

Washington State Register

FEBRUARY 5, 1997

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filed not later than January 22, 1997

CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: the 37th item in the August 5, 1981, Register would be cited as WSR 81-15-037.

PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (360) 753-7470.

REPUBLICATION OF OFFICIAL DOCUMENTS

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CERTIFICATE

Pursuant to RCW 34.08.040, the publication of rules or other information in this issue of the Washington State Register is hereby certified to be a true and correct copy of such rules or other information, except that headings of public meeting notices have been edited for uniformity of style.

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

(Computed and filed by the State Treasurer under RCW 19.52.025)

The maximum allowable interest rate applicable for the month of February 1997 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.

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The Washington State Register is an official publication of the state of Washington. It contains proposed, emergency, and permanently adopted administrative rules, as well as other documents filed with the code reviser's office pursuant to RCW 34.08.020 and 42.30.075. Publication of any material in the Washington State Register is deemed to be official notice of such information.

Mary F. Gallagher Dille
Chair, Statute Law Committee

Dennis W. Cooper
Code Reviser

Gary Reid
Chief Assistant Code Reviser

Kerry S. Radcliff
Editor

Joyce Matzen
Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Inquiry that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **PERMANENT**-includes the full text of permanently adopted rules.
- (d) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (e) **MISCELLANEOUS**-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.
- (f) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (g) **INDEX**-includes a combined subject matter and agency index.

Documents are arranged within each section of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence with a section's material.

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.05.395 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections—
 - (i) underlined material is new material;
 - (ii) deleted material is (~~lined out between double parentheses~~);
- (b) Complete new sections are prefaced by the heading **NEW SECTION**;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading **REPEALER**.

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

Material contained in the Register other than rule-making actions taken under the APA (chapter 34.05 RCW) does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

4. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules normally take effect thirty-one days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed or advanced and such an effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser's office unless a later date is provided by the agency. They remain effective for a maximum of one hundred twenty days from the date of filing.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

5. EDITORIAL CORRECTIONS

Material inserted by the code reviser's office for purposes of clarification or correction or to show the source or history of a document is enclosed in [brackets].

1996 - 1997

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
<i>For Inclusion in--</i>	<i>File no later than 12:00 NOON--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>
96-16	Jul 10	Jul 24	Aug 7	Aug 21	Sep 10
96-17	Jul 24	Aug 7	Aug 21	Sep 4	Sep 24
96-18	Aug 7	Aug 21	Sep 4	Sep 18	Oct 8
96-19	Aug 21	Sep 4	Sep 18	Oct 2	Oct 22
96-20	Sep 4	Sep 18	Oct 2	Oct 16	Nov 5
96-21	Sep 25	Oct 9	Oct 23	Nov 6	Nov 26
96-22	Oct 9	Oct 23	Nov 6	Nov 20	Dec 10
96-23	Oct 23	Nov 6	Nov 20	Dec 4	Dec 24
96-24	Nov 6	Nov 20	Dec 4	Dec 18, 1996	Jan 7, 1997
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97-01	Nov 21	Dec 5	Dec 19, 1996	Jan 2, 1997	Jan 22
97-02	Dec 5	Dec 19, 1996	Jan 2, 1997	Jan 15	Feb 4
97-03	Dec 26, 1996	Jan 8, 1997	Jan 22	Feb 5	Feb 25
97-04	Jan 8	Jan 22	Feb 5	Feb 19	Mar 11
97-05	Jan 22	Feb 5	Feb 19	Mar 5	Mar 25
97-06	Feb 5	Feb 19	Mar 5	Mar 19	Apr 8
97-07	Feb 19	Mar 5	Mar 19	Apr 2	Apr 22
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97-09	Mar 26	Apr 9	Apr 23	May 7	May 27
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97-14	Jun 4	Jun 18	Jul 2	Jul 16	Aug 5
97-15	Jun 25	Jul 9	Jul 23	Aug 6	Aug 26
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97-17	Jul 23	Aug 6	Aug 20	Sep 3	Sep 23
97-18	Aug 6	Aug 20	Sep 3	Sep 17	Oct 7
97-19	Aug 20	Sep 3	Sep 17	Oct 1	Oct 21
97-20	Sep 3	Sep 17	Oct 1	Oct 15	Nov 4
97-21	Sep 24	Oct 8	Oct 22	Nov 5	Nov 25
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97-23	Oct 22	Nov 5	Nov 19	Dec 3	Dec 23
97-24	Nov 5	Nov 19	Dec 3	Dec 17, 1997	Jan 6, 1998

¹All documents are due at the code reviser's office by 12:00 noon on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-21-040.

²A filing of any length will be accepted on the closing dates of this column if it has been prepared and completed by the order typing service (OTS) of the code reviser's office; see WAC 1-21-040. Agency-typed material is subject to a ten page limit for these dates; longer agency-typed material is subject to the earlier non-OTS dates.

³At least twenty days before the rule-making hearing, the agency shall cause notice of the hearing to be published in the Register; see RCW 34.05.320(1). These dates represent the twentieth day after the distribution date of the applicable Register.

REGULATORY FAIRNESS ACT

The Regulatory Fairness Act, chapter 19.85 RCW, was enacted in 1982 to minimize the impact of state regulations on small business. Amended in 1994, the act requires a small business economic impact analysis of proposed rules that impose more than a minor cost on twenty percent of the businesses in all industries, or ten percent of the businesses in any one industry. The Regulatory Fairness Act defines industry as businesses within a four digit SIC classification, and for the purpose of this act, small business is defined by RCW 19.85.020 as "any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees."

Small Business Economic Impact Statements (SBEIS)

A small business economic impact statement (SBEIS) must be prepared by state agencies when a proposed rule meets the above criteria. Chapter 19.85 RCW requires the Washington State Business Assistance Center (BAC) to develop guidelines for agencies to use in determining whether the impact of a rule is more than minor and to provide technical assistance to agencies in developing a SBEIS. All permanent rules adopted under the Administrative Procedure Act, chapter 34.05 RCW, must be reviewed to determine if the requirements of the Regulatory Fairness Act apply; if an SBEIS is required it must be completed before permanent rules are filed with the Office of the Code Reviser.

Mitigation

In addition to completing the economic impact analysis for proposed rules, state agencies must take reasonable, legal, and feasible steps to reduce or mitigate the impact of rules on small businesses when there is a disproportionate impact on small versus large business. State agencies are encouraged to reduce the economic impact of rules on small businesses when possible and when such steps are in keeping with the stated intent of the statute(s) being implemented by proposed rules. Since 1994, small business economic impact statements must contain a list of the mitigation steps taken, or reasonable justification for not taking steps to reduce the impact of rules on small businesses.

When is an SBEIS Required?

When:

The proposed rule has more than a minor (as defined by the BAC) economic impact on businesses in more than twenty percent of all industries or more than ten percent of any one industry.

When is an SBEIS Not Required?

When:

The rule is proposed only to comply or conform with a federal law or regulation, and the state has no discretion in how the rule is implemented;

There is less than minor economic impact on business;

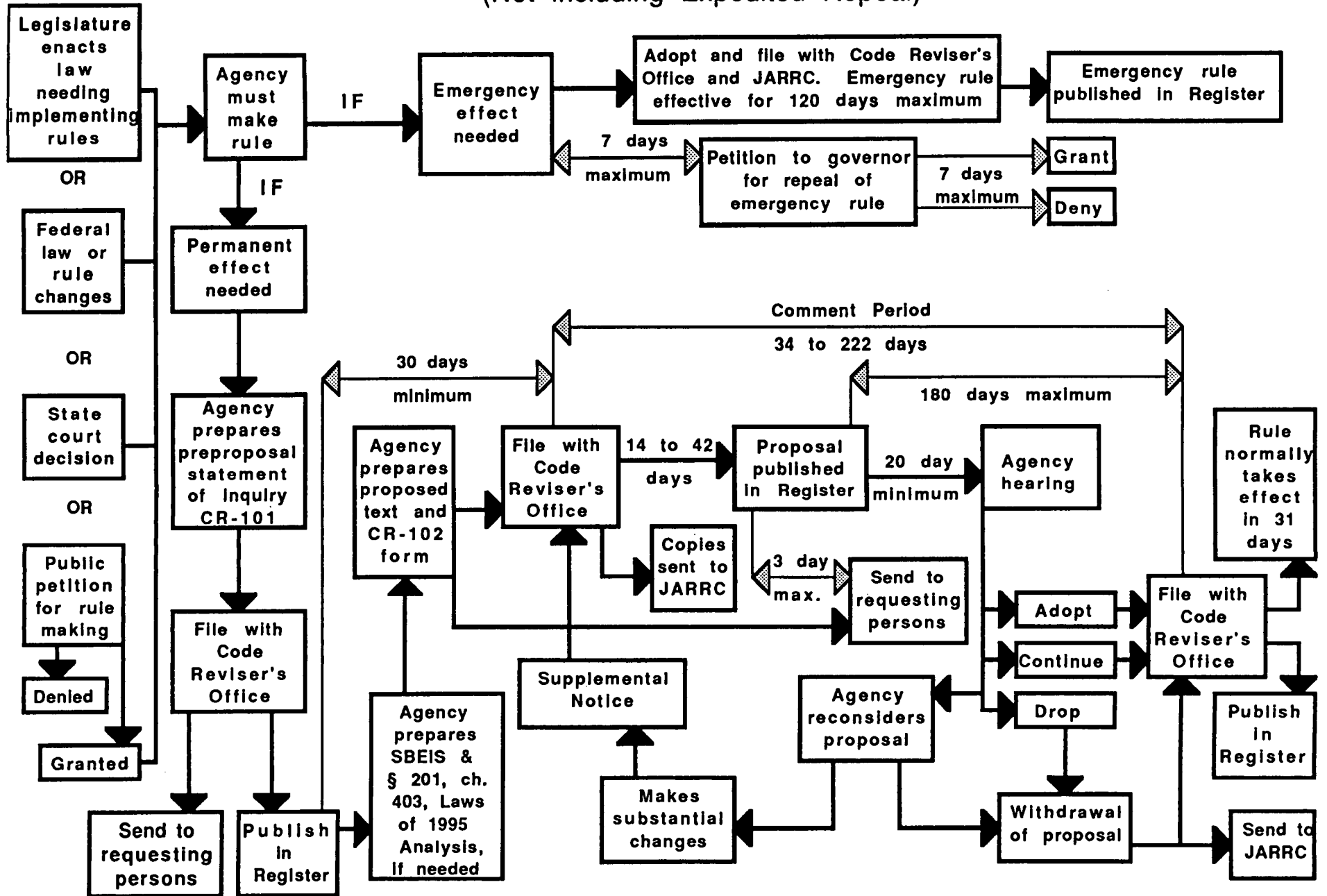
The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

The rule is adopted as an emergency rule, although an SBEIS may be required when an emergency rule is proposed for adoption as a permanent rule; or

The rule is pure restatement of state statute.

RULE-MAKING PROCESS

(Not including Expedited Repeal)



WSR 97-03-014
PREPROPOSAL STATEMENT OF INQUIRY
SECRETARY OF STATE
 (Corporations Division)
 [Filed January 6, 1997, 11:00 a.m.]

Subject of Possible Rule Making: The charities annual registration form, the annual solicitation report, and the annual financial statement. The commercial fund-raiser annual registration form and annual financial statement. Definition of "cost of solicitation."

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 19.09 RCW, Charitable Solicitations Act, specifically, RCW 19.09.075, 19.09.079, 19.09.210, and 19.09.315.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Secretary of State is responsible for providing citizens with information relating to people or organizations who solicit funds from the public for public charitable purposes. These rules will revise the form for charitable organization registration, and commercial fund-raisers, and to revise requirements involving financial statements.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Office of the Attorney General may bring legal action to enforce the Charitable Solicitations Act, but does not engage in rule making.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Colleen Kemp, Corporations, Office of the Secretary of State, 505 East Union, P.O. Box 40234, Olympia, WA 98504-0234, (360) 753-7120, ext. 258 or (360) 586-8465, FAX (360) 664-4250.

January 6, 1997
 Donald F. Whiting
 Assistant Secretary of State

WSR 97-03-029
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING
 (Board of Registration for
 Professional Engineers and Land Surveyors)
 [Filed January 9, 1997, 10:28 a.m.]

Subject of Possible Rule Making: Requirements relating to application, qualification and examinations for licensure as a professional engineer including WAC 196-12-010, 196-12-020, 196-12-030, 196-12-050, 196-12-060, 196-24-030, 196-24-040, 196-24-050, 196-24-085, 196-24-100, and 196-24-105.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.43.035.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Many sections of these rules are outdated. They will be rewritten and formatted to facilitate improved understanding of the requirements for engineering examination and licensure. The engineering exams offered have changed, requiring amendment. Current provisions permitting waiver of the fundamentals of engineering (EIT) exam will also be reviewed.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study; and an advisory committee will be used to help draft new rule language. Anyone expressing interest may attend meetings of this advisory committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rick Notestine, c/o Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649, (360) 753-3634, FAX (360) 664-2551. Interested parties will be placed on the mailing list for this rule adoption process. Said parties may also participate with the advisory committee in drafting these rules.

January 9, 1997
 Alan E. Rathbun
 Executive Director

WSR 97-03-042
PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE PATROL
 (Commission on Equipment)
 [Filed January 10, 1997, 8:52 a.m.]

Subject of Possible Rule Making: Chapter 204-10 WAC, Equipment standards, adopt new section to define acceptable standards for hands-free, wireless communication systems as enacted under chapter 34, Laws of 1996.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.37.005 and 46.37.480.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Recent legislation allows motorists to drive vehicles equipped with wireless communication systems. This rule will define acceptable standards.

Process for Developing New Rule: Surveyed communications industry for input.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ms. C. Morton, Washington State Patrol, Equipment Review Unit, P.O. Box 42635, Olympia, WA 98504-2635, (360) 412-8934, FAX (360) 664-0657.

January 10, 1997
 Annette M. Sandberg
 Chief

NEW SECTION

WAC 204-10-045 Wireless communications systems. Hands-free, wireless communication systems may also refer to the use of cellular phone systems. These hands-free listening devices may be used by motorists while driving motor vehicles. Listening devices that include an earpiece shall cover only one ear.

WSR 97-03-043
PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE PATROL
 (Commission on Equipment)
 [Filed January 10, 1997, 8:54 a.m.]

Subject of Possible Rule Making: Chapter 204-41 WAC, Seat belt exemptions, adopt new section to allow meter readers, who are in and out of their vehicles an average of four hundred times daily, an exemption from seat belt use while on their routes.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.37.005 and 46.37.510.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The amendment to this rule will allow seat belt exemptions to meter readers, with certain conditions explained in the amendment.

Process for Developing New Rule: Request from a utility district's safety coordinator.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ms. C. Morton, Washington State Patrol, Equipment Review Unit, P.O. Box 42635, Olympia, WA 98504-2635, (360) 412-8934, FAX (360) 664-0657.

January 10, 1997
 Annette M. Sandberg
 Chief

NEW SECTION

WAC 204-41-060 Utility meter readers. Meter readers may be exempted from the seat belt requirements only during the time they are reading meters in residential areas and are continually in and out of their vehicles. Seat belt use is required when traveling to and from their actual route, or when on other utility business.

WSR 97-03-066
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH
 (Nursing Commission)
 [Filed January 14, 1997, 10:00 a.m.]

The Nursing Commission has decided to withdraw chapters 246-838 and 246-839 WAC, WSR 94-20-077 which was filed with your office on October 4, 1994. The following sections are affected: Amendatory sections WAC 246-838-260 Standards of practice and 246-839-700 through 246-839-740, standards of practice.

Interested parties should contact Mary Dale, Program Manager, at (360) 664-4207.

Patty Hayes
 Executive Director

WSR 97-03-067
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH
 (Nursing Commission)
 [Filed January 14, 1997, 10:02 a.m.]

The Nursing Commission has decided to withdraw chapters 246-838 and 246-839 WAC, WSR 95-06-018 which was filed with your office on February 21, 1995. The following sections are affected: Amendatory sections WAC 246-838-090 through 246-838-100, licensing of foreign educated nurses and endorsing applicants; and WAC 246-839-080 through 246-839-090, licensing of foreign educated nurses and endorsing applicants.

Interested parties should contact Mary Dale, Program Manager, at (360) 664-4207.

Patty Hayes
 Executive Director

WSR 97-03-081
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed January 15, 1997, 11:15 a.m.]

Subject of Possible Rule Making: Chapter 296-200 WAC, Contractor certificate of registration—Renewals—Security—Insurance.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.27.125.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Due to changes in the RCW resulting from the passage of ESSB 2498 (1996), these rules need to be revised. The proposed revisions eliminate gender specific language, rewrite the rules according to clear rule-writing technique, delete references to a \$200 appeal bond requirement, modify requirements relating to contractor advertising practices and other revisions deemed necessary by the department. The proposed rules more accurately reflect the statute upon which they are based.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Not applicable. This subject is solely regulated by the Department of Labor and Industries. No other state or federal agencies are involved.

Process for Developing New Rule: The primary responsibility for developing this rule is the chief compliance construction plumbing specialist with input from major stakeholders.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kevin Morris, Chief Compliance Construction Plumbing Specialist, Department of Labor and Industries, Construction Compliance and Public Safety Division, P.O. Box 44470, Olympia, WA 98504-4470, phone (360) 902-5578, FAX (360) 902-5292.

January 13, 1996 [1997]
 Mark O. Brown
 Director

WSR 97-03-082
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed January 15, 1997, 11:16 a.m.]

Subject of Possible Rule Making: Chapter 296-49 WAC, Governor's mobile home and recreational vehicle advisory board and chapter 296-150R WAC, Recreational vehicles and park trailers.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.22.340, 43.22.420, and 43.22.480.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Due to changes in RCW 43.22.420 the rules affecting the Factory Assembled Structures Advisory Board need to be revised. The proposed rules more accurately reflect the statutes upon which they are based. Also, the department proposes to create a separate WAC chapter for park trailers. This new chapter, chapter 296-150P WAC, Park trailers, will deal exclusively with park trailers and will be updated to reference current NEC and ANSI standards.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Not applicable. This subject is solely regulated by the Department of Labor and Industries. No other state or federal agencies are involved.

Process for Developing New Rule: The primary responsibility for developing these rules is the department's chief prefabricated building specialist with input from stakeholders and the director's factory assembled structures advisory board.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dan Wolfenbarger, Chief Prefabricated Building Specialist, Department of Labor and Industries, Construction Compliance and Public Safety Division, P.O. Box 44440, Olympia, WA 98504-4440, phone (360) 902-5225, FAX (360) 902-5292.

January 13, 1996 [1997]
 Mark O. Brown
 Director

WSR 97-03-086
PREPROPOSAL STATEMENT OF INQUIRY
BUILDING CODE COUNCIL

[Filed January 16, 1997, 8:10 a.m.]

Subject of Possible Rule Making: Amending the 1994 Editions of the Uniform Mechanical Code Chapter 11 and the Uniform Fire Code Article 63 relating to refrigeration. This will amend chapter 51-32 WAC, Uniform Mechanical Code and chapter 51-34 WAC, Uniform Fire Code.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 19.27.074.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This proposed rule making will provide a detailed technical review of code changes contained in WSR 97-01-135, filed December 19, 1996, and will respond to a petition presented by the Washington state chapter of the International Fire Code Institute requesting

that the State Building Code Council reenter rule making on this subject.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Not applicable.

Process for Developing New Rule: Negotiated rule making; and appointment of a Technical Advisory Group to work with the council.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Individuals or organizations interested in following the development of this rule should submit a letter of interest to James R. Beaver, Chair, Washington State Building Code Council, P.O. Box 48300, Olympia, WA 98504-8300, or FAX (360) 586-5880. Meeting notices, minutes, and draft language will be provided as requested. For further information, please contact Al Rhoades at (360) 586-8999.

January 13, 1997
 James R. Beaver
 Council Chair

WSR 97-03-097
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed January 17, 1997, 1:55 p.m.]

Subject of Possible Rule Making: Modifications to adoption support program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.13.109.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed amendments to the rules clarify language, implement federal and state legislative and regulatory changes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jennifer Strus, Director of Program and Policy, Children's Administration, phone (360) 902-7911, FAX (360) 902-7903, TDD (360) 902-7906, e-mail JEST300@dshs.wa.gov, with comments and recommendations.

January 17, 1997
 Merry A. Kogut, Manager
 Rules and Policies Assistance Unit

WSR 97-03-098
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed January 17, 1997, 1:57 p.m.]

Subject of Possible Rule Making: Division of developmental disabilities family support program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 71A.12.030, 71A.12.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amended rules will provide consistency and equity in the application of this program. Administration and expenditure control will be improved through better definition of benefits to families. The division of developmental disabilities is converting policy governing family support to rule as required by chapter 34.05 RCW.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rita Dickey, Department of Social and Health Services, Division of Developmental Disabilities, P.O. Box 45310, Olympia, WA 98504, phone (360) 902-8451, FAX (360) 902-8482, TDD (360) 902-8455.

January 17, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

WSR 97-03-102

PREPROPOSAL STATEMENT OF INQUIRY WHATCOM COMMUNITY COLLEGE

[Filed January 17, 1997, 3:34 p.m.]

Subject of Possible Rule Making: Hazing.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.10.902 - [28B.10.]903.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW requires institutions of higher education to adopt rules relating to hazing - prohibition, definition, penalties, relationship to initiation into student organizations.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cliff Baacke, c/o Whatcom Community College, 237 West Kellogg Road, Bellingham, WA 98226, (360) 676-2170, ext. 3278, FAX (360) 676-2171, TTY (360) 647-3279.

January 15, 1997

Cliff Baacke
Dean for Administrative Services

WSR 97-03-118

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF TRANSPORTATION

[Filed January 21, 1997, 3:30 p.m.]

Subject of Possible Rule Making: WAC 468-300-210
Transporting hazardous materials on Washington state ferries.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 47.56.030 and 47.60.326.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Washington State Transportation Commission is considering modifying WAC 468-300-210, relating to the transportation of hazardous materials on Washington state ferries. More particularly, the question relates to transportation in bulk of such commo-

ties as gasoline and certain chemicals used in a variety of manufacturing processes.

