and

(b) On any surface similar to a surface tested in the same room equivalent that has a similar painting history and is found to be lead-based paint.

(2) A paint-lead hazard is present:

(a) On any friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface (e.g., the window sill or floor) are equal to or greater than the dust hazard levels identified in the "clearance examination standards" definition of these rules;

(b) On any chewable lead-based paint surface on which there is evidence of teeth marks;

(c) Where there is any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against a door frame); and

(d) If there is any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

(3) A dust lead-hazard is present in a residential dwelling or child-occupied facility:

(a) In a residential dwelling on floors and interior window sills when the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior window sills is equal to or greater than 40 $\mu g/ft^2$ for floors and 250 $\mu g/ft^2$ for interior window sills, respectively;

(b) On floors or interior window sills in an unsampled residential dwelling in a multifamily dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled residential unit on the property; and

(c) On floors or interior window sills in an unsampled common area in a multifamily dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively in at least one sampled common area in the same common area group on the property.

(4) A soil-lead hazard is present in a residential dwelling or child-occupied facility when the soil-lead concentration from a composite sample of bare soil is equal to or greater than 250 parts per million.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-210, filed 4/29/04, effective 5/30/04.]

WAC 365-230-220 Notice of abatement. A certified firm shall notify the department of lead-based paint abatement activities as follows:

(1) Except as provided in subsection (2) of this section, the department must be notified prior to conducting lead-based paint abatement activities. The original notice must be received by the department at least ten business days before lead-based paint abatement activities begin.

(2) Notice for abatement activities required in response to an elevated blood lead level (EBL) determination, or federal, state, tribal, or local emergency abatement order must be received by the department as early as possible before, but not later than the day lead-based paint abatement activities begin. Documentation showing evidence of an EBL determination or a copy of the federal/state/tribal/local emergency abatement order must be included in the notification to take advantage of this abbreviated notification period.

(3) Updated notice of a new start date must be provided to the department for lead-based paint abatement activities that will begin on a date other than the date specified in the original notification notice, as follows:

(a) For lead-based paint abatement activities beginning prior to the original start date, an updated notice must be received by the department at least ten business days before the revised start date.

(b) For lead-based paint abatement activities beginning after the original start date, an updated notice must be received by the department at least two business days before the original start date.

(4) The certified firm shall update the department of any change in location of lead-based paint abatement activities at least ten business days prior to the project start date.

(5) The certified firm shall also update the department regarding the cancellation of any lead-based paint abatement activities, or other significant changes including, but not limited to, when the square footage or acreage to be abated changes by at least twenty percent. This updated notice must be received by the department at least two business days prior to the project start date.

(6) The following shall be included in each notice:

(a) Notification type (original, updated, cancellation).

(b) Date when lead-based paint abatement activities will commence.

(c) Date when lead-based paint abatement activities will end (approximation using best professional judgment).

(d) Firm's name, the department certification number, address, phone number.

(e) Type of building (e.g., single-family dwelling, multifamily dwelling, child-occupied facilities) on/in which abatement work will be performed.

(f) Property name (if applicable).

(g) Property address including apartment or unit number (if applicable) for abatement work.

(h) Documentation showing evidence of an EBL determination or a copy of the federal/state/tribal/local emergency abatement order, if applicable.

(i) Name, department certification number, and signature of the certified supervisor or project designer.

(j) Approximate square footage/acreage to be abated.

(k) Brief description of abatement activities to be performed.

(7) Notification shall be accomplished using any of the following methods: Written notice, or by e-mail. All notices submitted by e-mail must be followed by written notice within twenty-four hours of submission. Written notification can be accomplished using either the sample form titled "Notice of Abatement" or similar form. All written notices shall be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery. (Persons submitting notification by U.S. Postal Service are reminded that they should allow three additional business days for delivery in order to ensure that the department receives the notification by the required date.) Instructions and sample forms can be obtained from the department via phone 360-725-2941 or fax 360-588-5966, or on the internet at http://www.cted.gov

(8) Lead-based paint abatement activities shall not begin on a date, or at a location other than that specified in either an original, or updated notice, in the event of changes to the original notice.

(9) No firm or individual shall engage in lead-based paint abatement activities, as defined in WAC 365-230-200 prior to notifying the department of such activities according to requirements of this section.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-220, filed 4/29/04, effective 5/30/04.]

WAC 365-230-230 Inspections. (1) The director or the director's designee is authorized to inspect, without cost, and at reasonable times and, when feasible, with at least twenty-four hours prior notification:

(a) Premises or facilities where those engaged in training for lead-based paint activities conduct business; and

(b) The business records of, and take samples at, the businesses accredited or certified under this chapter to conduct lead-based paint training or activities.