As currently drafted, the rule allows the shipment of such commodities, on a cost reimbursement basis, on special vessel runs that are conducted when vessels are not engaged in the transportation of passengers. Although the rule applies system wide, the issue is particularly important for the San Juan Islands and for Vashon Island, as alternative means of transporting such commodities to the residents of those islands are either limited or nonexistent.

Among the specific proposals that the commission will be considering are the following:

- Adding a requirement that shippers who use the ferry system runs for transporting hazardous materials provide proof of insurance for property damage and liability and name the ferry system as an additional insured on the shippers' policies. The current recommendation is that such coverage be at least \$1 million (\$2 million for pollution coverage). The commission will also be considering whether the amount or type of coverage recommended is sufficient, and would appreciate comments on same.
- Adding language to the rule that makes it clear the current practice of including dead head or stand by time in the costs that are recovered under the provisions of the current rule.

In addition the commission is interested in receiving comments or suggestions as to other changes that it should consider, or not consider, in connection with this rule, WAC 466-07-210 (dealing with exclusive chartering of WSF vessels) or the issue of transporting hazardous materials on ferries in general.

In addition to the two issues identified above, a number of proposals have been suggested for the commission's consideration. These proposals could increase costs of service or have an economic impact on individuals, businesses or the public at large. The commission is interested in receiving comments on the cost or economic impact of these proposals. They include, without being limited to, the following:

- Not providing transportation of such materials if there are alternative means available to transport the materials to a particular location.
- Establishing an annual rate for transporting hazardous materials, rather than making seasonal adjustments per the current rule. Given that the establishment of an equitable annual rate could be complex, the commission is interested in suggestions on how such an annual rate should be calculated, and whether an annual rate is frequent enough to accurately assess and recover the costs.
- Establishing a fixed price, either per vessel run or per vehicle for those vessel runs involving the transportation of hazardous materials, rather than charging actual costs for a particular run and dividing them according to the number of shipments involved in a particular vessel run (costs under the current rule vary depending on staffing and vessel availability, etc.).
- Treating hazardous transportation runs as "charters" under WAC 466-07-010 (2)(b), and applying the "costs plus fifty per cent" formula of that rule in calculating costs.

- Changing the method of calculating the charge for exclusive charters under WAC 466-07-010 (2)(b) by increasing, decreasing or eliminating the "surcharge" required under the current rule.

After receiving public comments and input on the issues, the commission will decide which, if any, of these issues should be pursued further. If there is to be consideration of changes to the current provisions of the Washington Administrative Code (WAC), specific rules setting forth the proposed changes will be filed and published in the Washington state register in accordance with the Administrative Procedure Act. A public hearing will be conducted before any final action is taken by the commission.

Please direct your written comments to Washington State Transportation Commission, P.O. Box 47308, Olympia, WA 98504-7308, or e-mail your comments to the commission at transc@wsdot.wa.gov. Comments must be received by March 1, 1997.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Regular rule-making process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Washington State Transportation Commission, P.O. Box 47308, Olympia, WA 98504-7308, FAX (360) 705-6802, e-mail transc@wsdot.wa.gov, phone (360) 705-7070.

January 21, 1997
Chris R. Rose
Administrator

WSR 97-03-124
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Adult Services Administration)
[Filed January 22, 1997, 9:10 a.m.]

Subject of Possible Rule Making: Adult day health.
Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.39A.007 and 74.39A.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules are necessary to establish care levels, payment rates, and criteria for provider eligibility. The requirements for client eligibility for Medicaid payment need to be defined. Rules are needed to enforce federal and state policy.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None directly, there are some federal rules (HCFA) which impact Medicaid payment for services provided by these centers.

Process for Developing New Rule: Ongoing discussions and meetings with providers of services, and discussion by area agencies on aging with consumers, input from case managers and others. There will [be] meetings to discuss drafts as those drafts are developed.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before

publication. Write, call or FAX to Jeanne Marie Thomas, Adult Day Health Rule Making, P.O. Box 45600, Olympia, WA, 98504-5600, (360) 459-6554, FAX (360) 438-8633, TTY/TDD (360) 493-2637, or call and leave your address and ask for the adult day health package at 1-800-422-3263.

January 21, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

WSR 97-03-130
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY
[Filed January 22, 1997, 10:55 a.m.]

Subject of Possible Rule Making: Amend chapter 197-11 WAC, State Environmental Policy Act rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 43.21C RCW, State Environmental Policy Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: A rule-making effort began in late 1995 as required by ESHB 1724 (1995). This effort has demonstrated a need to review the existing categorical exemptions authorized by chapter 197-11 WAC. The categorical exemptions have not been reviewed comprehensively since 1984. Many changes have occurred since 1984 to planning-related statutes, and new statutes have been passed (e.g. Growth Management Act). It may be necessary to add new exemptions and revise or delete existing ones in response to these changes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Federal agencies: Not applicable. State agencies include Departments of Transportation, Fish and Wildlife, Natural Resources, and others. Most state agencies are involved in the SEPA process and may have an interest in reviewing categorical exemptions.

Process for Developing New Rule: The exact process will be determined after the close of the comment period discussed below. It will likely be some form of negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The Department of Ecology intends to review and possibly revise the categorical exemptions in chapter 197-11 WAC, SEPA rules. This CR-101 announces the opening of a public comment period. Any interested persons are invited to send written suggestions for any changes (additions, deletions or modifications) in categorical exemptions.

Content of comment letters. The comment letters should be as specific and detailed as possible, and must include the following:

- The specific exemption (including WAC section number) being proposed for change or deletion;
- The type of change proposed (deletion, wording revision, or new exemption);
- A detailed description of the type of activity or project proposed as a new or revised exemption;
- Proposed language for the new or revised exemption;

- If you represent an agency, the approximate number of actions of this type which have come before you over a particular period of time; and
- A clear rationale on why the specific project or activity should or should not be exempt from the SEPA process. Commenters are encouraged to provide examples of problems caused by specific exemptions or lack of exemptions, as well as the environmental, economic or other benefits that would result from the proposed changes. At a minimum, the comment letters should address the factors listed below.

Ecology will review of suggested changes. Ecology will review all comment letters and consider suggested changes to the categorical exemptions. In determining whether to propose a new or revised exemption through the rule-making process, the department will consider a number of factors, including the following.

- Will the type of project or activity or proposed change be likely to have any adverse environmental impacts? Of these impacts, which are likely to be *significant* adverse environmental impacts?
(Note: RCW 43.21C.110 limits categorical exemptions in the SEPA rules to "...those types which are not major actions significantly affecting the quality of the environment." Also, WAC 197-11-305 and 197-11-800 currently require review of the potential for cumulatively significant impacts from a proposal composed of multiple exempt actions.)
- Is the new or revised categorical exemption consistent with relevant statutory provisions and court decisions?
- Will the potential environmental impacts be the same in various locations (for example, rural vs. urban settings)?
- Are all of the potentially significant site specific environmental impacts from the type of project or activity considered and adequately address separately from the SEPA process (regulatory overlap/duplication)?
- Is there public concern about the type of activity or project that would be exempt? Is there public concern about the ability of the public, agencies, and tribes to receive notice and consider the environmental impacts?
- Will the proposed change meet the multiple goals and policies set forth in SEPA (RCW 32.21C.020 [43.21C.-020]) and the SEPA rules (WAC 197-11-030), including integrating SEPA and improving the regulatory process?

Send all comment letters to Neil Aaland, Senior Planner, Department of Ecology, Environmental Review Section, P.O. Box 47703, Olympia, WA 98504-7703.

Written comments will be accepted until April 30, 1997. Letters sent by e-mail will NOT be accepted as formal comments. After this date, we will review the comments and determine how to proceed with the rule-making process. All commenters will receive a written notification on the process that will be used. If you have any questions, please contact Neil Aaland at (360) 407-7045, e-mail naal461@ecy.wa.gov.

January 17, 1997
D. J. Patin
Assistant Director

WSR 97-02-009
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Division of Alcohol and Substance Abuse)
 (General Provisions)
 [Filed December 20, 1996, 3:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-22-027.

Title of Rule: Certification requirements for chemical dependency treatment service providers.

Purpose: (1) Amend chapter 440-22 WAC sections and add new sections necessary to redefine the terms chemical dependency (CD) counselor and CD intern and add requirement to obtain "certification of qualification" and "letter of enrollment" respectively. (2) Amend chapter 440-22 WAC sections necessary to add the requirement for certified CD programs to adopt the patient placement criteria published by the American Society of Addiction Medicine (ASAM) as the standard for patient admissions, continuing care, transfers, and discharges. (3) Amend WAC 440-22-005, 440-22-225, 440-22-230, 440-22-310, and 440-22-335 to correct language or further explain the current regulations.

Statutory Authority for Adoption: RCW 70.96A.040.

Statute Being Implemented: Chapter 70.96A RCW.

Summary: Same as Purpose above.

Reasons Supporting Proposal: (1) and (2) described in Purpose section are drafted and proposed at request of several chemical dependency provider associations.

Name of Agency Personnel Responsible for Drafting: Division of Alcohol and Substance Abuse, Gary Reynolds, Lacey, Washington, (360) 438-8054; **Implementation and Enforcement:** Division of Alcohol and Substance Abuse, Certification Section, Lacey, Washington, (360) 438-8052.

Name of Proponent: Margaret Jones, President, Association of Alcoholism and Addictions Programs; Don Thomas, President, Washington State Association of Independent Outpatient Programs; John Horngren, Chairman, Washington State Adolescent Chemical Dependency Treatment Providers; Leo Whiteford, Chairman, Northwest Indian Council on Chemical Dependency, and Northwest Indian Alcohol/Drug Specialist Certification Board; Diane Hall, President, Chemical Dependency Professionals of Washington State; Lanny Minuto, President, Chemical Dependency Counselor Certification Board; and Tom Armstrong, President, Northwest Chapter, National Association of Addiction Treatment Providers, private; and Department of Social and Health Services, Division of Alcohol and Substance Abuse, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: 1. Amendments will require CD counselor interns to obtain a "letter of enrollment" and CD counselors to obtain a "certificate of qualification" from the department which provides evidence that they meet the minimum respective standards described in chapter 440-22 WAC and are thereby qualified to work in state-approved CD programs. The changes will place responsibility for obtaining these credentials on the interns and counselors. This change will benefit all concerned (counselors, administrators, and

DASA program auditors) by (a) reducing the large amount of paperwork currently required in agency personnel files to provide evidence interns and counselors meet the qualification requirements; and (b) will provide a single page credential that interns and counselors can provide to certified CD program employers attesting they are qualified to work in state-approved CD treatment facilities. New sections will be added to provide the rules for disqualification, denial, expiration, suspension, or revocation of CD counselor certificate of qualification. This is necessary for the provision of due process. The amendment to add the knowledge exam and supervisor/peer review will bring the WAC standard into agreement with standards currently used by this state's private CD certification boards and by national CD certification boards and, provide additional tools for professional quality assurance by asking CD counselors to pass a knowledge exam and provide supervisor and peer counselor's attestation to the counselor's competency. A grandparenting section is included excluding currently qualified counselors from the knowledge exam requirement.

2. Amendments add a requirement for all state certified CD treatment programs to adopt and use the patient placement criteria published by the American Society of Addiction Medicine (ASAM) in making patient decisions for admission placement, continuing care, transfer, and discharge. This will provide Washington state's CD treatment programs with a nationally recognized, state of the art, criteria for making these decisions in line with several other states in the nation. Currently, there is no common standard being employed leaving patients and clinicians alike vulnerable to inappropriate placement, continuing care, transfer and discharge decisions. The ASAM standards are considered the most widely accepted criteria available within the CD field and will provide a "common language" for all professionals working in state-approved CD programs.

3. Amendment to WAC 440-222-005(47), (definition for "vulnerable adult") brings the definition into conformance with a recent change in this definition in RCW 43.43.830; WAC 440-22-225 adds wording to clarify acceptable training and work experience for probation assessment officers; WAC 440-22-230 removes a date reference for youth chemical dependency counselors that has passed; WAC 440-22-310 (2)(i) changes the current placement for the requirement for patient redisclosure statement" into its own subsection. This will help mitigate confusion that the current placement of this wording in the WAC has caused; and WAC 440-22-335(3) adds wording to clarify this requirement.

Proposal Changes the Following Existing Rules: 1. Amends chemical dependency (CD) counselor qualification standards in RCW 440-22-005, 440-22-180, 440-22-200, 440-22-220, 440-22-225, 440-22-230, 440-22-240, 440-22-250 WAC by adding a knowledge exam and supervisor/peer review process; amending the definitions sections for CD counselors and CD interns and other sections describing requirements and process for obtaining "certificate of qualification" and "letter of endorsement" for CD counselors and CD interns respectively; adds new sections WAC 440-22-253, 440-22-255, and 440-22-257 to the chapter describing disqualification, denial, expiration, suspension, or revocation of CD counselor certificate of qualification.

2. Amends WAC 440-22-005, 440-22-300, 440-22-320, 440-22-325, and 440-22-335 by adding a requirement for

certified treatment agencies to use patient placement criteria published by the American Society of Addiction Medicine (ASAM) as the standard for making admission placement, continuing care, transfer, and discharge decisions.

3. Amends the following sections of chapter 440-22 WAC to correct or clarify language; WAC 440-22-005(47), definition for "Vulnerable adult" to bring it into conformance with an amendment to this definition in RCW 43.43.830; WAC 440-22-225, adding clarification language; WAC 440-22-230, removing an effective date that has been passed; WAC 440-22-310 (2)(i), corrected to clarify rule; and WAC 440-22-335(3), additional explanatory language.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

Introduction: In August of this year, Kenneth D. Stark, director of the Division of Alcohol and Substance Abuse (DASA) received a letter cosigned by leaders of eight chemical dependency (CD) professional associations representing a majority of the CD treatment agencies and CD counselors in Washington state.¹ The letter requested that DASA move to draft and initiate amendments to chapter 440-22 WAC to, (a) correct programmatic inefficiencies in determining CD counselor qualifications and, (b) adopt the nationally accepted patient placement criteria published by the American Society of Addiction Medicine (ASAM) as the standards for use in Washington state certified treatment agencies.

Mr. Stark presented this request, as an item of new business, at the August 15, 1996 meeting of the Citizens Advisory Council (CAC) on Alcoholism and Drug Addictions.² The CAC agreed with the requests and appointed a subcommittee to work with DASA staff to draft proposed amendment language. Subsequently, a small workgroup, chaired by Patricia Stromberg of the CAC, drafted proposed amendments for chapter 440-22 WAC and presented them before a larger CD provider stakeholder group³ in a meeting held in Burien, September 25, 1996. The stakeholder group, composed of representatives from Washington's CD provider organizations directly impacted by the proposal, negotiated minor changes to the draft amendments and arrived at full consensus with its content. The proposed amendments were then presented back before the CAC wherein, on October 17, 1996, the council voted to recommend that DASA submit the proposed regulations, as written, for adoption.

DESCRIPTION OF IMPACT OF PROPOSED REGULATIONS

Applicability of Proposed Regulations: The proposed amendments will apply to all CD treatment agencies certified by DASA. As of October 9, 1996, there were four hundred forty-two agencies certified by DASA as CD treatment agencies in the state of Washington. With the exception of three to five agencies, all of these businesses employ less than fifty individuals and therefore are considered small businesses. About two hundred ninety of the four hundred forty-two agencies are private for profit businesses.

Chemical Dependency Counselor and Intern Amendments - Compliance Requirements: The proposal amends the definitions sections for CD counselors and CD interns and amends language in other sections describing requirements and process for obtaining "certificate of qualification"

and "letter of enrollment" for CD counselors and CD interns, respectively. The amendments will require counselors and interns to submit documentation substantiating they have completed all of the education and experience requirements for their respective positions in accordance with chapter 440-22 WAC through a review process approved by the department in order to obtain a "certificate of qualification" or "letter of enrollment" that attests to their qualification. Agencies will be required to include a copy of each counselor's "certificate of qualification" and CD intern's "letter of enrollment" in their personnel files. These documents will replace the large amount of documentation currently required by the regulations to confirm one's qualifications. The proposal, in effect, shifts the responsibility for proving counselor/intern qualification from the CD agency to the CD counselor or intern. Agency administrators will no longer be forced to review the large amount of documentation currently required in order to determine if an applicant or current intern/counselor employee meets the WAC qualification standards.

Chemical Dependency Counselor and Intern Amendments - Analysis of Cost of Compliance: This change will actually cut costs to some CD treatment agencies by:

1. Saving hours of employer administrative time currently devoted to obtaining and reviewing the large amount of documentation required to substantiate each counselor/intern's initial and ongoing qualification. The estimated time savings is 2.5 hours per employee in initial hiring and 1.5 hours per employee in every subsequent two-year period. At a \$50 per hour administrative cost, this equates to a savings of \$200 per each new employee over their first two years of employment and \$75 per employee for each subsequent two-year period. As an example, in a small agency with a staff of three CD counselors, this could save an estimated \$600 in administrative costs.

2. Reducing the large amount of paperwork currently required to be kept in personnel files to document the counselor/intern's qualification. It is estimated that approximately \$15 per employee will be saved in copying and filing costs alone. Using our example from item 1., this would save \$45.

3. Assist employers in recruiting qualified staff more efficiently when seeking new or replacement staff. An employer/administrator, by being able to ask for a "certificate of qualification" or "letter of enrollment" from prospective counselors or interns to determine their qualification status, will not waste time interviewing potentially unqualified persons. This benefit could save CD program administration hundreds of dollars in recruitment costs and costs associated with problems related to inappropriate hiring. Estimated average prorated savings, \$75 per employee.

Total estimated average savings for example 1. agency = \$870.

Patient Placement Criteria Amendments - Compliance Requirements: This proposal adds a requirement for certified treatment agencies to adopt patient placement criteria (PPC) published by the ASAM as the standard for making patient admission placement, continuing care, transfer, and discharge decisions. Agency clinical procedures will need to be updated to reflect how the ASAM PPC criteria is used within the program for determining proper patient admission, continuing care, transfer and discharge

decisions. Patient records will be required to make reference to the PPC criteria in the documentation of these decisions.

Patient Placement Criteria Amendments - Analysis of Cost of Compliance: If an agency has not already adopted these criteria, the estimated costs for doing so includes:

1. A one-time expense of purchasing the PPC manual from the ASAM. ASAM manuals cost \$100. Manuals have been made available at reduced cost (\$85) at training sponsored by the Association of Alcoholism/Addictions Programs (AAP). Two manuals being purchased by our model agency (see item 1. in "Chemical Dependency Counselor And Intern Amendments - Analysis Of Cost Of Compliance" above) would total \$170.

2. A one-time cost of updating the agency's clinical procedures manual to incorporate procedures necessary to describe how the agency will use the criteria. It is estimated that it will take ten hours of administrative time, at \$50 per hour to accomplish this task. This equates to an estimated cost of \$500.

3. Costs for training clinical supervisors in the use of the PPC varies. Training costs vary from \$30 to \$500. Most agencies have been sending one or two staff through the training. They in turn return to their agencies and provide in-service training to their peers or subordinates. Including travel and per diem costs, the costs for off-site training for two counselors is estimated to average \$150.

Total estimated costs for example 1. agency = \$820.

Impact on Provider Agency Revenues: Adoption of these amendments may have a positive impact on agency revenues, to the extent they can increase insurance reimbursement because of better documentation and use of national PPC with which insurance companies are familiar.

Determination of Disproportionate Impact and Mitigation of Costs: Over ninety-nine percent of all certified agencies in the chemical dependency treatment industry employ less than fifty staff. Therefore, for the purposes of this study we have considered all providers to be small businesses. As shown above, it is estimated that cost savings from the adoption of the CD counselor/intern proposal will offset the additional costs imposed by the ASAM PPC proposal and result in a net cost savings. Where agencies have already adopted the use of ASAM PPC, these amendments will result in an even greater overall cost benefit. Therefore, there is no disproportionate impact imposed by these regulations.

Again, both of the amendments to the regulations are being proposed at the request of the CD treatment industry's provider and counselor associations which represent both private-for-profit and private nonprofit treatment agencies and individual counselors in Washington state. Even though no disproportionate cost impact has been determined, DASA, in collaboration with the AAP plan to provide assistance in a variety of ways to mitigate implementation and ongoing costs.

CD Counselor/Intern Amendments - Cost Mitigation: As mentioned above, the CD counselor/CD intern amendments will result in agency administrative cost savings.

Patient Placement Criteria Amendments - Cost Mitigation: Many CD agencies in Washington state have already incorporated the use of the ASAM PPC as standard operating procedures. The AAP, with a membership of one

hundred fifty certified agencies, has been providing training and consultation for member and nonmember organizations over the past four years. AAP reports that staff from two hundred forty-three agencies have already attended AAP sponsored ASAM PPC training and estimate two hundred agencies are either already using the ASAM PPC or are in the process of implementing procedures for its use. The majority of these agencies are private-for-profit agencies. Similarly, since October 1995, DASA has sponsored four separate ASAM PPC training events. Staff from 170 agencies have attended the DASA training events. It is likely that some of the agencies attending the AAP training events may have also attended a DASA training event.

To assist in further mitigating costs to both the private-for-profit and nonprofit agencies remaining to adopt these standards, DASA plans to:

1. Offer agencies the ASAM PPC manuals at reduced cost. DASA will purchase the manuals at a bulk rate and sell them to agencies at the reduced cost. This could save approximately \$25 per manual.

2. Continue to provide training on using the ASAM criteria at low cost. The AAP reports it also plans to continue to provide ASAM PPC training and provide bulk rate discounts on the PPC manuals.

3. Consult with Washington state's community colleges to update CD counselor training curricula to include training on use of ASAM PPC in their CD course work. This would provide all new CD interns and counselors entering the field with information and clinical application skills regarding PPC as a part of their basic course work, thus reducing the need for future training.

4. A one-year moratorium from the date of adoption of the regulations will be instituted by DASA to give providers the time necessary to make the changes required to incorporate the ASAM PPC in their clinical processes. In this interim period, DASA certification staff will provide on-site technical assistance at the time of agency certification surveys for those agencies found out of compliance with the ASAM PPC requirements and given time to employ the corrective action necessary to institute the new standards.

1 Cosignors of August 5, 1996, letter to Kenneth D. Stark, Director, Division of Alcohol and Substance Abuse, requesting amendments to chapter 440-22 WAC: Margaret Jones, President, Association of Alcoholism and Addictions Programs; Don Thomas, President, Washington State Association of Independent Outpatient Programs; John Horngren, Chairman, Washington State Adolescent Chemical Dependency Treatment Providers; Leo Whiteford, Chairman, Northwest Indian Council on Chemical Dependency, and Northwest Indian Alcohol/Drug Specialist Certification Board; Diane Hall, President, Chemical Dependency Professionals of Washington State; Lanny Minuto, President, Chemical Dependency Counselor Certification Board; and Tom Armstrong, President, Northwest Chapter, National Association of Addiction Treatment Providers.

2 Citizens Advisory Council on Alcoholism and Drug Addiction: Thomas H. Cooke, Seattle; Law Risken, Olympia, Patricia Stromberg, Bellevue; George Henson, Sedro Woolley; Yvonne Rivers, Spokane; Mel Schulstad, Redmond; Steven Neumiller, Spokane; Cheryl Pfaff, Vancouver; Carolyn Hillery, Raymond; Arthur E. Krantz, Ellensburg; Larry Vital, Vancouver; Page Gilbert-Baenen, Greenbank; Ron Murphy, Tacoma; and Desiree Ferguson, Wellpinit.

3 Stakeholder representatives invited to participate in chapter 440-22 WAC amendment process: Linda Grant, Executive Director, Association of Alcoholism/Addictions Programs; Don Thomas, President, Washington State Association of Independent Outpatient Programs; Leo Whiteford, Chairman, Northwest Indian Alcohol/Drug Specialist Certification Board; Pat Knox, President (current), Associa-

tion of Alcoholism/Addictions Programs; Margaret Jones, President (past), Association of Alcoholism/Addictions Programs; Patty Terry, C.D. Program Coordinator, Department of Corrections, Division of Offender Programs; Bill Cobb, Director, King County District Court Probation; Mel Schulstad, Citizens Advisory Council on Alcoholism and Drug Addiction; Cleve Thompson, Association of County Human Services; George Hensen, Citizens Advisory Council on Alcoholism and Drug Addiction; Marilyn Bordner, Coalition on Women's Substance Abuse Issues; Lanny Minuto, President, Chemical Dependency Counselors Certification Board; Luis Rosado, Jr., MA, CDSII, CCDCIII, Chemical Dependency Counselors Certification Board; Tom Armstrong, N.W. Chapter, President, National Association of Addiction Treatment Programs; John Horngren, Chairman, Washington State Adolescent Chemical Dependency Treatment Providers; Terry Schmidt-Whelan, TASC; Gary Schaub, Director, Seattle Municipal Court Probation; Yvonne Rivers, Citizens Advisory Council on Alcoholism and Drug Addiction; Patricia Stromberg, Citizens Advisory Council on Alcoholism and Drug Addiction; Gerry Conghlin, Alcohol/Drug 24-Hour Help Line; John Borders, Washington State Adolescent Chemical Dependency Treatment Providers; and Diane Hall, President, Chemical Dependency Professionals of Washington State.

A copy of the statement may be obtained by writing to Gary Reynolds, WAC Coordinator, Division of Alcohol and Substance Abuse, P.O. Box 45330, Olympia, WA 98504-5330, phone (360) 438-8054, FAX (360) 438-8057, e-mail/Internet reynogl@dshs.wa.gov.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Social and Health Services is not a named agency under RCW 34.05.328.

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 1009 College Street S.E., Room 140-A, Lacey, WA 98503, on February 25, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Manager, by February 11, 1997, TDD (360) 902-8324, or (360) 902-8317.

Submit Written Comments to and Include WAC Numbers: Leslie Baldwin, Rules Coordinator, Rules and Policy Assistance Unit, Department of Social and Health Services, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by February 25, 1997.

Date of Intended Adoption: February 26, 1997.

December 2, 1996

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

WAC 440-22-005 Definitions. Unless the context clearly indicates otherwise, the definitions in this section apply throughout this chapter:

(1) "Administrator" means the person designated responsible for the operation of the certified treatment service;

(2) "Adult" means a person eighteen years of age or older. "Young adult" means an adult who is not yet twenty-one years of age;

(3) "Alcoholic" means a person who has the disease of alcoholism;

(4) "Alcoholism" means a primary, chronic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. The disease is often progressive and fatal. It is characterized by impaired control over drinking, preoccupation with the drug alcohol, use of

alcohol despite adverse consequences, and distortions in thinking, most notably denial. Each of these symptoms may be continuous or periodic;

(5) "Authenticated" means written, permanent verification of an entry in a patient treatment record by means of an original signature including first initial, last name, and professional designation or job title, or initials of the name if the file includes an authentication record, and the date of the entry;

(6) "Authentication record" means a document which is part of a patient's treatment record, with legible identification of all persons initialing entries in the treatment record, and includes:

(a) Full printed name;

(b) Signature including the first initial and last name; and

(c) Initials and abbreviations indicating professional designation or job title.

(7) "Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. The pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV);

(8) "Branch service site" means a physically separate certified unit where qualified staff provide a certified treatment service and are governed by a parent organization;

(9) "Certified treatment service" means a discrete program of chemical dependency treatment offered by a service provider who has a certificate of approval from the department of social and health services, as evidence the provider meets the standards of chapter 440-22 WAC;

(10) "Chemical dependency" means a person's alcoholism or drug addiction or both;

(11) "Chemical dependency counseling" means face-to-face individual or group contact using therapeutic techniques and:

(a) Led by a chemical dependency counselor (CDC) or a CDC intern under direct CDC supervision;

(b) Directed toward patients and others who are harmfully affected by the use of mood-altering chemicals or are chemically dependent; and

(c) Directed toward a goal of abstinence for chemically dependent persons.

(12) "Chemical dependency counselor (CDC)" means a ~~((person registered, certified, or exempted by the state department of health, and qualified as a CDC as))~~ registered counselor who has obtained a certificate of qualification from the department affirming the person has met the counselor qualification requirements described under WAC 440-22-240. ((Categories of chemical dependency counselors include:

~~(a) "Assessment officer" which means a person employed at a certified district or municipal court treatment program who meets WAC 440-22-225 requirements or is grandparented as meeting those requirements;~~

~~(b))~~ A subcategory of CDC includes "youth chemical dependency counselor (YCDC)" which means a person who meets the requirements in WAC 440-22-230 ((requirements)).

(13) "Chemical dependency counselor ~~((CDC))~~ intern ~~(CI)~~" means a person who ~~((meets the standards for CDC interns))~~ has obtained a letter of enrollment from the

department or its designee affirming the person has met the CI qualification requirements described under WAC 440-22-200 and ((440-22-220, and)) is ((supervised by a CDC)) working under supervision in a certified treatment agency((;)) toward internship completion as described under WAC 440-22-210 and 440-22-220;

(14) "Child" means a person less than eighteen years of age, also known as adolescent, juvenile, or minor;

(15) "County coordinator" means the person designated by the chief executive officer of a county to carry out administrative and oversight responsibilities of the county chemical dependency program;

(16) "Criminal background check" means a search by the Washington state patrol for any record of convictions or civil adjudication related to crimes against children or other persons, including developmentally disabled and vulnerable adults, per RCW 43.43.830 through 43.43.842 relating to the Washington state patrol;

(17) "Department" means the Washington state department of social and health services;

(18) "Detoxification" or "detox" means care and treatment of a person while the person recovers from the transitory effects of acute or chronic intoxication or withdrawal from alcohol or other drugs;

(19) "Disability, person with a" means a person who:

(a) Has a physical or mental impairment that substantially limits one or more major life activities of the person;

(b) Has a record of such an impairment; or

(c) Is regarded as having such an impairment.

(20) "Discrete treatment service" means a chemical dependency treatment service that:

(a) Provides distinct chemical dependency supervision and treatment separate from other services provided within the facility;

(b) Provides a separate treatment area for ensuring confidentiality of chemical dependency treatment services; and

(c) Has separate accounting records and documents identifying the provider's funding sources and expenditures of all funds received for the provision of chemical dependency services.

(21) "Domestic violence" means:

(a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members; ((;))

(b) Sexual assault of one family or household member by another;

(c) Stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member; or

(d) As defined in RCW 10.99.020, RCW 26.50.010, or other Washington state statutes.

(22) "Drug addiction" means a primary, chronic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. The disease is often progressive and fatal. Drug addiction is characterized by impaired control over use of drugs, preoccupation with drugs, use of a drug despite adverse consequences, and distortions in thinking, most notably denial. Each of these symptoms may be continuous or periodic;

(23) "First Steps" means a program available across the state for low-income pregnant women and their infants.

First Steps provides maternal and child health care and support services;

(24) "Governing body" means the legal entity responsible for the operation of the chemical dependency treatment service;

(25) "HIV/AIDS brief risk intervention (BRI)" means an individual face-to-face interview with a client or patient, to help that person assess personal risk for HIV/AIDS infection and discuss methods to reduce infection transmission;

(26) "HIV/AIDS education" means education, in addition to the brief risk intervention, designed to provide a person with information regarding HIV/AIDS risk factors, HIV antibody testing, HIV infection prevention techniques, the impact of alcohol and other drug use on risks and the disease process, and trends in the spread of the disease;

(27) "Medical practitioner" means a physician, certified nurse practitioner, or certified physician's assistant. Nurse practitioners and midwives with prescriptive authority may perform practitioner functions related only to indicated specialty services;

(28) "Misuse" means use of alcohol or other drugs by a person in:

(a) Violation of any law; or

(b) Breach of agency policies relating to the drug-free work place.

(29) "Off-site treatment" means provision of treatment by a certified provider at a location where treatment is not the primary purpose of the site;

(30) "Opiate dependency treatment agency" means an organization that administers or dispenses an approved drug as specified in 212 CFR Part 291 for treatment or detoxification of opiate dependency. The agency is:

(a) Approved by the Federal Food and Drug Administration;

(b) Registered with the Federal Drug Enforcement Administration;

(c) Licensed by the county in which it operates; and

(d) Certified as an "opiate dependency treatment agency" by the department.

(31) "Patient" is a person receiving chemical dependency treatment services from a certified program;

(32) "Patient contact" means counselor time spent with a client or patient to do assessments, individual or group counseling, or education;

(33) "Patient placement criteria (PPC)" means the patient placement criteria for the Treatment of Substance-Related Disorders as published and revised by the American Society of Addiction Medicine (ASAM).

(34) "Probation assessment officer" means a person employed at a certified district or municipal court probation assessment service who meets WAC 440-22-225 requirements;

(35) "Probation assessment service" means a certified assessment service offered by a misdemeanor probation department or unit within a county or municipality;

((34)) (36) "Progress notes" are a permanent record of ongoing assessments of a patient's participation in and response to treatment, and progress in recovery;

((35)) (37) "Registered counselor" means a person registered, or certified by the state department of health as required by chapter 18.19 RCW;

(38) "Service provider" or "provider" means a legally operated entity certified by the department to provide chemical dependency treatment services. The components of a service provider are:

- (a) Legal entity/owner;
- (b) Facility; and
- (c) Staff and services.

~~((36))~~ (39) "Sexual abuse" means sexual assault, incest, or sexual exploitation;

~~((37))~~ (40) "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment or treatment;

(b) Such conduct interferes with work performance or creates an intimidating, hostile, or offensive work or treatment environment.

~~((38))~~ (41) "Substance abuse" means a recurring pattern of alcohol or other drug use which substantially impairs a person's functioning in one or more important life areas, such as familial, vocational, psychological, physical, or social;

~~((39))~~ (42) "Summary suspension" means an immediate suspension of certification, per RCW 34.05.422(4), by the department pending administrative proceedings for suspension, revocation, or other actions deemed necessary by the department;

~~((40))~~ (43) "Supervision" means:

(a) Regular monitoring of the administrative, clinical, or clerical work performance of a staff member, intern, student, volunteer, or employee on contract by a person with the authority to give directions and require change; and

(b) "Direct supervision" means the supervisor is on the premises and available for immediate consultation.

~~((41))~~ (44) "Suspend" means termination of the department's certification of a provider's treatment services for a specified period or until specific conditions have been met and the department notifies the provider of reinstatement;

~~((42))~~ (45) "Treatment services" means the broad range of emergency, detoxification, residential, and outpatient services and care. Treatment services include diagnostic evaluation, chemical dependency education, individual and group counseling, medical, psychiatric, psychological, and social services, vocational rehabilitation and career counseling which may be extended to alcoholics and other drug addicts and their families, persons incapacitated by alcohol or other drugs, and intoxicated persons;

~~((43))~~ (46) "Urinalysis" means analysis of a patient's urine sample for the presence of alcohol or controlled substances by a licensed laboratory or a provider who is exempted from licensure by the department of health:

(a) "Negative urine" is a urine sample in which the lab does not detect specific levels of alcohol or other specified drugs; and

(b) "Positive urine" is a urine sample in which the lab confirms specific levels of alcohol or other specified drugs.

~~((44))~~ (47) "Vulnerable adult" means a person (~~sixty years of age or older~~) who (~~has~~) lacks the functional, mental, or physical (~~in~~)ability to care for oneself.

~~((45))~~ (48) "Youth" means a person seventeen years of age or younger.

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

WAC 440-22-180 Personnel files. (1) The administrator shall ensure there is a current personnel file for each employee, intern, student, volunteer, and contract staff person providing or supervising patient care which includes:

(a) Verification of qualifications for the assigned position;

(b) A copy of the current job description or agreement;

(c) A record of orientation;

(d) Documentation of training on bloodborne pathogens, including HIV/AIDS and hepatitis B, except for contract employees;

(e) Documentation of current cardiopulmonary resuscitation (CPR) and first aid training for at least one person on each shift in a residential facility;

(f) Written performance evaluations for each year of employment;

(g) A copy of the results of a tuberculin skin test or evidence the person has completed a course of treatment approved by a physician or local health officer if the results are positive;

(h) Documentation of health department training and approval for any staff administering or reading a TB test; and

(i) A signed and dated commitment to maintain confidentiality.

(2) Each (~~qualified~~) chemical dependency counselor (CDC), probation assessment officer, intern, and information school instructor shall provide sufficient evidence to determine whether each person has the training and education necessary to meet and maintain qualified status required under WAC 440-22-200 through 440-22-280. The personnel file shall include:

(a) For CDCs: A copy of a current certificate of qualification issued by the department affirming the CDC meets the qualifying standards of WAC 440-22-240;

(b) For CDC interns (CI): A copy of a letter of enrollment issued by the department or its designee affirming the CI meets the qualifying standards of WAC 440-22-200;

(c) For probation assessment officers and information school instructors: Sufficient evidence to determine whether each probation assessment officer or intern, and information school instructor has the training and education necessary to meet the qualifying standards of WAC 440-22-240(2) and 440-22-270 respectively;

(d) The date the person became a (~~qualified counselor or~~) probation assessment officer, or information school instructor;

~~((b))~~ (e) A copy of a current license, certificate, or registration with the department of health for all (~~counselors and counselor interns, and all~~) CDCs, CIs and other persons requiring such documentation to practice; and

~~((e))~~ (f) If an employee is a (~~counselor intern~~) CI or probation assessment officer intern, the file shall also contain:

(i) The date training began;

(ii) The education and training plan;

- (iii) A copy of the counselor intern's quarterly review;
- (iv) Documentation of four hours tutoring per month;

and

- (v) The name of the supervising (~~counselor~~) CDC or probation assessment officer.

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

WAC 440-22-200 Chemical dependency counselor (~~(CDC)~~) intern (CI) eligibility. To become a (~~(CDC intern)~~) CI, and before performing functions of a (~~(CDC intern)~~) CI, a person shall obtain a letter of enrollment from the department or its designee that affirms the person meets the following qualifications. The person:

(1) (~~(Not have a)~~) Has no history of alcohol or other drug misuse:

(a) For a period of two years immediately before the person (~~(is assigned as a CDC intern)~~) applies for CI enrollment; and

(b) Throughout the time of the internship.

(2) (~~(Have)~~) Has obtained nine quarter or six semester credits from an accredited college or university, with a minimum of three quarter or two semester credits in each of the following distinct course topic areas:

- (a) Survey of chemical dependency;
- (b) Physiological actions of alcohol and other drugs; and
- (c) Chemical dependency counseling techniques.

(3) (~~(Be)~~) Is registered or certified as a counselor with the department of health (~~(or have a written statement of exemption from the department of health)~~).

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

WAC 440-22-220 Chemical dependency counselor internship completion. To complete chemical dependency counselor (CDC) internship, a person shall:

(1) Obtain an additional twenty-four quarter or sixteen semester credits from an accredited college or university which includes a minimum of three quarter or two semester credits in distinct courses in the following three topic areas:

- (a) Group process in chemical dependency treatment;
- (b) Chemical dependency in the family; and
- (c) Case management and record keeping for chemically dependent patients.

(2) The remainder of the twenty-four quarter or sixteen semester credits noted in subsection (1) of this section shall include distinct courses in the following topic areas:

- (a) Ethics in chemical dependency treatment;
- (b) Chemical dependency and the laws;
- (c) Human growth and development; and
- (d) Introductory or general psychology.

(3) Obtain an additional one hundred eighty hours of state-approved training or equivalent credit from an accredited college or university in the following topic areas:

- (a) Relapse prevention;
- (b) Youth chemical dependency assessment and counsel-

ing;

(c) Cultural awareness;

(d) HIV/AIDS brief risk intervention for CDCs, as approved by the department; and

(e) Other courses that will enhance skills as a chemical dependency counselor.

(4) Have completed two thousand clock hours of directly supervised experience as a CDC intern in a state-certified chemical dependency treatment agency. The internship shall include a minimum of one hundred sixty hours in each of the following clinical areas:

- (a) Conducting assessments;
- (b) Individual counseling; and
- (c) Group counseling.

(5) Have a two-year degree, or its academic equivalent, from an accredited college or university effective February 1, 1997. The CDC intern's course work shall include all WAC 440-20-200 and 440-22-220 academic requirements.

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

WAC 440-22-225 Probation assessment officer interns. A probation assessment officer intern shall:

(1) Be employed as a probation officer at a misdemeanor probation department or unit within a county or municipality;

(2) Meet the requirements for a chemical dependency counselor, as described under WAC 440-22-200 and 440-22-220;

(3) Be considered as meeting WAC 440-22-220 (1) and (2) requirements if the probation assessment officer intern has a bachelor's or graduate degree in a social or health sciences field;

(4) Be considered as meeting WAC 440-22-220(3) by obtaining the one hundred eighty additional hours in training or courses in areas that will enhance skills as a probation assessment officer;

(5) Be considered as meeting WAC 440-22-220(4) by applying all probation officer work experience toward the required thousand hours, and four hundred eighty hours of assessment experience may be applied in lieu of one hundred sixty hours of individual and one hundred sixty hours of group counseling experience.

(6) Be directly supervised and tutored by a ((qualified)) probation assessment officer who shall:

(a) Develop and maintain an individualized education and training plan to bring the intern to ((qualified)) probation assessment officer status, including:

(i) Orientation to the various laws and regulations that apply to the delivery of chemical dependency assessment and treatment services;

(ii) Instruction in assessment methods;

(iii) Instruction on standards of professional conduct and ethics; and

(iv) Observation of the intern conducting assessments.

(b) Document an evaluation of the progress of each intern at least quarterly.

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

WAC 440-22-230 Youth chemical dependency counselor (YCDC) interns. (1) (~~(Effective February 1, 1996, a youth)~~) A YCDC intern shall meet WAC 440-22-200 and 440-22-220 requirements; except, the ((youth)) YCDC intern shall obtain work experience as follows:

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(a) If the person is not yet a CDC, one thousand of the two thousand hours of work experience shall be in a certified program where the majority of the experience is in providing youth chemical dependency treatment; or

(b) If the person is already a CDC and had two thousand hours of required CDC work experience, another one thousand hours in a counseling capacity in other youth settings may satisfy the youth experience requirement.

(2) In addition to the internship completion requirements of WAC 440-22-220, ~~((youth))~~ YCDC interns shall attain five quarter or three semester academic credits, or seventy-five department-approved clock hours of continuing education covering the following topic areas:

- (a) Adolescent assessment;
- (b) Adolescent and child development; and
- (c) Assessing and treating culturally diverse youth.

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

WAC 440-22-240 ((Maintaining)) Chemical dependency counselor (CDC), probation assessment officer, and ((youth)) YCDC qualification. (1) To be and remain a CDC, a person shall obtain a certificate of qualification from the department that affirms that the person:

(a) ~~((Not have a))~~ Has no history of alcohol or other drug misuse for a period of three years before ((employment as a)) application for CDC certificate of qualification;

(b) ~~((Not))~~ Displays no evidence of misuse of alcohol or other drugs while a CDC;

(c) ~~((Be))~~ Is registered or certified as a counselor with the department of health under chapter 18.19 RCW((, or have a written statement of exemption from the department of health));

(d) ~~((Have))~~ Has completed all requirements for a CDC ((or probation assessment officer)) intern; ((and))

(e) ~~((Have))~~ Has successfully passed a chemical dependency counselor knowledge exam and an oral interview approved by the department;

(f) Has provided the department or its designee one letter, completed by the person's present or past immediate supervisor, endorsing the person's competency and three competence evaluations prepared by chemical dependency counselors able to attest to the person's current competency as a counselor. These documents must be from four different persons; and

(g) Has completed sixty clock hours of continuing education:

(i) ~~((January of the year))~~ During each two calendar-year period beginning ((January of the year)) on the day following the ((initial qualification)) CDC's birth date; and

(ii) In subject areas that increase knowledge and skills in counseling and aiding chemically dependent persons and their families in recovery, and increase knowledge of special populations and their issues.