Any accredited training program or any firm or individual certified under this chapter that denies access to the department for the purposes of this subsection is subject to deaccreditation or decertification.

(2) The director or the director's designee is authorized to inspect premises or facilities where violations may occur concerning lead-based paint activities, as defined under WAC 365-230-020, at reasonable times and, when feasible, with at least forty-eight hours prior notification of the inspection.

(3) Prior to receipt of federal lead-based paint abatement funding, all premises or facility owners shall be notified by any entity that receives and disburses the federal funds that an inspection may be conducted. If a premises or facility owner does not wish to have an inspection conducted, that owner is not eligible to receive lead-based paint abatement funding.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-230, filed 4/29/04, effective 5/30/04.]

WAC 365-230-240 Suspension, revocation and modification of accredited training course or lead-based paint certification. (1) The department may suspend, revoke or modify accreditation of a training course, or the lead-based paint certification of an individual or firm, and may assess a civil penalty, if the individual, entity, or responsible party under these rules has:

(a) Failed to comply with a requirement of chapter 70.103 RCW or the rules adopted thereunder; or

(b) Obtained or retained accreditation or certification by error, misrepresentation, or fraud.

(2) The department may assess a civil penalty against any person who engages in lead-based paint activity without certification from the department or who offers to provide or provides lead-based paint training courses without accreditation from the department.

(3) Prior to denying, suspending, revoking, or modifying an accreditation or certification, or imposing a civil penalty, the department in writing shall notify the affected entity of:

(a) The factual and legal basis for the alleged violation;

(b) The penalty assessed for the alleged violation;

(c) The date on which the penalties take effect; and

(d) The opportunity to contest the action by requesting an adjudicative proceeding within twenty days of notice of the action.

(4) Whenever an affected entity does not timely request an adjudication proceeding to contest the department's action, the action becomes final and binding on the day specified in the notification of action. Except as provided in subsection (3) of this section, the filing of a timely request for an adjudicative proceeding stays any action against the affected entity until completion of the adjudicative proceeding.

(5) Whenever the department determines that the public health, safety, or welfare warrants immediate action, the department may summarily suspend accreditation or certification prior to the opportunity for an adjudicative proceeding, as provided in RCW 34.05.479.

(6) Any request for adjudicative proceeding shall be conducted by the department under chapters 34.05 RCW and 10-08 WAC.

(7) The public shall be notified of the suspension, revocation, modification or reinstatement of a training program's accreditation through appropriate mechanisms.

(8) Department shall maintain a list, available to the public, of entities whose accreditation has been suspended, revoked, or modified.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-240, filed 4/29/04, effective 5/30/04.]

WAC 365-230-250 Schedule of penalties. (1) The standard penalty for each violation shall be a maximum:

First violation, five hundred dollars and/or ten days suspension.

Second violation, one thousand dollars and/or twenty days suspension.

Third violation, one thousand five hundred dollars and/or thirty days suspension.

Fourth violation, two thousand dollars and/or one year suspension or revocation.

Fifth violation, five thousand dollars and/or one year suspension (or more) or revocation.

(2) The department may aggravate the maximum standard penalty in an amount not to exceed five thousand dollars per violation and/or revocation, based on the following factors:

(a) The violation caused or had the potential to cause injury to humans or significant property damage;

(b) The violation involved fraud or intentional misrepresentation;

(c) The violation was similar to a previous violation; or

(d) The violator obstructed or failed to cooperate with the department's investigation of the violation.

(3) The department may mitigate the maximum standard penalty if the violator has cooperated with the department's investigation and has voluntarily undertaken steps to prevent reoccurrence of the same violation.

(4) Any person or entity whose accreditation or certification has been revoked shall not be eligible to reapply for one year from the effective date of the final order of revocation.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-250, filed 4/29/04, effective 5/30/04.]

WAC 365-230-260 Certification fees. The following fees are established for certification:

(1) Firms, inspectors, risk assessors, supervisors, project designers and workers shall pay a nonrefundable certification or recertification fee of twenty-five dollars.

(2) All fees shall be in the form of a check or money order made out to the department of community, trade, and economic development.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-260, filed 4/29/04, effective 5/30/04.]

WAC 365-230-270 Other state regulations concerning lead. The following Washington state regulations may apply to contractors working with lead. Consult the appropriate agency for more information regarding specific requirements:

(1) Department of ecology or any successor agency.

(2) Department of labor and industries or any successor agency.

[Statutory Authority: RCW 70.103.0030(2) [70.103.030(2)], 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, 70.103.090. 04-10-037, § 365-230-270, filed 4/29/04, effective 5/30/04.]