(2) ~~((A))~~ (a) To be and remain a probation assessment officer, the person shall complete all requirements for a probation assessment officer ((shall)) intern; and

(b) Have completed sixty clock hours of continuing education:

(i) During each two calendar year period beginning on the day following the probation assessment officer's birthdate; and

(ii) Obtain continuing education in subject areas intended to increase knowledge and skills in assessing, diagnosing, and referring a chemically dependent person and the person's family.

(3) A ~~((youth))~~ YCDC shall include youth specific or related training as twenty or more of the required sixty hours of continuing education.

(4) Effective date. Chemical dependency counselors, probation assessment officers and interns must meet these standards by January 1, 1998 to remain qualified.

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

WAC 440-22-250 Grandparenting. (1) For chemical dependency counselors. The department ((shall deem a chemical dependency counselor (CDC), probation assessment officer, or youth CDC as having fulfilled respective)) may issue a certificate of qualification to an applicant CDC if the person fulfills the requirements ((when a person was)) for grandparented qualification in accord with procedures established by the department. Grandparented certificates of qualification are available to persons:

~~((+))~~ (a) Qualified as a CDC ((or probation assessment officer)) by January 31, 1996, under WAC 275-19-145 requirements which were repealed with the adoption of chapter 440-22 WAC.

~~((+))~~ (b) Qualified as a CDC ((or probation assessment officer)) by January 31, 1997, under WAC 440-22-200 and WAC 440-22-220(1) through 440-22-220(4) requirements; or

~~((+))~~ (c) Qualified as a ((youth)) YCDC by January 31, 1997, when a person was qualified as a CDC under subsection (1) or (2) of this section and had:

~~((+))~~ (i) One thousand hours of the two thousand required hours of work experience in a certified program where the majority of the experience was in providing youth chemical dependency treatment; or

~~((+))~~ (ii) In addition to the two thousand hours of required CDC work experience, one thousand hours in a counseling capacity in other youth settings.

(2) Grandparented certificates of qualification shall be available only to CDCs who apply for such on applications postmarked prior to January 1, 1998.

(3) For probation assessment officers: The department may deem a probation assessment officer as having fulfilled respective qualification requirements when a person was:

(a) Qualified as a probation assessment officer by January 31, 1996, under WAC 275-19-145 requirements which were repealed with the adoption of chapter 440-22 WAC;

(b) Qualified as a probation assessment officer by January 31, 1997, under WAC 440-22-200 and 440-22-220(1) through 440-22-220(4) requirements.

NEW SECTION

WAC 440-22-253 Disqualification, denial of chemical dependency intern (CI) enrollment or counselor (CDC) certificate of qualification. (1) The department shall consider the ability of each person making application for CI

enrollment or CDC certificate of qualification to perform in accord with this chapter before the department enrolls a CI or grants or renews the certificate for a CDC.

(2) The department may deny or place restrictions on an applicant's letter or certificate when any of the following conditions occur and are not satisfactorily resolved, or when any applicant:

(a) Had a license, certification or registration for practicing as a counselor or other health care professional denied, revoked, or suspended;

(b) Obtained or attempted to obtain a license, certification, or registration by fraudulent means or misrepresentation;

(c) Committed, permitted, aided, or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180;

(d) Demonstrated cruelty, abuse, negligence, misconduct, or indifference to the welfare of a patient;

(e) Misappropriated patient property or resources;

(f) Has a history of noncompliance with state or federal regulations in an agency with which the applicant has been affiliated;

(g) Knowingly, or with reason to know, made a false statement of fact or failed to submit necessary information in:

(i) The application or attached materials (~~attached~~); and

(ii) Any matter under department investigation.

(h) Willfully interfered with the preservation of material information or attempted to impede the work of an authorized department representative;

(3) The department may deny CI enrollment or a CDC certificate of qualification when an applicant:

(a) Fails to provide satisfactory application materials;

(b) Fails to pay required fees; or

(c) Advertises him or herself as being in possession of a state certificate of qualification when a certificate of qualification has not been granted, or has been denied, revoked, or has expired.

(4) The department may disqualify a CDC if the certificate of qualification is not renewed prior to the expiration date.

(5) The applicant may appeal department decisions in accord with chapter 34.05 RCW, the Washington Administrative Procedure Act.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 440-22-255 Expiration of chemical dependency counselor (CDC) certificate of qualification. (1) Certificate of qualification shall be valid for two years. It is the responsibility of the CDC to renew the certificate of qualification in accord with procedures established by the department.

(2) Certificate of qualification shall expire on the CDC's first birthdate following the date of initial issue, at which time it is subject to renewal. If the CDC's next birth date is within one year of the initial date of issue, the certificate of

qualification shall expire on the CDC's second birth date following original issue.

(4) Practicing counseling with an expired certificate of qualification is in violation of requirements in WAC 440-22-175 (1) and (2), and 440-22-180(2).

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 440-22-257 Chemical dependency counselor (CDC) suspension or revocation of certificate of qualification. (1) The department may suspend or revoke a CDC's certificate of qualification when a disqualifying situation described under WAC 440-22-253 applies to a CDC holding a current certificate or when any of the following circumstances occur:

(a) Violation of a rule threatens or results in harm to a patient;

(b) A reasonably prudent CDC should have been aware of a condition resulting in significant violation of a law or rule;

(c) A CDC failed to investigate or take corrective or preventive action to deal with a suspected or identified patient care problem;

(d) The CDC fails to satisfactorily comply with a findings of fact and conclusion of law order issued by the department of health pursuant to chapter 18.19 RCW.

(2) Practicing counseling with a suspended or revoked certificate of qualification is in violation of requirements under WAC 440-22-175 (1) and (2), and 440-22-180(2).

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

WAC 440-22-260 Students. (1) The treatment provider shall have a written agreement with each education agency wanting to use the treatment agency as a setting for student practice.

(2) The treatment provider shall ensure the written agreement describes the nature and scope of student activity at the treatment setting and ensures supervision of student activities.

(3) Each student and academic supervisor shall sign a confidentiality statement which the provider shall retain.

(4) A student may serve as a chemical dependency counselor intern provided the student meets WAC 440-22-200 and 440-22-210 requirements.

(5) When a student is under supervision of a college, the department shall apply both the academic credits and supervised field experience toward the requirements of WAC 440-22-200 and 440-22-220.

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

WAC 440-22-280 Volunteers. (1) Each volunteer offering assistance to a provider shall be oriented as required under WAC 440-22-175 (13), (14), and (15), of the personnel manual.

(2) A volunteer shall meet the qualifications of the position to which the person is assigned.

(3) A volunteer may provide counseling services when the person meets the requirements for a chemical dependency counselor intern or is a chemical dependency counselor.

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

WAC 440-22-300 Clinical manual. Each chemical dependency service provider shall have and adhere to a clinical manual containing patient care policies and procedures, including:

(1) How the provider meets WAC 440-22-310 through 440-22-335 requirements;

(2) How the provider will meet applicable certified treatment service requirements of WAC 440-22-350 through 440-22-620, including a description of each service offered, detailing:

(a) The number of hours of treatment and education for each certified treatment service; and

(b) Allowance of up to twenty percent of education time to consist of film or video presentations.

(3) Identification of resources and referral options so staff can make referrals required by law and as indicated by patient needs;

(4) Assurance that the clinical supervisor:

(a) Is a chemical dependency counselor (CDC);

(b) Reviews a sample of patient records of each CDC quarterly; and

(c) Implements treatment, continuing care, transfer and discharge plans in accord with WAC 440-22-325.

(5) Patient admission and discharge criteria in accord with patient placement criteria (PPC):

(a) The administrator shall not admit or retain a person unless the person's treatment needs can be met;

(b) A chemical dependency counselor (CDC) shall assess and refer each patient to the appropriate treatment service; and

(c) A person needing detoxification shall immediately be referred to a detoxification provider, unless the person needs acute care in a hospital.

(6) Tuberculosis screening for prevention and control of TB in all detox, residential, and outpatient programs, including:

(a) Obtaining a history of preventive or curative therapy;

(b) Screening and related procedures for coordinating with the local health department; and

(c) Implementing TB control as provided by the department of health TB control program.

(7) HIV/AIDS information, brief risk intervention, and referral;

(8) Limitation of group counseling sessions to twelve patients or less;

(9) Counseling sessions with nine to twelve youths to include a second adult staff member;

(10) Provision of education to each patient on:

(a) Alcohol and alcoholism;

(b) Drugs and drug addiction;

(c) Relapse prevention; and

(d) HIV/AIDS, hepatitis, and TB.

(11) Provision of education or information to each patient on:

(a) The impact of chemical use during pregnancy, risks to the fetus, and the importance of informing medical practitioners of chemical use during pregnancy;

(b) Emotional, physical, and sexual abuse; and

(c) Nicotine addiction.

(12) An outline of each lecture and education session included in the service, sufficient in detail for another trained staff person to deliver the session in the absence of the regular instructor;

(13) Assigning of work to a patient by a CDC when the assignment:

(a) Is part of the treatment program; and

(b) Has therapeutic value.

(14) Use of self-help groups;

(15) Patient rules and responsibilities, including disciplinary sanctions for noncomplying patients;

(16) If youth are admitted, a policy and procedure for assessing the need for referral to child welfare services;

(17) Implementation of the deferred prosecution program;

(18) Policy and procedures for reporting status of persons convicted under chapter 46.61 RCW to the department of licensing; and

(19) Nonresidential providers shall have policies and procedures on:

(a) Medical emergencies;

(b) Suicidal and mentally ill patients;

(c) Medical oversight, including provision of a physical examination by a medical practitioner, on a person who:

(i) Is dependent on barbiturates or benzodiazepines; or

(ii) Used intravenous drugs in the thirty days before admission.

(d) Laboratory tests;

(e) Services and resources for pregnant women:

(i) A pregnant woman who is not seen by a private physician shall be referred to a physician or the local First Steps maternity care program for determination of prenatal care needs; and

(ii) Services include discussion of pregnancy specific issues and resources.

(f) If using medication services:

(i) A medical practitioner shall evaluate each patient who is taking disulfiram at least once every ninety days;

(ii) Patient medications are stored, disbursed, and recorded in accord with chapter 246-326 WAC; and

(iii) Only a licensed nurse or medical practitioner may administer medication.

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

WAC 440-22-310 Patients' rights. (1) Each service provider shall ensure each patient:

(a) Is admitted to treatment without regard to race, color, creed, national origin, religion, sex, sexual orientation, age, or disability, except for bona fide program criteria;

(b) Is reasonably accommodated in the event of sensory or physical disability, limited ability to communicate, limited English proficiency, and cultural differences;

(c) Is treated in a manner sensitive to individual needs and which promotes dignity and self-respect;

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(d) Is protected from invasion of privacy except that staff may conduct reasonable searches to detect and prevent possession or use of contraband on the premises;

(e) Has all clinical and personal information treated in accord with state and federal confidentiality regulations;

(f) Has the opportunity to review the patient's own treatment records in the presence of the administrator or designee;

(g) Has the opportunity to have clinical contact with a same gender counselor, if requested and determined appropriate by the supervisor, either at the agency or by referral;

(h) Is fully informed regarding fees charged, including fees for copying records to verify treatment and methods of payment available;

(i) Is provided reasonable opportunity to practice the religion of choice as long as the practice does not infringe on the rights and treatment of others or the treatment service. The patient has the right to refuse participation in any religious practice;

(j) Is allowed necessary communication:

(i) Between a minor and a custodial parent or legal guardian;

(ii) With an attorney; and

(iii) In an emergency situation.

(k) Is protected from abuse by staff at all times, or from other patients who are on agency premises, including:

(i) Sexual abuse or harassment;

(ii) Sexual or financial exploitation;

(iii) Racism or racial harassment; and

(iv) Physical abuse or punishment.

(l) Is fully informed and receives a copy of counselor disclosure requirements described under RCW 18.19.060;

(m) Receives a copy of patient grievance procedures upon request; and

(n) In the event of an agency closure or treatment service cancellation, each patient shall be:

(i) Given thirty days notice;

(ii) Assisted with relocation;

(iii) Given refunds to which the person is entitled; and

(iv) Advised how to access records to which the person is entitled.

(2) A service provider shall obtain patient consent for each release of information to any other person or entity. This consent for release of information shall include:

(a) Name of the consenting patient;

(b) Name or designation of the provider authorized to make the disclosure;

(c) Name of the person or organization to whom the information is to be released;

(d) Nature of the information to be released, as limited as possible;

(e) Purpose of the disclosure, as specific as possible;

(f) Specification of the date or event on which the consent expires;

(g) Statement that the consent can be revoked at any time, except to the extent that action has been taken in reliance on it;

(h) Signature of the patient or parent, guardian, or authorized representative, when required, and the date(~~(-and~~ ~~(+))~~).

(3) Any disclosure made with written patient consent shall be accompanied by a statement prohibiting further

disclosure unless expressly permitted by the written consent of the person to whom it pertains.

~~((3))~~ (4) A service provider shall notify patients that outside persons or organizations which provide services to the agency are required by written agreement to protect patient confidentially.

~~((4))~~ (5) A service provider shall notify an ADATSA recipient of the recipient's additional rights to:

(a) Report back to the department's community service office in case of a patient's disciplinary discharge from the program; and

(b) Request a fair hearing to challenge any departmental action which affects a patient's eligibility for ADATSA treatment or shelter assistance.

~~((5))~~ (6) The administrator shall ensure a copy of patients' rights is given to each patient receiving services, both at admission and in case of disciplinary discharge.

~~((6))~~ (7) The administrator shall post a copy of patients' rights in a conspicuous place in the facility accessible to patients and staff.

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

WAC 440-22-320 Chemical dependency assessments.

A chemical dependency counselor (CDC), or a CDC intern under supervision of a CDC, shall conduct and document an assessment of each client's involvement with alcohol and other drugs. The counselor's assessment shall include:

(1) A face-to-face diagnostic interview with each client to obtain, review, evaluate, and document the following:

(a) A history of the client's involvement with alcohol and other drugs, including:

(i) The type of substances used;

(ii) The route of administration; and

(iii) Amount, frequency, and duration of use.

(b) History of alcohol or other drug treatment or education;

(c) The client's self-assessment of use of alcohol and other drugs; and

(d) A relapse history.

(2) If the client is in need of treatment, an assessment of the person's:

(a) Motivation for recovery;

(b) Ability to attain and maintain abstinence;

(c) Risk of relapse; and

(d) Strengths and needs.

(3) If the client is found to be in need of treatment, an assessment of other factors affecting treatment, including:

(a) Current and historical psychosocial data;

(b) Issues relating to personal safety;

(c) Medical history, including:

(i) Physical status;

(ii) Mental status; and

(iii) Availability and use of medical care.

(d) For women, likelihood of a current pregnancy; and

(e) Legal history, including:

(i) Past charges; and

(ii) Current charges and courts of jurisdiction.

(4) If an assessment is conducted on a youth and the client is in need of treatment, the counselor shall also assess the following elements:

- (a) Parental use of drugs;
- (b) The developmental stage of the youth;
- (c) Ability to understand written materials;
- (d) Psychological and emotional stability;
- (e) Child or adolescent developmental problems associated with the use of chemicals;
- (f) Identification of school assessments and referrals;
- (g) Historical and current parental or custodial status;
- (h) History of learning disabilities and special education;
- (i) Running away, out-of-home placements, and institutional care or custody;
- (j) Support from significant adults and extended family; and
- (k) Attempts shall be made to obtain information from parents and legal guardians, and from prior medical records and psychological evaluations with proper consent.
- (5) Documentation of the information collected, including:
- (a) A written summary of the assessment;
- (b) A diagnostic assessment statement including signs, symptoms, and progression of client involvement with alcohol and other drugs;
- (c) A statement regarding provision of an HIV/AIDS brief risk intervention, and referrals made; and
- (d) Evidence the client:
- (i) Was notified of the assessment results; and
- (ii) Signed a document showing treatment options provided, and indicating the client's choice; or
- (iii) If the client was not notified of the results and advised of referral options, the reason shall be documented.
- (6) Documentation of the type and length of treatment recommended, in accord with patient placement criteria (PPC);
- (7) Completion and submission of all reports required by the courts, department of licensing, and department of social and health services in a timely manner; and
- (8) Referral of an adult or minor who requires assessment for involuntary chemical dependency treatment to the county-designated chemical dependency specialist.

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

- WAC 440-22-325 Treatment, continuing care, transfer and discharge plans.** (1) A chemical dependency counselor (CDC) shall be responsible for assessments and the overall treatment plan for each patient, including:
- (a) Patient participation;
- (b) Completeness of patient records; and
- (c) Documentation of progress toward patient attainment of goals.
- (2) A CDC or an intern under direct supervision of a CDC shall:
- (a) Develop the individualized treatment plan;
- (b) Evaluate the patient and conduct ongoing assessments in accord with PPC. In cases where it is not possible to place or provide the patient with the clinically indicated treatment, the reason shall be documented as well as whether other treatment will be provided;
- (c) Conduct individual and group counseling;

- (d) Update the treatment plan as problems arise or are resolved, including domestic violence and abuse issues if applicable;
- (e) Develop the continuing care plan using PPC; and
- (f) Complete the discharge summary.
- (3) A CDC shall also include in the treatment plan for youth:
- (a) Structured drug free social and recreational activities;
- (b) Developmental concerns, including education on sexuality and safer sex;
- (c) Referral for identification and treatment of sexually transmitted diseases and other services as needed; and
- (d) Referral to school and community support services.
- (4) A CDC shall follow up when a patient misses an appointment to:
- (a) Try to motivate the patient to stay in treatment; and
- (b) Report a noncompliant patient to the committing authority as appropriate.
- (5) A CDC shall involve each patient's family or other support persons, when the patient gives written consent:
- (a) In the treatment program; and
- (b) In self-help groups.
- (6) When transferring a patient from one certified treatment service to another within the same agency, at the same location, a CDC shall:
- (a) Update the patient assessment and treatment plan; and
- (b) Provide a summary report of the patient's treatment and progress, in the patient's record. In detox, this may be done by a nurse or physician.
- (7) Except in detox and for a patient who leaves treatment without notice, staff shall meet with each patient at the time of discharge from any treatment agency, to:
- (a) Finalize a continuing care plan using PPC to assist in determining appropriate recommendation for care;
- (b) Assist the patient in making contact with necessary agencies or services; and
- (c) Provide the patient a copy of the plan.
- (8) When transferring a patient to another treatment provider, the current provider shall forward copies of the following information to the receiving provider when a release of confidential information is signed by the patient:
- (a) Patient demographic information;
- (b) Diagnostic assessment statement and other assessment information, including:
- (i) Documentation of the HIV/AIDS intervention;
- (ii) TB test result;
- (iii) A record of the patient's detox and treatment history;
- (iv) The reason for the transfer; and
- (v) Court-mandated or agency-recommended follow-up treatment.
- (c) Discharge summary; and
- (d) The plan for continuing care or treatment.
- (9) A CDC shall complete a discharge summary, within seven days of each patient's discharge from the agency, which includes:
- (a) The date of discharge or transfer;
- (b) A summary of the patient's progress toward each treatment goal, except in detox; and
- (c) In detox, a summary of the patient's physical condition.

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

WAC 440-22-335 Patient record content. The provider shall ensure patient record content includes:

- (1) Demographic information;
- (2) A chemical dependency assessment and history of involvement with alcohol and other drugs;
- (3) Documentation the patient was informed of the diagnostic assessment and options for referral or the reason not informed;
- (4) A report of a physical examination by a medical practitioner in accord with a nonresidential provider's policy on medical oversight, when a patient was dependent on barbiturates or benzodiazepines, or used intravenous drugs within thirty days of admission;
- (5) Documentation the patient was informed of federal ~~((confidentially))~~ confidentiality requirements and received a copy of the patient notice required under 42 CFR, Part 2;
- (6) Treatment service rules, translated when needed, signed and dated by the patient before beginning treatment;
- (7) Voluntary consent to treatment signed and dated by the patient, parent or legal guardian, except as authorized by law for protective custody and involuntary treatment;
- (8) Evidence of counselor disclosure information, acknowledged by the provider and patient by signature and date;
- (9) Evidence of a tuberculosis test and results;
- (10) Evidence of the HIV/AIDS brief risk intervention;
- (11) Initial and updated individual treatment plans, including results of the initial assessment and periodic reviews, addressing:
 - (a) Patient biopsychosocial problems;
 - (b) Short- and long-range treatment goals;
 - (c) Estimated dates for completion of each treatment goal;
 - (d) Approaches to resolve the problems;
 - (e) Identification of persons responsible for implementing the approaches;
 - (f) Medical orders, if appropriate; and
 - (g) Treatment plan reviews.
- (12) Documentation of referrals made for specialized care or services;
- (13) At least weekly individualized documentation of ongoing services in residential services, and as required in intensive outpatient and outpatient services, including:
 - (a) Date, duration, and content of counseling and other treatment sessions;
 - (b) Ongoing assessments of each patient's participation in and response to treatment and other activities;
 - (c) Progress notes as events occur, each shift in detox, and treatment plan reviews as specified under each treatment service of this WAC chapter; and
 - (d) Documentation of missed appointments.
- (14) Medication records, if applicable;
- (15) Laboratory reports, if applicable;
- (16) Properly completed authorizations for release of information;
- (17) Copies of all correspondence related to the patient, including reports of noncompliance;

(18) A copy of the continuing care plan signed and dated by the chemical dependency counselor and the patient; and

(19) The discharge summary.

WSR 97-03-022

PROPOSED RULES

DEPARTMENT OF LICENSING

(Business and Professions Division)

[Filed January 7, 1997, 11:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-22-110.

Title of Rule: WAC 308-13-160 Renewal of licenses and new WAC 308-13-045 How and when do I receive my license?

Purpose: (1) To make the instructions current and remove outdated information. (2) To delete obsolete information concerning initial license and activating an inactive license. (3) To clarify the instructions for obtaining an initial license and activating an inactive license.

Statutory Authority for Adoption: RCW 43.24.086 and 18.96.110.

Statute Being Implemented: RCW 18.96.110.

Summary: Beginning in June 1994, the renewal date for landscape architect licenses was changed from June 30, every three years to the birthdate of licensees every three years. The process of converting the expiration date to date of birth is now complete. This amendment makes the instructions current and removes outdated and unnecessary conversion information. The amendment will move initial license information to a new section.

Reasons Supporting Proposal: The current information is obsolete.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James D. Hanson, 405 Black Lake Boulevard, Olympia, WA 98502, (360) 753-1153, FAX (360) 753-1153, TDD (360) 753-1153.

Name of Proponent: Department of Licensing, Business and Professions Division, Landscape Architect Registration Unit, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-13-160 Renewal of licenses, deletes information that is no longer required. It also deletes information relating to initial license and activating an inactive license and moves it to a new section. New WAC 308-13-045 How and when do I receive my license? To clarify the instructions for obtaining an initial license and activating an inactive license.

Proposal Changes the Following Existing Rules: It deletes information that is outdated and no longer required. It also deletes information referring to initial license and activating an inactive license. It moves information regarding an initial license and activating an inactive license to new section WAC 308-13-045.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no change in the content of the rule. Unnecessary language was deleted.

PROPOSED

Language relating to an initial license and activating an inactive license was moved to new section WAC 308-13-045.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. It is exempt under RCW 34.05.328 (5)(c)(i)(A). Information regarding an "initial license and activating an inactive license," in WAC 308-13-160(2) is being deleted from this section and adopted as new section WAC 308-13-045 How and when do I receive my license?

Hearing Location: Conference Room 1, Business and Professions Division, 405 Black Lake Boulevard, Olympia, WA, on February 27, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Sharon M. Kinder by February 24, 1997, TDD (360) 586-2788, or (360) 586-8935.

Submit Written Comments to: James D. Hanson, P.O. Box 9045, Olympia, WA 98507-9045, FAX (360) 664-2551, by February 24, 1997.

Date of Intended Adoption: February 27, 1997.

James D. Hanson
Program Administrator

NEW SECTION

WAC 308-13-045 How and when do I receive my initial license? (1) You will be notified by mail once you have completed the examination and met all the requirements for initial registration. You may apply for your license up to three months prior to your birthdate and pay the fee for up to a thirty-nine month license. Your license will expire on your birthdate. Subsequent licenses will be issued for three years.

(2) You may also activate an inactive license for up to thirty-nine months. Subsequent licenses will be issued for three years.

AMENDATORY SECTION (Amending WSR 94-04-044, filed 1/27/94, effective 2/27/94)

WAC 308-13-160 ((Renewal of licenses.)) How do I renew my license and when will it expire? (1) ~~((The renewal for landscape architects licenses will be for a three-year period with the expiration date that of the licensee's birth date.~~

~~(a) Effective with the renewal period beginning June 30, 1994, renewals will be prorated at the current renewal rate with the conversion accomplished as follows:~~

Conversion Renewal Schedule

Birth Date	Span of Renewal Time	Renewal Fee
January	31 Months	\$387.50
February	32 Months	\$400.00
March	33 Months	\$412.50
April	34 Months	\$425.00
May	35 Months	\$437.50
June	36 Months	\$450.00
July	37 Months	\$462.50
August	38 Months	\$475.00
September	39 Months	\$487.50
October	40 Months	\$500.00
November	41 Months	\$512.50
December	42 Months	\$525.00

~~(b) Current licensees whose licenses expire June 30, 1994, will receive a license with an expiration date of the licensee's birth date in 1997 prorated at the current renewal rate in accordance with (a) of this subsection.~~

~~(c) Current licensees whose licenses expire June 30, 1995, will receive a license with an expiration date of the licensee's birth date in 1998 prorated at the current renewal rate in accordance with (a) of this subsection.~~

~~(d) Current licensees whose licenses expire June 30, 1996, will receive a license with an expiration date of the licensee's birth date in 1999 prorated at the current renewal rate in accordance with (a) of this subsection.~~

(2) All initial and reinstated landscape architect licenses will be issued for a three-year period with an expiration date of the licensee's birth date.) A courtesy renewal notice is mailed to your current address on file, approximately eight weeks prior to your license expiration date. The notice will show the due date, the amount of renewal fee, the penalty fee for late payment and other mailing instructions. It is essential that you notify the board of registration for landscape architects of any address changes.

(2) Your renewed landscape architect license is issued for a three-year period that expires on your birthdate.

WSR 97-03-023

PROPOSED RULES

INSURANCE COMMISSIONER'S OFFICE

[Filed January 7, 1997, 1:45 p.m.]

Continuance of WSR 96-24-077.

Preproposal statement of inquiry was filed as WSR 96-17-085.

Title of Rule: Rules of practice and procedure for contested matters heard before the commissioner.

Other Identifying Information: Insurance Commissioner Matter No. R 96-8.

Date of Intended Adoption: January 21, 1997.

January 7, 1997
Melodie H. Bankers
Rules Coordinator

WSR 97-03-028

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed January 9, 1997, 10:10 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Chapter 308-96A WAC, Vehicle licensing.

Purpose: Update and clarify instructions for application for veteran's free license, Pearl Harbor Survivor license plates, Purple Heart license plates, and moped license plates.

Statutory Authority for Adoption: RCW 46.01.110.

Statute Being Implemented: Chapter 46.16 RCW.

Summary: The proposed amendments delete extraneous supporting documentation previously required to be furnished with applications for special license. Removes verbiage currently included in authorizing RCWs.

PROPOSED

Reasons Supporting Proposal: Simplifies and reduces regulations previously adopted on these subjects.

Name of Agency Personnel Responsible for Drafting: Jack L. Lince, 1125 Washington Street S.E., Olympia, WA, (360) 902-3773; Implementation: Sandi Britton, 1125 Washington Street S.E., Olympia, WA, (360) 902-3811; and Enforcement: Nancy Kelly, 1125 Washington Street S.E., Olympia, WA, (360) 902-3754.

Name of Proponent: Department of Licensing, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: No new rules are being proposed.

Proposal Changes the Following Existing Rules: WAC 308-96A-046, administrative changes for clarity, delete conditions contained in the RCW. Delete requirement to furnish copy of marriage certificate; WAC 308-96A-056, administrative changes for clarity, delete requirement to furnish copy of vehicle registration and marriage license; WAC 308-96A-057, administrative changes for clarity, delete requirement to furnish copy of vehicle registration; WAC 308-96A-072, administrative changes for clarity; and WAC 308-96A-136, administrative changes for clarity, provide instructions for display of license plate and license plate tabs. Provides instruction for replacement of lost or destroyed license plates.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030. The proposed rule making does not impose more than a minor cost on businesses in an industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The contents of the proposed rules are explicitly and specifically dictated by statute.

Hearing Location: Highways-Licenses Building, Conference Room 303, 1125 Washington Street S.E., Olympia, WA, on February 25, 1997, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Jack Lince by February 21, 1997, TDD (360) 664-8885.

Submit Written Comments to: Jack L. Lince, Contracts Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, FAX (360) 664-0831, by February 21, 1997.

Date of Intended Adoption: February 28, 1997.

January 8, 1997

Nancy Kelly, Administrator
Title and Registration Services

AMENDATORY SECTION (Amending WSR 92-02-100, filed 1/2/92, effective 2/2/92)

WAC 308-96A-046 Veteran's free license. (1) ~~((Any))~~ Disabled American veterans, former prisoners of war, ~~((or the))~~ surviving spouses of ~~((a))~~ deceased former prisoners of war ~~((who qualifies under chapter 73.04 RCW is entitled to))~~ qualified pursuant to RCW 73.04.110 may register and receive regular or special license plates ~~((and))~~ for one personal use vehicle. The personal use vehicle is exempt from ~~((paying any))~~ annual licensing fees ~~((or))~~ and motor vehicle excise tax.

~~((Permanent registration and permanent license plate tabs will be issued to qualified persons for use on one))~~ (2) For purposes of this section, "personal use ~~((passenger))~~ vehicle" ~~((which includes))~~ means passenger vehicles, motor homes, motorcycles, and trucks rated at less than twelve thousand pounds gross weight.

~~((3))~~ Emission inspections are required ~~((in alternate years in the designated inspection areas))~~ pursuant to chapter 70.120 RCW.

~~((For))~~ (4) When personalized license plates are issued, the ~~((annual renewal))~~ personalized license plate fee pursuant to RCW 46.16.585 is required to be paid.

~~((are))~~ (5) Propane, butane, and natural gas powered vehicles ~~((are))~~ subject to annual liquefied petroleum gas (LPG) fees pursuant to RCW 82.38.075 is required to be paid.

~~((2))~~ ~~For a~~ (6) Disabled American veterans~~((s))~~ must provide confirmation of eligibility ~~((from the Veterans Administration or the military service from which the veteran was discharged must accompany))~~ pursuant to RCW 73.04.110 with the initial application. ~~((The confirmation of eligibility shall be certification of a service connected disability rating and certification of one or more of the following conditions of eligibility:~~

~~((a))~~ Has lost the use of both hands or one foot;

~~((b))~~ Has become blind in both eyes as the result of military service; or

~~((c))~~ Is rated by the Veterans Administration or the military service from which the veteran was discharged and is receiving service connected compensation at the one hundred percent rate that is expected to exist for more than one year. Verification of vision acuity may be provided by an ophthalmologist or optometrist. Verification that the disabled veteran is receiving compensation at the one hundred percent rate, which may include unemployability expected to exist for more than one year, must be provided by the Veterans Administration or the military service from which the veteran was discharged.

~~((3))~~ For a former prisoner of war, certification of the following fact from the Veteran's Administration or the military service from which the veteran was discharged must accompany the initial application: That the person was captured and incarcerated for more than twenty-nine days by an enemy of the United States during a period of war with the United States.

~~((4))~~ (7) The surviving spouse of a deceased former prisoner of war may be issued a regular or special prisoner of war license plate even if the deceased had not been issued a plate pursuant to chapter 73.04 RCW. In addition to confirming eligibility for the deceased, the spouse must furnish the following:

~~((a))~~ A certified copy of the death certificate of the deceased former prisoner of war; and

~~((b))~~ ~~((A copy of the marriage certificate indicating the union of the applicant and the former prisoner of war; and~~

~~((e))~~ An affidavit that the applicant is not currently married or remarried after the death of the former prisoner of war.

~~((5))~~ (8) When the special license plate or free veteran license is transferred to another vehicle, ~~((a replacement plate fee, full license fees and the excise tax for twelve months will be collected on the vehicle from which the exemption is being removed. A new license expiration date~~

PROPOSED

~~will be established beginning with the day and the month on which the exemption is transferred))~~ the registration period for the vehicle, from which the exemption is removed, is expired. The disabled veteran, former prisoner of war or surviving spouse of a former prisoner of war must notify the department of the transfer and pay the transfer fees in effect.

~~((6))~~ (9) The disabled veteran, former prisoner of war or surviving spouse of a former prisoner of war must be a registered or co-registered owner or lessee or co-lessee of the vehicle for which ~~((license))~~ a free veteran license is granted.

~~((7))~~ (10) When a vehicle with a free veteran ~~((s))~~ license is sold or otherwise disposed of, the special license plate must be removed and ~~((the excise tax and license fees for a twelve-month period must be paid by the new registered owner at time of title transfer))~~ the registration period for the vehicle is expired.

AMENDATORY SECTION (Amending WSR 91-04-025, filed 1/29/91, effective 3/1/91)

WAC 308-96A-056 Pearl Harbor survivor license plates. Any Washington resident who served in the United States armed forces and is a survivor of the attack on Pearl Harbor ~~((as defined in RCW 46.16.305(4))~~) may receive a set of special license plates ~~((designed by the department to indicate that the recipient is a survivor of the Japanese attack on Pearl Harbor))~~ pursuant to RCW 46.16.305.

(1) Applications for the special license plates shall ~~((be upon forms provided by the department. Supplemental qualifying documentation shall))~~ include:

(a) A certification of eligibility from a Washington state chapter of the Pearl Harbor Survivors Association; and

~~((b))~~ ~~((A current vehicle registration for the vehicle for which the special license plates are issued;~~

~~((c))~~ An armed forces document showing date of induction and date of honorable discharge from the United States Armed Forces.

(2) If the applicant is the surviving spouse of a deceased Pearl Harbor survivor, in addition to the documentation furnished in subsection (1) of this section, the ~~((surviving spouse))~~ applicant shall include:

(a) A certified copy of the Pearl Harbor survivor's death certificate; and

~~((b))~~ ~~((A copy of the marriage license indicating the union of the applicant and the Pearl Harbor survivor; and~~

~~((c))~~ An affidavit that the applicant is not currently married.

(3) An applicant must be a registered owner, co-owner or lessee, or co-lessee of the vehicle ~~((for))~~ on which the special license plates ~~((are issued))~~ will be used.

AMENDATORY SECTION (Amending WSR 93-14-083, filed 6/30/93, effective 7/31/93)

WAC 308-96A-057 Purple Heart license plates. Any military person that has been awarded a Purple Heart medal by any branch of the United States Armed Forces, including the Merchant Marines and the Women's Air Forces Service Pilots may be issued a set of special vehicle license plates indicating the recipient was wounded during one of these nations' wars or conflicts identified in RCW 41.04.005(2).

(1) Applicants for a special Purple Heart vehicle license plate shall satisfy the following conditions:

(a) Be a resident of the state of Washington;

(b) Have been wounded in combat;

(c) Been awarded a Purple Heart medal by any branch of the United States Armed Forces; and

(d) Be an owner, co-owner, lessee, or co-lessee of the vehicle ~~((to))~~ on which the Purple Heart special license plate will be ~~((issued))~~ used.

(2) Applications for the special license plates ~~((shall be upon forms provided by the department and sent to Specialized Licensing, Department of Licensing, P.O. Box 9043, Olympia, Washington 98507-9043. The application))~~ shall include the following supplemental documents:

(a) A photocopy of the applicant's form DD-214 or similar document issued by a branch of the United States Armed Forces which awarded the Purple Heart medal to the applicant and the date of award; and

~~((b))~~ ~~((A photocopy of the current registration of the vehicle for which the special license plate is to be issued showing the applicants ownership status in the vehicle; and~~

~~((c))~~ A replacement license plate fee then in effect. Veterans who qualify for free vehicle licensing may be issued the Purple Heart special license plate without paying the replacement plate fee.

(3) Purple Heart special license plates may be issued for display on any two plated motor vehicle ~~((that is otherwise authorized to display a regular motor vehicle license plate, except))~~. The plates may not be issued for motorcycles ~~((Purple Heart special license plates may not be displayed on))~~ or nonmotor vehicles including campers and travel trailers.

(4) Purple Heart special license plates issued to any qualifying person may be retained by the surviving spouse of the demised qualifying person. The surviving spouse shall be afforded all rights and privileges of the qualified person so long as the surviving spouse:

(a) Was the legally recognized spouse of the qualifying person at the time of the demise of the qualifying person;

(b) Is a resident of the state of Washington;

(c) Is an owner, co-owner, lessee, or co-lessee of the vehicle ~~((to))~~ on which the Purple Heart special license plate is ~~((issued or may be issued;))~~ or will be used; and

(d) Doesn't ~~((become a legally recognized spouse to another person))~~ remarry. If the surviving spouse ~~((becomes a legally recognized spouse to another person))~~ remarries, the Purple Heart special license plate is invalid and must be removed from the vehicle ~~((and surrendered to the department)).~~

AMENDATORY SECTION (Amending WSR 93-14-083, filed 6/30/93, effective 7/31/93)

WAC 308-96A-072 Square dancer license plates. (1) ~~((Any Washington state resident is entitled to))~~ The registered owner or lessee of a vehicle may apply to the department and ((upon satisfactory showing, to)) receive, in lieu of regular vehicle license plates, ((similar)) special square dancer license plates bearing a symbol of a ((square)) dancer.

(2) Square dancer license plates may be issued as provided in RCW ~~((46.16.010))~~ 46.16.301 (1)(b) for vehicles required to display two license plates. Vehicles licensed

under the provisions of chapter 46.87 RCW are not eligible for square dancer license plates.

(3) A special license plate fee of thirty-five dollars, in addition to all other appropriate fees and taxes, ~~((will be))~~ is collected for each ~~((original))~~ set of square dancer license plates issued.

~~((4) A special dancer license plate may be transferred as provided in RCW 46.16.590 to another eligible vehicle owned by the same registered owner.~~

~~((5) Replacement square dancer license plates may be obtained as provided in RCW 46.16.270. Replacement license plates shall be the next available license number plates in the square dancer plate series.))~~

AMENDATORY SECTION (Amending WSR 92-02-100, filed 1/2/92, effective 2/2/92)

WAC 308-96A-136 Mopeds—License plates. ~~((The decal or other identifying device for))~~ (1) Applicants registering a moped ((specified by)) pursuant to RCW 46.16.630 shall be ((the same as the)) issued motorcycle series license plates. The number on the license plates shall ((be)) serve as the moped's registration number.

(2) License plates issued for mopeds shall be displayed as provided in RCW 46.16.240 for motorcycles.

(3) Moped registrations shall be renewed annually as provided in chapter 46.16 RCW for motor vehicles. Upon renewal of registration, the applicant shall be issued license number tabs which shall be displayed on the license plates in the manner provided in WAC 308-96A-295 for motorcycles.

(4) Upon the loss, defacement, or destruction of a license plate issued for the moped, the owner shall make application for replacement license plates and pay a fee as provided in RCW 46.16.630 for an original decal or other identifying device.

WSR 97-03-050
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

(Public Assistance)
[Filed January 10, 1997, 4:11 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 388-216-2500 Resources—Exempt as a resource with no ceiling value.

Purpose: Amends WAC 388-216-2500 to exempt property having great sentimental value as a resource to comply with state law.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, and 74.04.055.

Statute Being Implemented: RCW 74.04.005, Public Law 104-193, section 103 (a)(1).

Summary: To exempt property having great sentimental value as a resource to comply with state law.

Reasons Supporting Proposal: RCW 74.04.005 allows applicants/recipients of temporary assistance for needy

families (TANF) to retain personal property having great sentimental value as an exempt resource.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cindy Anderson, DIA/OAP/AFDC, (360) 413-3095.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Public Law 104-193, section 103 (a)(1).

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary and Reasons Supporting Proposal above. Implement requirements of RCW 74.04.005. To allow applicants/recipients of TANF to retain personal property having great sentimental value as an exempt resource.

Proposal Changes the Following Existing Rules: Amends WAC 388-216-2500.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not affect small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201 (RCW 34.05.328) does not apply to the Department of Social and Health Services.

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 1009 College Street S.E., Room 104-A, Lacey, WA 98503, on February 25, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Supervisor, (360) 902-8317, by February 11, 1997, TTY (360) 902-8324.

Submit Written Comments to and Identify WAC Numbers: Leslie Baldwin, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45811, Olympia, WA 98504-5850, FAX (360) 902-7540, by February 25, 1997.

Date of Intended Adoption: No sooner than February 26, 1997.

January 10, 1997
Merry Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-216-2500 Resources—Exempt as a resource with no ceiling value. ~~((“Goodwill” means the reputation and patronage of a company. Goodwill can generally be valued as the amount a company would sell for over the value of its physical property, money owed it, and other assets.))~~

(1) Irrespective of value, the department shall exempt the following resources:

(a) The client's home, subject to the conditions specified in sections WAC 388-216-2550 through 388-216-2590.

(b) Household furnishings and personal clothing essential for daily living. The department shall not exempt household furnishings and personal clothing in storage without evidence that these items are essential for daily living.

(c) One cemetery plot for each member of the assistance household.

(d) Personal property of "great sentimental value" when the applicant/recipient establishes the circumstances and

conditions giving the personal property this value. "Sentimental value" as used in this section means personal property held primarily because of personal attachment or hobby interest, rather than for its intrinsic value.

(2) The department may declare real and personal property which will be used in a self-employment enterprise as an exempt resource:

(a) On the basis of an agreed plan; and

(b) When the department determines that the real or personal property:

(i) Is necessary to restore the client's independence; or

(ii) Will aid in rehabilitating the client or the client's dependents by providing self-employment experience which can reasonably be expected to lead to full or partial self-support.

(3) The department shall consider any increase in value to exempted stock, raw materials, or inventory as:

(a) Exempt, when the increase is necessary to the health of the enterprise; or

(b) Income, when such increase might reasonably be used towards the client's self-support.

(4) In the absence of an agreed plan, the department shall consider the business assets of a self-employment enterprise, if available and nonexempt, as available to the owner in the amount of the sale value minus encumbrances.

(5) Under an agreed plan, the department shall consider accounts receivable as:

(a) An exempt resource when:

(i) The client makes a diligent effort to collect; or

(ii) If efforts to collect are unsuccessful, the client turns the accounts over to a collection agency;

(b) A nonexempt resource when the client does not meet the requirements in (a) of this subsection; and

(c) Earned income from self-employment, when payment is received.

(6) The department shall consider goodwill as an unavailable resource until the business is sold. Goodwill as used in this section means the reputation and patronage of a company. Goodwill can generally be valued as the amount a company would sell for over the value of its physical property, money owed it, and other assets.

WSR 97-03-051
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Public Assistance)

[Filed January 10, 1997, 4:12 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 388-218-1820 Treatment of nonrecurring income—Lump sum payments, nonrecurring lump sums, except compensatory awards, the department is exempt[ing] the difference between the client's existing resource value and the resource ceiling limit and treat the remainder as newly acquired income; WAC 388-218-1530 Determining net income—Other income, specifies that the department shall consider compensatory awards or related

settlement covering destroyed or stolen property or to pay medical bills of the settlement as a newly acquired resource; and WAC 388-216-2900 Resources—Newly acquired resources, adds resource exemption of the compensatory awards when the client reduces the value of the award below the resource ceiling value by the first of the month following receipt of the award.

Purpose: To comply with RCW 74.04.005, exempt for nonrecurring lump sum compensatory awards or related settlements the department is to exempt that portion of a nonrecurring lump sum payment that is between the resource ceiling value and the applicant's/recipient's existing resources as a resource and implements state policy to treat that portion of a nonrecurring lump sum payment in excess of the resource ceiling value as newly acquired income when received by an applicant/recipient of TANF. Exempts compensatory awards received to cover destroyed or stolen property and exempts the remainder of the compensatory award when the client has reduced its value below the resource ceiling value.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.04.055.

Statute Being Implemented: RCW 74.04.005.

Summary: Implements state policy to treat compensatory lump sum awards as a resource and for all other lump sums to exempt the difference of a nonrecurring lump sum payment between the client's existing resource value and the resource ceiling limit and treat the remainder as newly acquired income.

Reasons Supporting Proposal: Authorized by RCW 74.04.005.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cindy Anderson, DIA/OAP, (360) 413-3095.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Public Law 104-193, section 103 (a)(1).

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 74.04.005 authorizes the department to treat nonrecurring lump sum compensatory awards as an exempt resource if used within sixty days to replace destroyed or stolen property and the remainder of the award is considered to be exempt if reduced under the ceiling value by the first of the month following receipt. For all other lump sum payments the difference between the clients existing resource value and the resource ceiling limit when an applicant/recipient of TANF receives a nonrecurring lump sum payment and to treat the remainder of the lump sum payment as newly acquired income.

Proposal Changes the Following Existing Rules: Amends WAC 388-218-1820, 388-218-1530, and 388-216-2900.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not affect small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Lacey Government Center, 1009 College Street S.E., Room 104-A, Lacey, WA 98503, on February 25, 1997, at 10:00.

Assistance for Persons with Disabilities: Contact Merry Kogut, Supervisor, (360) 902-8317, by February 11, 1997, TTY (360) 902-8324.

Submit Written Comments to and Identify WAC Numbers: Leslie Baldwin, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45811, Olympia, WA 98504-5850, FAX (360) 902-7540, by February 25, 1997.

Date of Intended Adoption: No sooner than February 26, 1997.

January 10, 1997
Merry Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-218-1530 Determining net income—Other income. (1) Net income from any other nonexempt source shall be the gross amount less any cost of securing or maintaining the income.

(2) The department shall consider any payments on mortgages or contracts as income less any cost of securing or maintaining the income.

(3) The department shall consider a compensatory award or related settlement covering destroyed or stolen exempt property as a newly acquired ((nonexempt income)) resource as provided under WAC 388-216-2900 unless the client, within sixty days of receipt:

(a) Expends the funds to repair or replace the destroyed or stolen exempt property for which the settlement was intended; or

(b) Pays medical bills for which the settlement was intended.

(4) The department shall consider funds deposited into a joint account or into an account held for another, or funds held for others as the income of the client since the entire amount is at the client's disposal, except when the client can show that all or a portion of the funds are:

(a) Derived from funds belonging exclusively to the other holder; and

(b) Held and/or utilized solely for the benefit of that holder. The department shall not consider all funds so verified as actually available to the client.

(5) When appointment of a legal guardian is required by the Social Security Administration or the Veterans Administration as a condition for receipt of a benefit from either agency, the necessary costs of securing a guardian shall be deducted from the benefit received to determine the client's net income.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-218-1820 Treatment of nonrecurring income—Lump sum(s) payments. The department shall treat nonrecurring lump sum payments received by a client and used to accumulate cash reserves in the following manner:

(1) ~~((The department shall consider nonrecurring lump sum payments as income in the month received))~~ Compensatory awards or related settlements shall be treated as follows:

(a) Awards or settlements for destroyed or stolen exempt property or medical bills as provided under WAC 388-218-1530; and

(b) All other compensatory awards or settlements as newly acquired resources as provided under WAC 388-216-2900.

~~(2) ((When the assistance unit's nonrecurring lump sum income, plus other income, after applicable disregards exceeds the payment standard, plus authorized additional requirements, the assistance unit shall be ineligible for assistance))~~ All other lump sum payments shall be treated as follows:

(a) The department shall exempt the difference between the resource ceiling and the client's existing resources when the client received the lump sum. Any excess shall be considered as newly acquired income in the month received.

(b) In determining the client's existing resources, the department shall deduct any unexpended grant monies received within thirty days of the date the client received the lump sum.

(c) Such exemption shall apply once for each nonrecurring lump sum received.

(3) The department shall also apply these requirements to the income of persons required to be included in the assistance unit but are excluded for reasons of sanction or noncooperation.

~~(4) ((Ineligibility shall exist for the number of full months derived by dividing this total income by the need standard plus authorized additional requirements))~~ If the client's newly acquired income, plus any other income, after applicable disregards is less than the payment standard, plus authorized additional requirements, the department shall deduct the difference from the corresponding payment month.

~~(5) ((A minimum period of ineligibility shall be one month))~~ If the client's newly acquired income, plus any other income, after applicable disregards is equal to or exceeds the payment standard plus authorized additional requirements, the department shall discontinue assistance:

(a) If such income is equal to or in excess of one month's payment standard, but less than two months' payment standard plus authorized additional requirements, the department shall suspend assistance:

(i) Effective the first day of the payment month;

(ii) Shall deduct the income in excess of one month's payment standard plus authorized additional requirements from the grant for the month following the month of suspension; and

(iii) The department shall treat a person acquiring income during suspended status as a recipient in terms of eligibility.

(b) If the income, plus other income, is in excess of two months' payment standard plus authorized additional requirements, the department shall terminate assistance effective the first day of the month of receipt of the income:

(i) Ineligibility shall continue for two months (maximum period of ineligibility is two months);

(ii) Upon completion of the two-month period of ineligibility, the department shall determine eligibility for those that reapply on the same basis as other new applicants.

PROPOSED

~~(6) ((The department shall treat any income remaining after this calculation is treated as income received in the first month following the period of ineligibility.~~

~~(7))~~ The department may shorten the period of ineligibility specified in subsection (5)(b) of this section when the following conditions are met:

(a) An event occurs which, had the assistance unit been receiving assistance, would result in an increase in the ~~((need))~~ payment standard; or

(b) The income received, or any part thereof, has become unavailable to the members of the assistance unit for reasons beyond their control; or

(c) Members of the assistance unit incur, become responsible for, and pay medical expenses.

~~((8))~~ ~~(7)~~ Assistance is authorized only after the events in subsection ~~((7))~~ ~~(6)~~(a), (b), or (c) of this section have been verified and current eligibility has been established.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-216-2900 Resources—Newly acquired resources. When a client obtains a newly acquired resource, the department shall:

(1) Apply the resource exemptions to newly acquired resources.

(2) Treat income tax refunds as follows:

(a) ~~((The department shall))~~ Consider an income tax refund as a nonexempt resource in the month of receipt; and

(b) ~~((The department shall))~~ Consider the Earned Income Tax Credit (EITC) portion of an income tax refund as an exempt resource in the month of receipt and in the month following the month of receipt. The department shall consider the EITC as a nonexempt resource in the second month following the month of receipt.

(3) Treat lump sum compensatory awards and related settlements not exempt under WAC 388-218-1530 as resources exempt within ceiling limits on the first of the month following the month of receipt. A recipient may reduce the value of a compensatory award or settlement prior to the first of the month following the month of receipt provided the award or settlement monies are not transferred for less than adequate consideration with the intent to qualify for assistance as provided under chapter 388-217 WAC.

(4) Add the value of the client's newly acquired resources to the client's existing nonexempt resources. If the recipient's total nonexempt resources are in excess of the resource standard, the recipient is ineligible.

~~((4))~~ (5) Any increase in the value of a resource (such as interest on a savings account, stock dividends, or livestock births) affects eligibility only to the extent the increased value causes the total value of the client's nonexempt resources to exceed the resource standard. The excess is considered income.

WSR 97-03-052
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Filed January 10, 1997, 4:13 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 388-215-1550 Temporary assistance to needy families—Denial of assistance to fugitive felons and probation and parole violators.

Purpose: To comply with the federal requirement that TANF assistance be denied to fugitive felons and probation and parole violators as stated in Public Law 104-193.

Statutory Authority for Adoption: RCW 74.04.050 and 74.04.055.

Statute Being Implemented: Public Law 104-193, section 103 (a)(1) (1996).

Summary: Federal rules for the temporary assistance for needy families (TANF) cash assistance program requires that TANF benefits to fugitive felons and probation and parole violators be denied.

Reasons Supporting Proposal: To qualify for federal funding under the TANF program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kevin Sullivan, Division of Income Assistance, (360) 413-3093.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Public Law 104-193, section 103 (a)(1).

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 388-215-1550 Temporary assistance for needy families—Denial of assistance to fugitive felons and probation and parole violators, to comply with the federal requirement for the TANF program in order to qualify and maintain federal TANF funding.

Proposal Changes the Following Existing Rules: Denies assistance to individuals who are fugitive felons or probation or parole violators, which was not a factor of eligibility before this rule change.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule change does not impact small businesses. It only affects applicants and recipients of temporary assistance for needy families.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201 (RCW 34.05.328) does not apply to the Department of Social and Health Services.

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 1009 College Street S.E., Room 104-A, Lacey, WA 98503, on February 25, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Manager, by February 11, 1997, TTY (360) 902-8324, phone (360) 902-8317.

Submit Written Comments to and Identify WAC Numbers: Leslie Baldwin, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by February 25, 1997.

Date of Intended Adoption: No sooner than February 26, 1997.

PROPOSED

January 10, 1997
Merry A. Kogut, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-215-1550 Temporary assistance to needy families (TANF)—Denial of assistance to fugitive felons and probation and parole violators. (1) The department shall not authorize TANF on behalf of an individual who is:

(a) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which is a high misdemeanor under the laws of a state, as in the case of New Jersey; or

(b) Violating a condition of probation or parole imposed under federal or state law as determined by an administrative body or court of competent jurisdiction.

(2) Subsection (1) of this section shall not apply to an individual in any month after that individual has been pardoned by the President of the United States for such conduct described in subsection (1).

WSR 97-03-053
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Public Assistance)
[Filed January 10, 1997, 4:14 p.m.]

Original Notice.

Title of Rule: WAC 388-200-1400 Application of rules—Temporary assistance to needy families and 388-320-225 Qualification of nondisclosure.

Purpose: For compliance with the federal temporary assistance to needy families law to provide the address of a recipient to a law officer if the recipient is a fugitive felon or probation or parole violator or has information that is necessary for the officer to conduct the official duties of the officer.

Statutory Authority for Adoption: RCW 74.04.050 and 74.04.055.

Summary: The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 created the temporary assistance to needy families (TANF) program to replace the aid to families with dependent children (AFDC) program and the WAC needs to indicate that unless excluded all references to AFDC apply to TANF.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Betty Brinkman, Division of Income Assistance, (360) 413-3091.

Name of Proponent: Department of Social and Health Services.

Rule is necessary because of federal law, Public Law 104-193, section 103 (a)(1).

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above.

Proposal Changes the Following Existing Rules: WAC 388-200-1400 and 388-220-225.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201 (RCW 34.05.328) does not apply to the Department of Social and Health Services.

Hearing Location: Lacey Government Center, 1009 College Street S.E., Room 104-A, Lacey, WA 98503, on February 25, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Manager, by February 11, 1997, TTY (360) 902-8324, phone (360) 902-8317.

Submit Written Comments to and Identify WAC Numbers: Leslie Baldwin, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45811, Olympia, WA 98504-5850, FAX (360) 902-8292, by February 25, 1997.

Date of Intended Adoption: No sooner than February 26, 1997.

January 10, 1997
Merry Kogut, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-200-1400 Application of rules—Temporary assistance to needy families. Unless otherwise specified, references in Title 388 WAC to the aid to families with dependent children (AFDC) program shall include the temporary assistance to needy families (TANF) program.

AMENDATORY SECTION (Amending Order 1609, filed 2/19/81)

WAC 388-320-225 Qualifications on nondisclosure.

(1) To the extent that nondisclosable information can be deleted from the specific records sought, the remainder of the records shall be disclosable.

(2) No exemptions shall be construed to require nondisclosure of statistical information not descriptive of identifiable persons, as required by RCW 42.17.310(2).

(3) Inspection and copying of any specific records otherwise nondisclosable is permissible pursuant to an order of the superior court enforcing a subpoena in accordance with the provisions of RCW 42.17.310(3), or an order of the office of hearings enforcing a subpoena.

(4) Upon written request of a person who has been properly identified as an officer of the law with a felony arrest warrant or a properly identified United States immigration official with a warrant for an illegal alien the department shall disclose to such officer or official the current address and location of the person described in the warrant, as required by RCW 74.04.062.

(5) The department shall furnish a federal, state, or local law enforcement officer, upon the request of the officer, with the current address of any recipient of temporary assistance for needy families if the officer furnishes the agency with the name of the recipient and notifies the agency that:

(a) The recipient:

(i) Is a fugitive felon or probation or parole violator as described in WAC 388-215-1550; or

(ii) Has information that is necessary for the officer to conduct the official duties of the officer; and

(b) The location or apprehension of the recipient is within such official duties.

(6) Any person may inquire of the department whether a named individual is a recipient of welfare assistance in accordance with RCW 74.04.060.

((6)) (7) Any records of the department may be made accessible for research purposes provided that the research complies with the guidelines published by the department in response to 45 C.F.R. 46 or other applicable state and federal law.

WSR 97-03-055
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed January 10, 1997, 4:17 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 388-215-1650 Assistance to a minor child.

Purpose: To comply with the federal requirement in Public Law 104-193 that temporary assistance to needy families (TANF) be denied to unmarried minor parents who have not completed a high school education and are not participating in activities leading to the attainment of a high school diploma or equivalent.

Statutory Authority for Adoption: RCW 74.04.050 and 74.04.055.

Statute Being Implemented: Public Law 104-193, section 103 (a)(1) (1996).

Summary: Federal rules for the temporary assistance for needy families (TANF) cash assistance program require that TANF benefits be denied to unmarried minor parents who have not completed a high school education and are not participating in activities leading to the attainment of a high school diploma or equivalent.

Reasons Supporting Proposal: To qualify for federal funding under the TANF program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kevin Sullivan, Division of Income Assistance, (360) 413-3093.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Public Law 104-193, section 103 (a)(1).

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 388-215-1650 Assistance to a minor child, to comply with the federal requirement in Public Law 104-193 regarding denial of TANF to unmarried minor parents who have not completed a high school education and are not participating in activities leading to the attainment of a high school diploma or equivalent, in order to qualify for federal TANF funding.

Proposal Changes the Following Existing Rules: Unmarried minor parents who have not completed a high school education and are not participating in activities leading to the attainment of a high school diploma will not be eligible for cash assistance under TANF as they were under the aid to families with dependent children program.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule change does not impact small businesses. It only affects applicants and recipients of temporary assistance for needy families.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201 (RCW 34.05.328) does not apply to the Department of Social and Health Services.

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 1009 College Street S.E., Room 104-A, Lacey, WA 98503, on February 25, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Manager, by February 11, 1997, TTY (360) 902-9324, phone (360) 902-8317.

Submit Written Comments to and Identify WAC Numbers: Leslie Baldwin, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by February 25, 1997.

Date of Intended Adoption: No sooner than February 26, 1997.

January 10, 1997

Merry A. Kogut, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-215-1650 Assistance to a minor child. (1) A minor is a person seventeen years of age and younger.

(2) Under state law, (chapter 74.13 RCW, Child welfare services), the department shall protect and care for homeless, dependent, or neglected children or children in danger of becoming delinquent.

(3) If a minor applies for assistance for himself or herself, the department shall determine eligibility for AFDC as required under this chapter. If an unmarried pregnant minor is requesting an abortion, parental consent is not required. The decision to proceed with an abortion rests solely with the minor. Involvement and/or consultation with parents in reaching this decision should be a matter of individual case judgment.

(4) Prior to authorizing assistance for a minor, the department shall determine the parent's ability to financially support and willingness to contribute. See WAC 388-506-0610 (1) and (2) for responsibility for medical care. Parental contact is not required when the minor applicant:

(a) Is married;

(b) Is in the military service;

(c) Has been declared emancipated by a court of competent jurisdiction prior to the application for assistance; or

(d) Is applying for medical assistance related to pregnancy.

(5) The minor's emancipation status is not an eligibility factor. The identification of emancipation status is necessary to determine if there is parental responsibility for support.

(6) The department shall inform the minor applicant that there will be communication with the minor's parents during the eligibility determination process in order to determine the parents' willingness to contribute to the support of the minor.

(7) If a minor parent and his or her child live with such minor's parent or parents, the department shall establish the assistance unit of the minor according to WAC 388-215-

1600 through 388-215-1610. If the minor parent's parent is not included in the assistance unit of the minor parent, the department shall consider the income of such parent available to meet the needs of the minor parent as specified under WAC 388-218-1660 and 388-218-1680.

(8) If a minor parent's legal guardian has a court-ordered responsibility for the support of such minor parent, the department shall treat such legal guardian's income, with respect to determining the availability of such income to meet the needs of the minor parent, the same as the income of a minor parent's parent as specified in subsection (7) of this section.

(9) The department shall require an unmarried minor parent who has not completed a high school education (or its equivalent), and whose youngest child is at least twelve weeks old, to participate in educational activities leading to the attainment of a high school diploma or its equivalent, or participate in an alternative educational or training program that has been approved by the department. The following conditions apply:

(a) "Participate" means maintaining satisfactory attendance as required by the school or program in which the minor parent is enrolled.

(b) No TANF benefits will be issued for a minor parent who is not participating as required above. The eligibility of the minor parent's child is not affected by this rule.

(c) The income of a minor parent who is disqualified under this section shall be allocated under WAC 388-218-1640 as if the minor parent were ineligible due to sanction or noncooperation.

WSR 97-03-065

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF LICENSING

[Filed January 13, 1997, 4:13 p.m.]

The Department of Licensing hereby withdraws proposed rules WAC 308-12-240, 308-12-250, and 308-12-260 filed with your office October 2, 1996, as part of WSR 96-20-113. WAC 308-12-270 was renumbered as WAC 308-12-240.

James D. Hanson, Administrator
Business and Professions Division

WSR 97-03-071

PROPOSED RULES BELLINGHAM TECHNICAL COLLEGE

[Filed January 14, 1997, 4:20 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR [96-21-086 on] October 17, 1996.

Title of Rule: Hazing policy, amending chapter 495B-120 WAC to include policy on hazing, prohibiting college sponsored organizations, associations, or living groups from engaging individually or collectively in hazing of students.

Statutory Authority for Adoption: RCW 28B.10.140, 42.30.075 and chapter 34.05 RCW.

Statute Being Implemented: Chapter 238, Laws of 1991.

Summary: Adoption of a hazing policy as required by RCW 28B.10.901 - 28B.10.903.

Reasons Supporting Proposal: Bellingham Technical College currently has no hazing policy in effect.

Name of Agency Personnel Responsible for Drafting: Melissa Reimer, 320 BNB, 103 East Holly, Bellingham, WA 98225, (360) 676-2037; Implementation and Enforcement: Des McArdle, President, Bellingham Technical College, 3028 Lindbergh Avenue, Bellingham, WA 98225, (360) 738-3105 x 333.

Name of Proponent: Bellingham Technical College, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Bellingham Technical College prohibits college sponsored organizations, associations or living groups and their members from engaging individually or collectively in hazing activities. Puts in place definitions and penalties. No anticipated changes or effects.

Proposal Changes the Following Existing Rules: Adds new rule regarding hazing.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No monetary implications attached to the rule.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Rules relate to internal governmental operations.

Hearing Location: College Services Building, Board Room, Bellingham Technical College, 3028 Lindbergh Avenue, Bellingham, WA 98225, on March 13, 1997, at 10 a.m.

Submit Written Comments to: Jody McBee, FAX (360) 676-2798, by March 12, 1997.

Date of Intended Adoption: March 20, 1997.

January 10, 1997

Jody McBee

Rules Coordinator

NEW SECTION

WAC 495B-120-035 Hazing. (1) Bellingham Technical College prohibits college-sponsored organizations, associations or living groups and their members from engaging individually or collectively in hazing activities.

(2) Hazing is defined as any method of initiation into a student organization, association or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending any institution of higher education or postsecondary institution. "Hazing" does not include customary athletic events or other similar contests or competitions.

(3) Penalties.

(a) Any organization, association or student living group that knowingly permits hazing shall:

(i) Be liable for harm caused to persons or property resulting from hazing; and

(ii) Be denied recognition by Bellingham Technical College as an official organization, association or student living group on the Bellingham Technical College campus.

If the organization, association or student living group is a corporation, whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

(b) The student conduct code, WAC 495-120-040 through 495-120-150, may be applicable to hazing violations.

(c) Members of student organizations, associations or living groups who participate in or conspire to participate in hazing activities will be subject to appropriate college disciplinary actions in accordance with the student conduct code.

(d) Other disciplinary actions for individuals of student organizations, associations or living groups participating in hazing activities may include forfeiture of any entitlement to state-funded grants, scholarships or awards for a period of time determined by the college.

(e) Hazing violations are also misdemeanors punishable under state criminal law according to RCW 9A.20.021.

(i) Impermissible conduct associated with initiation into a student organization, association or living group or any pastime or amusement engaged in, with respect to the organization, association or living group, will not be tolerated.

(ii) Impermissible conduct which does not amount to hazing may include conduct which causes embarrassment, sleep deprivation or personal humiliation, or may include ridicule or unprotected speech amounting to verbal abuse.

(iii) Impermissible conduct not amounting to hazing is subject to any sanctions available under the student conduct code, WAC 495-120-040 through 495-120-150, depending upon the seriousness of the violation.

WSR 97-03-073
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
(By the Code Reviser's Office)
[Filed January 14, 1997, 4:25 p.m.]

WAC 296-128-013, proposed by the Department of Labor and Industries in WSR 96-14-116, appearing in issue 96-14 of the State Register, which was distributed on July 17, 1996, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 97-03-074
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(By the Code Reviser's Office)
[Filed January 14, 1997, 4:26 p.m.]

WAC 208-440-030, proposed by the Department of Financial Institutions in WSR 96-14-122, appearing in issue 96-14 of the State Register, which was distributed on July 17, 1996, is withdrawn by the code reviser's office under RCW

34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 97-03-075
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)
(By the Code Reviser's Office)
[Filed January 14, 1997, 4:27 p.m.]

WAC 220-95-013, 220-95-018, 220-95-022 and 220-95-032, proposed by the Department of Fish and Wildlife in WSR 96-14-146, appearing in issue 96-14 of the State Register, which was distributed on July 17, 1996, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 97-03-083
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed January 15, 1997, 11:17 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-10-082.

Title of Rule: Chapter 296-46 WAC, Electrical standards and administrative rules and chapter 296-401 WAC, Certification of competency for journeyman electricians.

Purpose: Chapter 296-46 WAC, Safety standards—Installing electric wires and equipment—Administrative rules, National Electrical Code (NEC)-initiated proposed amendments to chapter 296-46 WAC, Safety standards—Installing electric wires and equipment—Administrative rules, are made to be at-least-as-effective-as the 1996 NEC code. According to RCW 19.28.060, the department, in conjunction with the Electrical Board, is required to adopt reasonable rules based upon the latest revision of the NEC code. These NEC-initiated proposed amendments will not establish any additional compliance requirements.

WAC 296-46-090 Foreword, proposed amendments are made to reference the 1996 edition of the NEC codes and standards.

WAC 296-46-140 Plan review for educational, institutional or health care facilities and other buildings, proposed amendments are made to delete language regarding the calculation of loads for existing building which is now included in the 1996 NEC code.

WAC 296-46-21008 Branch circuits, proposed amendments are made to delete this section in its entirety because it is now included in the 1996 NEC code. This section number is reserved for future use.

WAC 296-46-21052 Receptacles and switches, proposed amendments are made to clarify how floor outlets are installed in "out of traffic areas."

WAC 296-46-225 Outside branch circuits and feeders, proposed amendments are made to delete language regarding outside branch circuits and feeders which is now included in the 1996 NEC code.

WAC 296-46-360 Amusement rides or structures, carnivals, circuses, and similar traveling shows, proposed amendments are made to delete certain requirements regarding feeders, circuits, receptacles, plugs, portable power cables and conductors which are now found in the 1996 NEC code.

WAC 296-46-370 Boat moorages, floating buildings, and similar installations, proposed amendments are made to move this section to WAC 296-46-553. This section number is reserved for future use.

WAC 296-46-514 Service stations, proposed amendments are made to delete requirements regarding emergency disconnects which are now found in the 1996 NEC code.

WAC 296-46-553 Boat moorages, floating buildings, and similar installations, proposed amendments are made to add this new section and incorporate requirements previously found at WAC 296-46-370. This change is being made to align the state WAC section number with the NEC code number as closely as possible.

WAC 296-46-700 Emergency systems, proposed amendments are made to delete subsection (2) Fire alarm systems, which is now found in the 1996 NEC code.

State-initiated proposed amendments to chapter 296-46 WAC, Safety standards—Installing electric wires and equipment—Administrative rules, are being made to comply with RCW 19.28.060 which requires the department, in conjunction with the electrical board, to adopt "reasonable rules in to ensure [furtherance of] safety to life and property." These proposed amendments establish additional compliance requirements.

WAC 296-46-130 Classification or definition of occupancies, proposed amendments are made:

- To incorporate the occupancy classifications and definitions used by the agencies that register or license these types of operations.
- To delete definitions for "detoxification" and "mini day care center" which are no longer used.
- To add definitions for "hospital," "nursing home unit," "alcoholism treatment facility," "hospice care center," "medical, dental, and chiropractic clinic," "child day care center," "school-age child care center" and "family child day care home" which are currently used.
- To amend the definitions of "ambulatory surgical facility" and "renal hemodialysis clinic" by adding a reference to the NEC code 517-3 definition of "ambulatory health care center."
- To retitle the definition of "adult residential treatment facility" to "adult residential rehabilitation center" and to update its statute reference by replacing "chapter 204, Laws of 1982" with "chapter 71.24 RCW."
- To amend the language in the definition of "group care facility" by including the phrase "other than a foster-family home."
- To reorganize the definitions contained in this section.

WAC 296-46-140 Plan review for educational, institutional or health care facilities and other buildings, proposed amendments are made to delete references to WAC 296-46-150 whose repeal is being proposed.

WAC 296-46-150 Wiring methods for designated building occupancies, proposed amendments are made to repeal this section in its entirety.

WAC 296-46-21052 Receptacles and switches, proposed amendments are made to retitle this section to "receptacles in dwelling units" to more accurately reflect its content.

WAC 296-46-225 Outside branch circuits and feeders, proposed amendments are made to clarify and limit the distance, as referenced in NEC code 225-8(b), that feeder or branch circuit conductors may extend into buildings.

WAC 296-46-23028 Service or other masts, proposed amendments are made to enlarge the illustrations to improve clarity.

WAC 296-46-23062 Service equipment, proposed amendments are made to clarify what information must be given an inspector when a ground fault protection test is performed.

WAC 296-46-30001 Support of raceways and cables, proposed amendments are made:

- To retitle this section to "Support of raceways and cables in suspended ceilings" to more accurately reflect its content.
- To clarify that wires, other than ceiling support wires, may be used to support raceways above suspended ceilings.

WAC 296-46-514 Service stations, proposed amendments are made to retitle this section to "gasoline dispensing and service stations" to more accurately reflect its content.

WAC 296-46-553 Boat moorages, floating buildings, and similar installations, proposed amendments are made to clarify "where flexibility is required" in NEC code 555-6 "Wiring Methods."

WAC 296-46-700 Emergency systems, proposed amendments are made to delete a reference to WAC 296-46-150 which is being repealed.

WAC 296-46-725 Class 2 and Class 3 cables, proposed amendments are made to correct NEC code references.

WAC 296-46-910 Inspection fees, proposed amendments are made:

- To delete double fees for installations that are covered or concealed before an inspection. It is more accurate to charge the full fee for both the initial trip and the return trip which is required because the initial inspection could not be conducted.
- To move "failure to obtain a work permit" from this section to WAC 296-46-920 Civil penalty.
- To add a fee for "each outbuilding or detached garage inspected separately."
- To add a clarifying definition of "thermostat."
- To reduce the inspection fees for commercial/industrial low voltage fire and burglar alarms to a reasonable level.
- To reduce the inspection fees for generators to a reasonable level.
- To increase the fees in this section by 4.45% in order to maintain a solvent electrical fund.

WAC 296-46-915 Electrical contractor license, administrator certificate and examination, and copy fees, proposed amendments are made:

- To omit "within 10 days" and "after 10 days." The fee for the transfer of administrator designation now accurately reflects the administrative cost of the transfer, which is the same no matter when the transfer is made.
- To increase the fees in this section by 4.45% in order to maintain a solvent electrical fund.

WAC 296-46-920 Civil penalty, proposed amendments are made:

- To add specific penalties for: Covering or concealing installations prior to inspection; failing to make corrections within fifteen days, or the extended time period where approved; and failure to obtain a work permit prior to beginning work.
- To include a reduced "homeowner's first offense" penalty because homeowners generally lack specific knowledge of and experience with department permitting requirements.

Chapter 296-401 WAC, Certification of competency for journeyman electricians, legislative-initiated proposed amendments to chapter 296-401 WAC, Certification of competency for journeyman electricians, are made to comply with the 1996 amendments to RCW 19.28.550. These legislative-initiated proposed amendments do not establish additional compliance requirements.

WAC 296-401-165, Issuing and renewing an electrician certificate of competency, proposed amendments are made to incorporate portions of ESSB 6521 (1996), requiring an electrician's birthdate to be the renewal date for the certificate of competency.

State-initiated proposed amendments to chapter 296-401 WAC, Certification of competency for journeyman electricians, are made to reflect an appellant court decision (*The Washington State Association of Electrical Workers et al v. State of Washington*, No. 15290-8-II (Ct. App. Div. II), December 23, 1992), the responsibilities of contracted testing agencies, changing national standards and the need to clarify language. These proposed amendments establish additional compliance requirements.

WAC 296-401-080 Eligibility for journeyman examination, proposed amendments are made to delete language regarding graduates of electrical trade school programs established in 1946 and their eligibility to take the journeyman's certificate of competency examination. This language has been deleted to due the decision in *The Washington State Association of Electrical Workers et al v. State of Washington*, No. 15290-8-II (Ct. App. Div. II), December 23, 1992.

WAC 296-401-090 Status of person who has failed an examination for an electrician certificate of competency, proposed amendments are made to delete language regarding the successful completion of a refresher training course and eligibility to retake a certificate of competency examination. These department requirements proved to be unenforceable and are now better administered by the contracted testing agency.

WAC 296-401-100 Computation of years of employment—Renewal of training certificates, proposed amendments are made to increase the number of hours of employment used in the calculation of "one year of employ-

ment." The proposed increase brings Washington state requirements in line with national standards.

WAC 296-401-120 Electrical training certificates, proposed amendments are made to increase required training hours and brings Washington state in line with national standards.

WAC 296-401-165 Issuing and renewing an electrician certificate of competency, proposed amendments are made:

- To delete language relating to passing the competency examination and the issuing of certificates resulting from the passage of ESSB 6521.
- To clarify continuing education requirements by adding the sentence "Any portion of a year is equal to one year for continuing education requirements."
- To replace the word "latest" with the word "current" when referring to National Electrical Code changes.

WAC 296-401-175 Journeyman, specialty and trainee certificate, and examination fees, proposed amendments are made to increase the fees in this section by 4.45% in order to maintain a solvent electrical fund.

Statutory Authority for Adoption: RCW 19.28.060, 19.28.210(6), 19.28.350, 19.28.600.

Statute Being Implemented: RCW 19.28.550.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Jack Watterson, Chief Electrical Specialist, 7273 Linderson Way, Tumwater, WA, (360) 902-5249; Implementation and Enforcement: Frank Leuck, Assistant Director, 7273 Linderson Way, Tumwater, WA, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

Rule is necessary because of state court decision, *Washington State Association of Electrical Workers et al v. State of Washington*, NO. 15290-8-II (Ct. App. Div. II), December 23, 1992. Other: State law ESSB 6521.

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has considered whether these proposed rules are subject to the Regulatory Fairness Act and has determined that they do not require a small business economic impact statement because the proposed rules will not place a more than minor impact on business.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. The proposed rule amendments are considered to be "significant legislative rules" for the following reasons:

- (1) The rules subject a violator to civil penalties.
- (2) The rules adopt new policies. See Purpose above.
- (3) The rules amend significant policies. See Purpose above.
- (4) The rules change the requirements for issuing certificates.

Hearing Location: On February 25, 1997, at 1:00 p.m., at the Department of Labor and Industries Building, Auditorium, 7273 Linderson Way, Tumwater, WA; and on February 27, 1997, at 1:00 p.m., at the Spokane County Public

Works Building, County Commissioners Assembly Room (lower level), 1026 West Broadway, Spokane, WA.

Assistance for Persons with Disabilities: Contact George Huffman by February 10, 1997, (360) 902-6411.

Submit Written Comments to: Department of Labor and Industries, Attention: Jack Watterson, Chief Electrical Specialist, P.O. Box 44460, Olympia, WA 98504-4460, by no later than 5:00 p.m., March 6, 1997.

In addition to written comments, the department will accept comments submitted to FAX (360) 902-5292. Comments submitted by FAX must be ten pages or less.

Date of Intended Adoption: May 28, 1997.

January 13, 1996 [1997]

Mark O. Brown
Director

AMENDATORY SECTION (Amending WSR 93-06-072, filed 3/2/93, effective 4/2/93)

WAC 296-46-090 Foreword. The ~~((1993))~~ 1996 edition of the National Electrical Code (NFPA 70 - ~~((1993))~~ 1996) including ~~((Appendix B))~~ Appendixes A, B, and C, the ~~((1990))~~ 1993 edition of Centrifugal Fire Pumps (NFPA 20 - ~~((1990))~~ 1993) and the ~~((1985))~~ 1993 edition of Emergency and Standby Power Systems (NFPA 110 - ~~((1985))~~ 1993) are hereby adopted by reference as part of this chapter. Other codes, manuals, and reference works referred to in this chapter are available for inspection and review in the Olympia office of the electrical section of the department during business hours. Where there is any conflict between this chapter and the National Electrical Code (NFPA 70), Centrifugal Fire Pumps (NFPA 20) or Emergency and Standby Power Systems (NFPA 110), the requirements of this chapter shall be observed. Where there is any conflict between Centrifugal Fire Pumps (NFPA 20) or Emergency and Standby Power Systems (NFPA 110) and the National Electrical Code (NFPA 70), the National Electrical Code shall be followed.

Electrical inspectors will give information as to the meaning or application of the National Electrical Code, the standard on Centrifugal Fire Pumps and the standard on Emergency and Standby Power Systems and this chapter, but will not lay out work or act as consultants for contractors, owners, or users.

The department is authorized to enforce city electrical ordinances where those governmental agencies do not make electrical inspections under an established program.

AMENDATORY SECTION (Amending WSR 90-19-015, filed 9/10/90, effective 10/11/90)

WAC 296-46-130 Classification or definition of occupancies. Occupancies shall be classified and defined by the agency that registers or licenses their operation, as follows:

(1) Educational facility refers to a building or portion of a building used primarily for educational purposes and shall include buildings used for the gathering of groups of six or more persons for purposes of instruction. Educational occupancy includes, but is not restricted to: Schools, colleges, academies, and universities.

(2) Institutional facility refers to a building or portion of a building used primarily for detention and correctional

occupancies where some degree of restraint or security is required. Such occupancies shall include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

(3) Health or personal care facility. Health or personal care facility refers to buildings or parts of buildings that contain but are not limited to facilities such as a hospital, nursing home, alcoholism hospital, psychiatric hospital, boarding home, alcoholism treatment facility, maternity home, birth center or childbirth center, residential treatment facility for psychiatrically impaired children and youths, and renal hemodialysis clinics that are licensed by the department of social and health services; and medical, dental or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated.

~~(a) ((Boarding home means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing board and domiciliary care to three or more aged persons not related by blood or marriage to the operator. It shall not include any home, institution, or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution, or section thereof.~~

~~(b) Private alcoholism hospital means an institution, facility, building, or equivalent designed, organized, maintained, and operated to provide diagnosis, treatment, and care of individuals demonstrating signs or symptoms of alcoholism, including the complications of associated substance use and other medical diseases that can be appropriately treated and cared for in the facility and providing accommodations, medical services, and other necessary services over a continuous period of twenty-four hours or more for two or more individuals unrelated to the operator, provided that this chapter shall not apply to any facility, agency, or other entity which shall be both owned and operated by a public or governmental body.~~

~~(c) Detoxification means care or treatment of an intoxicated person during a period where the individual recovers from the effects of intoxication.~~

~~(d) Private psychiatric hospital means an institution, facility, building, or agency specializing in the diagnosis, care, and treatment of individuals demonstrating signs and/or symptoms of mental disorder as defined in RCW 71.05.020(2), and providing accommodations and other necessary services over a continuous period of twenty-four hours or more for two or more individuals not related to the operator, provided that this chapter shall not apply to any facility, agency, or other entity which shall be both owned and operated by a public or governmental body.)~~ "Hospital" means any institution, place, building, or agency providing accommodations, facilities and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis.

(b) "Nursing home unit" or "long-term care unit" means a group of beds for the accommodation of patients who, because of chronic illness or physical infirmities require skilled nursing care and related medical services but are not acutely ill and not in need of the highly technical or specialized services ordinarily a part of hospital care.

(c) "Boarding home" means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing board and domiciliary care to three or more aged persons not related by blood or marriage to the operator. It shall not include any home, institution, or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution, or section thereof.

(d) "Private alcoholism hospital" means an institution, facility, building, or equivalent designed, organized, maintained, and operated to provide diagnosis, treatment, and care of individuals demonstrating signs or symptoms of alcoholism, including the complications of associated substance use and other medical diseases that can be appropriately treated and cared for in the facility and providing accommodations, medical services, and other necessary services over a continuous period of twenty-four hours or more for two or more individuals unrelated to the operator, provided that this chapter shall not apply to any facility, agency, or other entity which shall be both owned and operated by a public or governmental body.

(e) "Alcoholism treatment facility" means a private place or establishment, other than a licensed hospital, operated primarily for the treatment of alcoholism.

(f) (~~Maternity home means any home, place, hospital, or institution in which facilities are maintained for the care of four or more women, not related by blood or marriage to the operator, during pregnancy or during or within ten days after delivery: Provided, however, that this definition shall not apply to any hospital approved by the American College of Surgeons, American Osteopathic Association or its successor.~~)

(g) ~~Birth center or childbirth center means a type of maternity home which is a house, building, or equivalent organized to provide facilities and staff to support a birth service, provided that the birth service is limited to low-risk maternal clients during the intrapartum period.~~

(h) ~~Residential treatment facility for psychiatrically impaired children and youth means a residence, place, or facility designed and organized to provide twenty-four hour residential care and long-term individualized, active treatment for clients who have been diagnosed or evaluated as psychiatrically impaired.~~

(i) ~~Ambulatory surgical center or ASC means any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization or that has an agreement with HPCA under Medicare to participate as an ASC.~~

(j) ~~Renal hemodialysis clinic is a facility in a building or part of a building which is approved to furnish the full spectrum of diagnostic, therapeutic, and rehabilitative services required for the care of renal dialysis patients (including inpatient dialysis furnished directly or under arrangement).~~

(k) ~~Adult residential treatment facility means a residence, place, or facility designed and organized primarily to provide twenty-four hour residential care, crisis and short-term care, and/or long-term individualized active treatment and rehabilitation for clients diagnosed or evaluated as psychiatrically impaired or chronically mentally ill as defined herein or in chapter 204, Laws of 1982.~~

(l) ~~Private adult treatment home means a dwelling which is the residence or home of two adults providing food, shelter, beds, and care for two or fewer psychiatrically impaired clients, provided these clients are detained under chapter 71.05 RCW and the dwelling is certified as an evaluation and treatment facility under chapter 71.05 RCW.~~

(m) ~~Group care facility means a facility maintained and operated for the care of a group of children on a twenty-four hour basis.)~~ "Private psychiatric hospital" means an institution, facility, building, or agency specializing in the diagnosis, care, and treatment of individuals demonstrating signs and/or symptoms of mental disorder as defined in RCW 71.05.020(2), and providing accommodations and other necessary services over a continuous period of twenty-four hours or more for two or more individuals not related to the operator, provided that this chapter shall not apply to any facility, agency, or other entity which shall be both owned and operated by a public or governmental body.

(g) "Maternity home" means any home, place, hospital, or institution in which facilities are maintained for the care of four or more women, not related by blood or marriage to the operator, during pregnancy or during or within ten days after delivery: *Provided, however,* That this definition shall not apply to any hospital approved by the American College of Surgeons, American Osteopathic Association or its successor.

(h) "Birth center" or "childbirth center" means a type of maternity home which is a house, building, or equivalent organized to provide facilities and staff to support a birth service, provided that the birth service is limited to low-risk maternal clients during the intrapartum period.

(i) "Ambulatory surgical facility" means a facility, not a part of a hospital, providing surgical treatment to patients not requiring inpatient care in a hospital. This term does not include a facility in the offices of private physicians or dentists, whether for individual or group practice, if the privilege of using such facility is not extended to physicians or dentists outside the individual or group practice. (NEC; Ambulatory Health Care Center.)

(j) "Hospice care center" means any building, facility, place, or equivalent, organized, maintained, and operated specifically to provide beds, accommodations, facilities, and services over a continuous period of twenty-four hours or more for palliative care of two or more individuals, not related to the operator, who are diagnosed as being in the latter stages of an advanced disease which is expected to lead to death.

(k) "Renal hemodialysis clinic" is a facility in a building or part of a building which is approved to furnish the full spectrum of diagnostic, therapeutic, and rehabilitative services required for the care of renal dialysis patients (including inpatient dialysis furnished directly or under arrangement). (NEC; Ambulatory Health Care Center.)

(l) "Medical, dental, and chiropractic clinic" means any clinic or physicians office where patients are not regularly

kept as bed patients for twenty-four hours or more. Electrical plan review not required.

(m) "Residential treatment facility for psychiatrically impaired children and youth" means a residence, place, or facility designed and organized to provide twenty-four hour residential care and long-term individualized, active treatment for clients who have been diagnosed or evaluated as psychiatrically impaired.

(n) "Adult residential rehabilitation center" means a residence, place, or facility designed and organized primarily to provide twenty-four hour residential care, crisis and short-term care and/or long-term individualized active treatment and rehabilitation for clients diagnosed or evaluated as psychiatrically impaired or chronically mentally ill as defined herein or in chapter 71.24. RCW.

(o) "Group care facility" means a facility other than a foster-family home maintained and operated for the care of a group of children on a twenty-four-hour basis.

(4) Licensed day care centers.

~~(a) ("Day care center" means an agency that provides care for thirteen or more children either within the abode of the licensee or within a building or portion of a building used for such purposes for periods of less than twenty-four hours.~~

~~(b) "Mini day care center" means:~~

~~(i) Day care center for the care of twelve or fewer children in a facility other than the family abode of the person or persons under whose direct care and supervision the child is placed; or~~

~~(ii) The care of from seven through twelve children in the family abode of such person or persons.)~~ "Child day care center" means a facility providing regularly scheduled care for a group of children one month of age through twelve years of age for periods less than twenty-four hours; except, a program meeting the definition of a family child care home shall not be licensed as a day care center without meeting the requirements of WAC 388-150-020 (5)(a).

(b) "School-age child care center" means a program operating in a facility other than a private residence accountable for school-age children when school is not in session. It shall meet department licensing requirements, provide adult supervised care, and a variety of developmentally appropriate activities.

(c) "Family child day care home" means the same as "family child care home" and "a child day care facility" licensed by the state, located in the family abode of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home. Electrical plan review not required.

AMENDATORY SECTION (Amending WSR 93-06-072, filed 3/2/93, effective 4/2/93)

WAC 296-46-140 Plan review for educational, institutional or health care facilities and other buildings.

(1) All electrical plans for new or altered electrical installations in educational, institutional, and health or personal care occupancies classified or defined in WAC 296-46-130 (~~and as indicated in WAC 296-46-150, Table 1 or 2~~) shall be reviewed and approved by the department before the electrical installation or alteration is begun. Plans for these

electrical installations within cities that perform electrical inspections within their jurisdiction, and provide an electrical plan review program that equals or exceeds the department's program in plans examiner minimum qualifications, policies and procedures, may be submitted to that city for review rather than to the department. Approved plans shall be available on the job site for use during the electrical installation or alteration and for use by the electrical inspector. Refer plans for department review to the Electrical Inspection Section, Department of Labor and Industries, P.O. Box 44460, Olympia, Washington 98504-4460. Please refer to WAC 296-46-910 for required fees for plan review.

(2) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans shall clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panelboard schedules and when a service or feeder is to be installed or altered, shall include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans shall include documentation that proves adequate capacity and ratings.

(3) Plan review for new or altered electrical installations of other types of construction may be voluntarily requested by the owner or other interested parties.

(4) For existing structures where additions or alternations to services are proposed, NEC Article 220 shall govern, except that, in addition to the provisions of Paragraph 220-35 (1) Exception, the following (~~alternative shall be considered acceptable for feeders:~~

~~If maximum demand data for one year period is not available, other means of load measurement may be acceptable to establish demand on existing feeders. In any case, the following data are))~~ is required:

(a) The date of the measurements.

(b) A diagram of the electrical system identifying the point(s) of measurement.

(c) Building demand measured continuously on the highest-loaded phase of the feeder over a thirty-day period, with demand peak clearly identified. (Peak demand shall be defined as the maximum average demand over a fifteen-minute interval.)

~~((d) Copies of thirty day measurements, such as significant segments of chart recordings, or logs of readings from KW demand meters, adjusted for power factor. Copies of twelve month service demand showing the highest demand for each month.~~

~~(e) The adjusted maximum annual demand in KVA, which shall include appropriate adjustments for seasonal loads, as shown by the twelve month service demand. Also any occupancy adjustment that may be required and, any load changes which should be expected from planned changes in building use during the succeeding twelve months.~~

~~Plan submittal shall be accompanied by a written statement, stamped and signed by a registered professional engineer, attesting to the validity of these data.)~~

AMENDATORY SECTION (Amending WSR 93-06-072, filed 3/2/93, effective 4/2/93)

WAC 296-46-21008 Branch circuits. ~~((An individual branch circuit shall be provided for the receptacle outlet(s) for dwelling unit bathrooms as defined in the National Electrical Code. Whether one or more circuits are used, these circuits shall not supply other loads.)) (Reserved.)~~

AMENDATORY SECTION (Amending WSR 93-06-072, filed 3/2/93, effective 4/2/93)

WAC 296-46-21052 Receptacles ((and switches)) in dwelling units. ~~((1) Receptacles and switches shall not be placed face up on counter tops or at other locations where subject to moisture or debris entering the device.~~

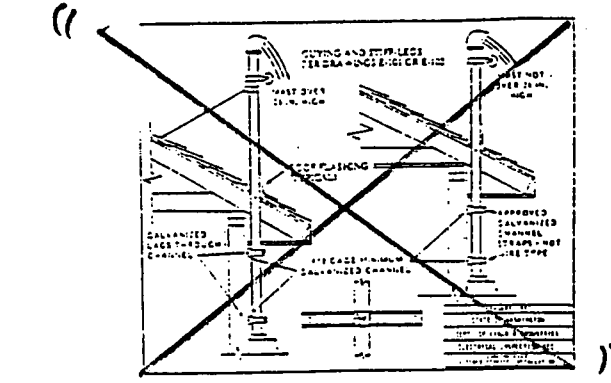
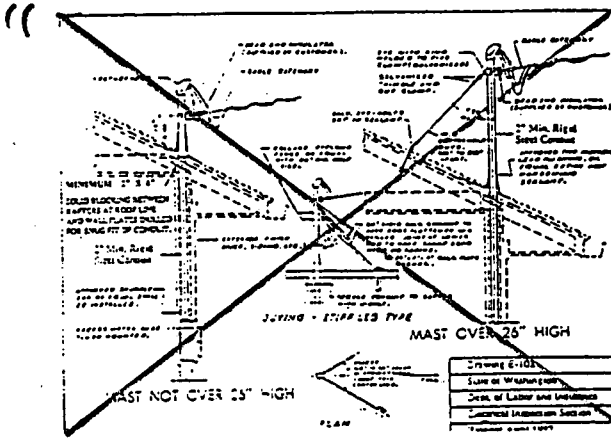
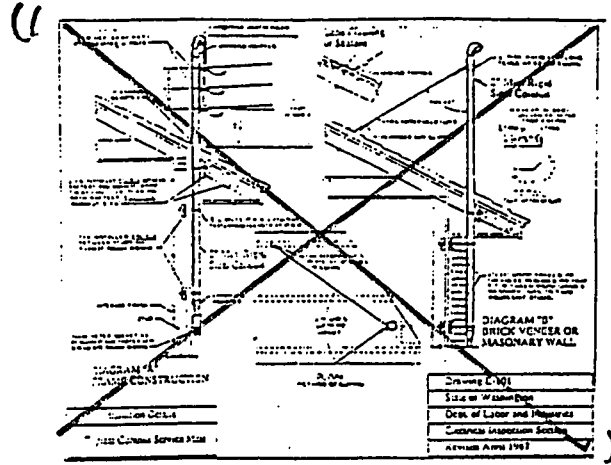
~~((2) Where)) For floor receptacle outlets located out of traffic areas ((in dwelling units)), formed or welded metal boxes that are mounted in a substantial manner such as directly to a framing member shall be permitted ((for floor receptacle outlets)). An approved metal cover plate that provides protection from debris entering the device shall be used.~~

AMENDATORY SECTION (Amending WSR 93-06-072, filed 3/2/93, effective 4/2/93)

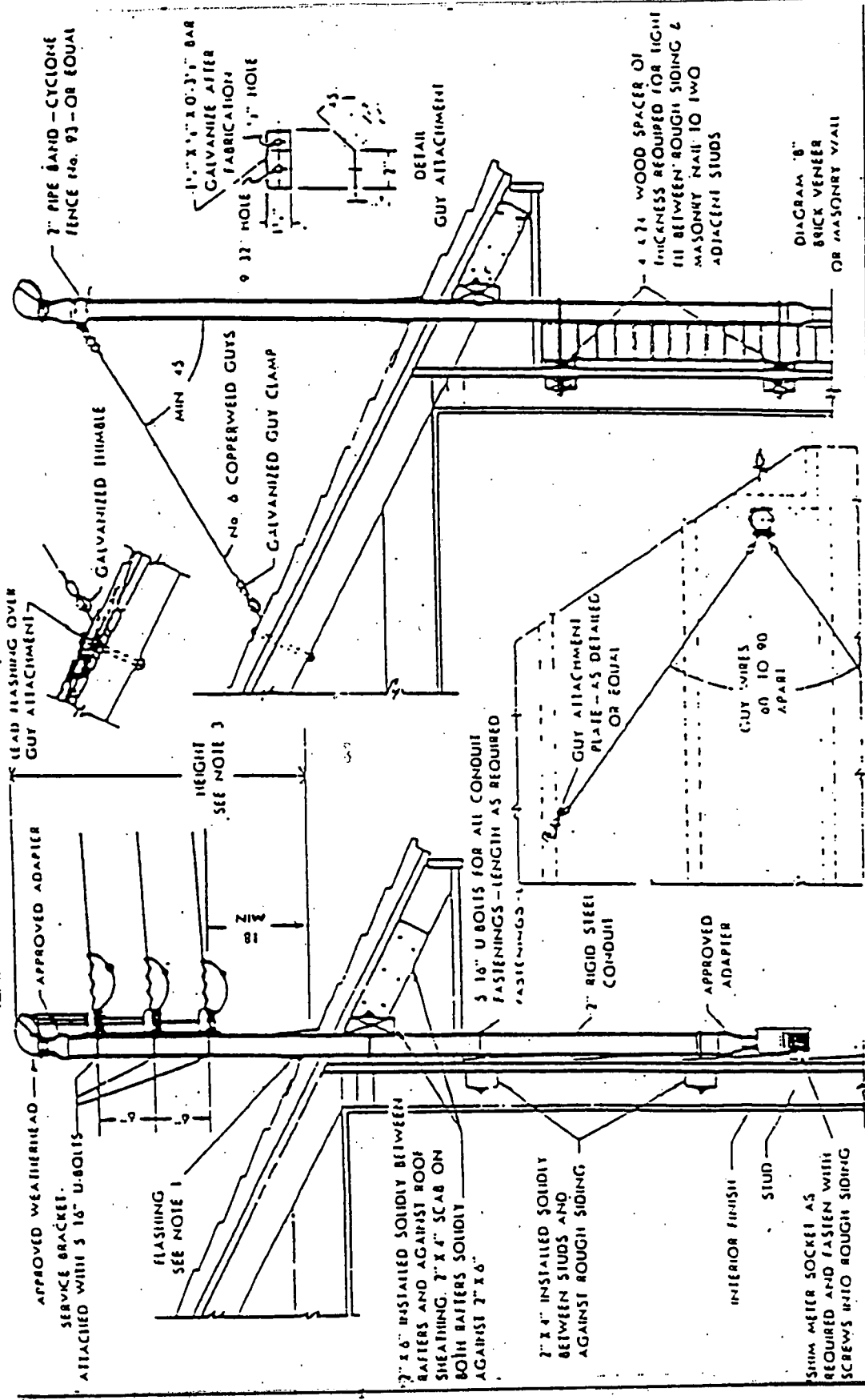
WAC 296-46-225 Outside branch circuits and feeders. For the purpose of Article 225-8(b) of the National Electrical Code, ~~((additional buildings or structures on the same property and under single management shall be supplied by a single branch circuit or feeder, unless the provisions of the exceptions to NEC Article 230-2 apply. If application of one of these exceptions allow additional supplies, a permanent plaque or directory shall be installed at each supply location denoting all other supplies to the building or structure and the location of each)) the branch circuit or feeder raceway or cable shall extend no more than 15 feet inside a building or structure.~~

AMENDATORY SECTION (Amending WSR 90-19-015, filed 9/10/90, effective 10/11/90)

WAC 296-46-23028 Service or other masts. Conduit extended through the roof to provide means of attaching the service drop or other conductors shall be no smaller than 2-inch rigid steel galvanized conduit, shall provide a structurally sound attachment for the conductors and shall be equipped with a properly installed flashing at the roof line. The installation shall comply with drawings E-101 and/or E-102, or shall provide equivalent strength by other approved means. Masts for altered or relocated installations shall be permitted to comply with drawing E-103.



PROPOSED

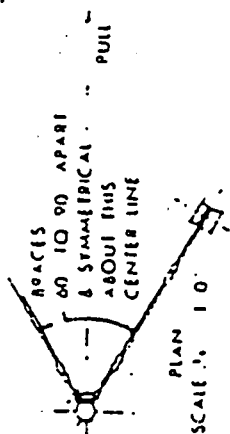
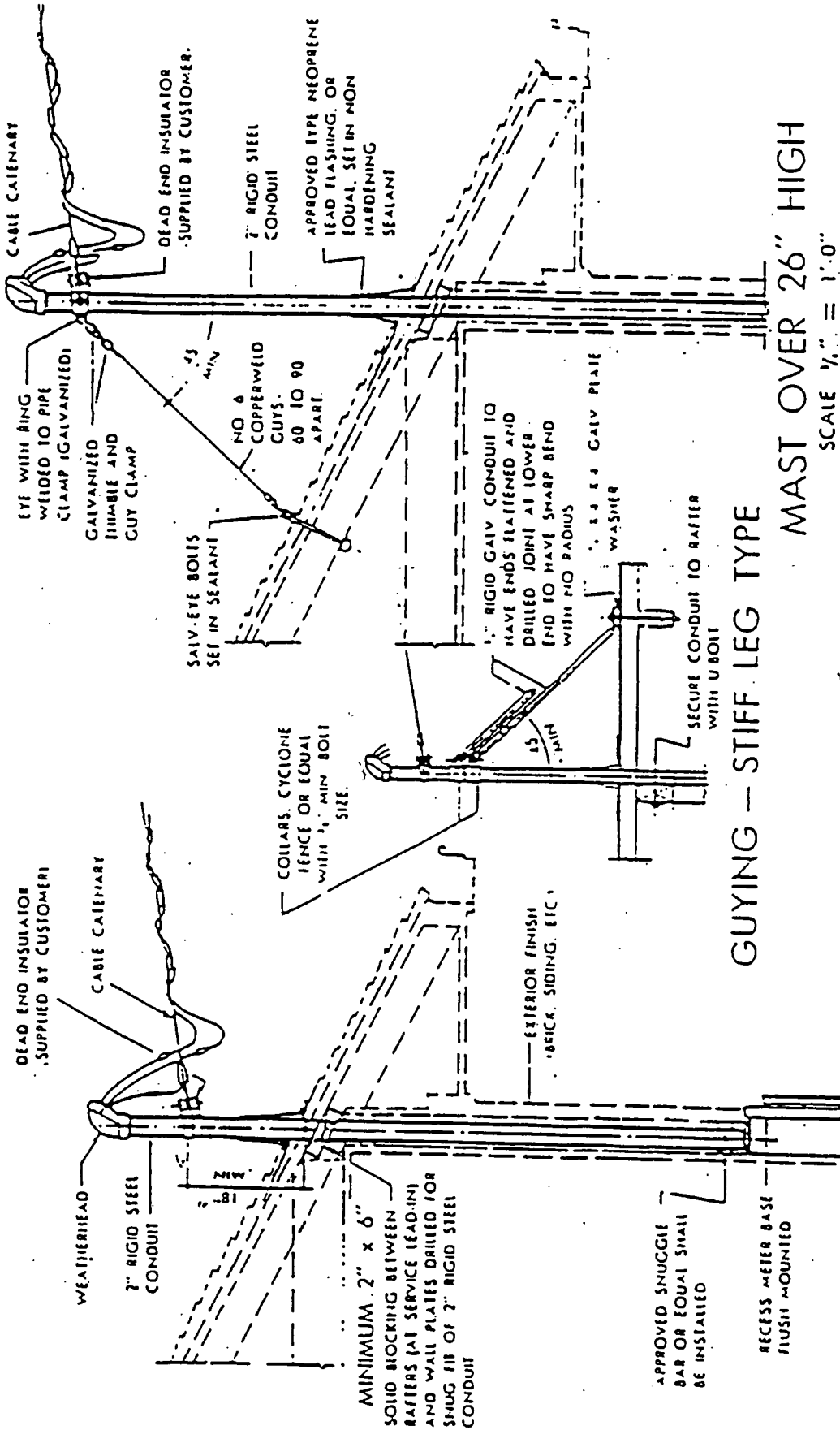


REVISED DRAWING E-101
 STATE OF WASHINGTON
 DEPT OF LABOR & INDUSTRIES
 ELECTRICAL INSPECTION DIV
 INSTALLATION DETAILS
 WASH CONDUIT SERVICE MOUNT

- NOTES—
- 1 LEAD FLASHING APPLY PLASTIC NON-HARDENING MASTIC BETWEEN FLASHING AND CONDUIT AND BETWEEN FLASHING AND ROOF NEOPRENE TYPE FLASHINGS MAY ALSO BE USED
 - 2 SERVICE MAST MAY BE INSTALLED INSIDE BUILDING LINES PROVIDED MAST CONDUIT IS BRACED OR U-BOLTED IN SUCH A MANNER THAT NO PRESSURE WILL EVER BE EXERTED ON FLASHING OR MAST BASE UTILIZATION OF COUPLINGS IN SERVICE MAST BY SPECIAL PERMISSION ONLY
 - 3 ROOF LINE TO POINT OF ATTACHMENT SHALL BE NOT LESS THAN 18 SERVICE HEAD SHALL BE NOT MORE THAN 8 ABOVE POINT OF ATTACHMENT WHERE MAST IS OVER 26' HIGH OR SERVICE DROP EXCEEDS 100 GUYS ARE REQUIRED PER DETAIL

PROPOSED

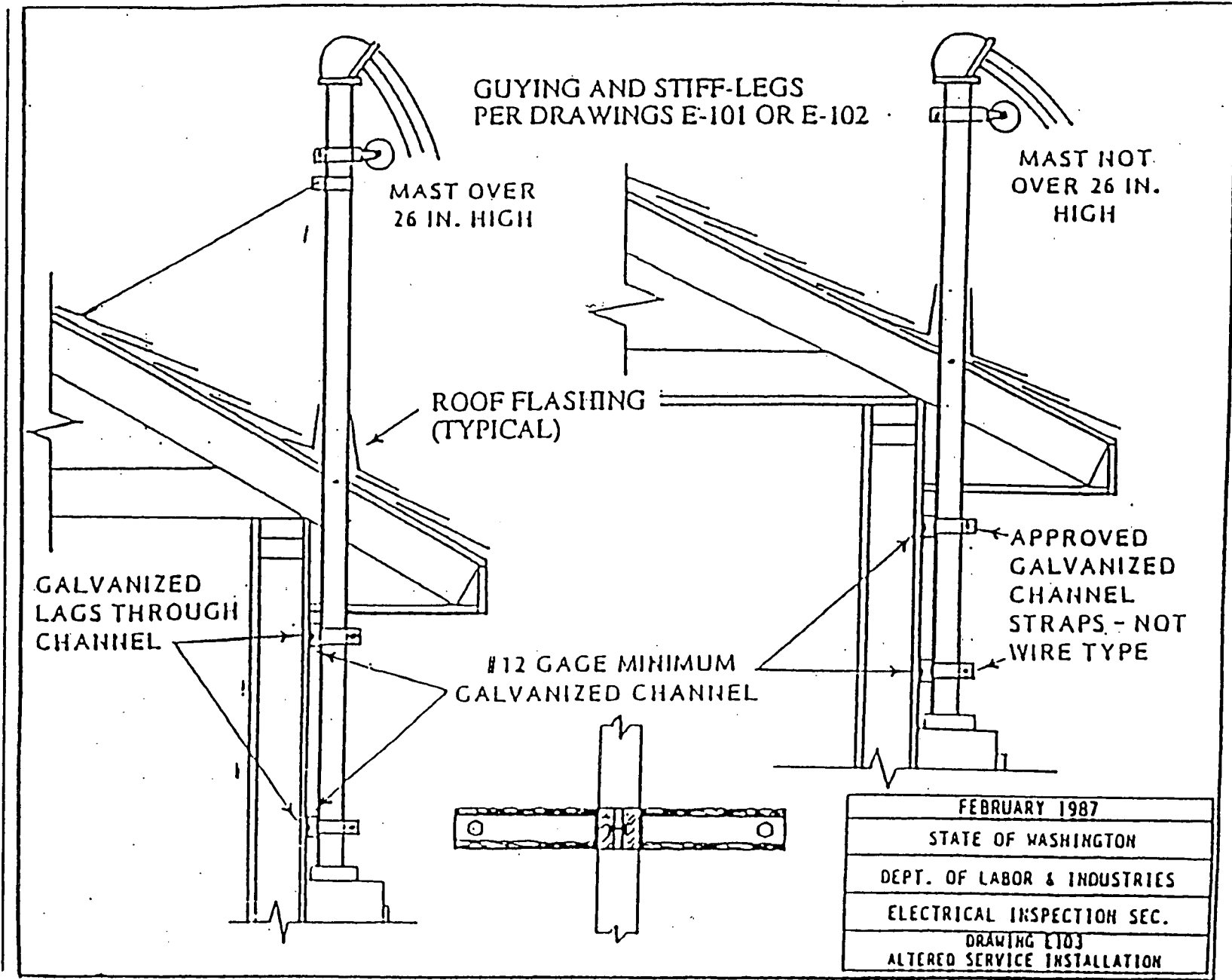
PROPOSED



MAST NOT OVER 26" HIGH
SCALE 1/4" = 1'-0"

SEPTEMBER 1, 1964
STATE OF WASHINGTON
DEPT. OF LABOR & INDUSTRIES
ELECTRICAL INSPECTION DIV.
INSTALLATION DETAILS SERVICE MAST DRAWING E-102

SEE NOTES: E-101



PROPOSED

Notes to drawings E-101, E-102, and E-103.

1. An approved roof flashing shall be installed on each mast where it passes through a roof. Plastic, nonhardening mastic shall be placed between lead-type flashings and the conduit. Neoprene type flashings shall also be permitted to be used.
2. Masts shall be braced, secured, and supported in such a manner that no pressure from the attached conductors will be exerted on a roof flashing, meter base, or other enclosures.
3. Utilization of couplings for a mast are permitted only below the point the mast is braced, secured, or supported.
4. Except as otherwise required by the serving utility, service mast support guys shall be installed if the service drop attaches to the mast more than 24 inches above the roof line or if the service drop is greater than 100 feet in length from the pole or support. Masts for support of other than service drops shall comply with this requirement as well.
5. Intermediate support masts shall be installed in an approved manner with methods identical or equal to those required for service masts.
6. For altered services, where it is impractical to install U bolt mast supports due to interior walls remaining closed, it shall be permissible to use other alternate mast support methods such as heavy gauge, galvanized, electrical channel material that is secured to two or more wooden studs with 5/16 inch diameter or larger galvanized lag bolts.

AMENDATORY SECTION (Amending WSR 93-06-072, filed 3/2/93, effective 4/2/93)

WAC 296-46-23062 Service equipment. (1) Service equipment, sub-panels, and similar electrical equipment shall be installed so that they are readily accessible and shall not be installed in bathrooms, clothes closets, shower rooms, cupboards, or attics, or above washers, clothes dryers, or plumbed-in fixtures. All indoor service equipment and sub-panel equipment shall be adequately illuminated.

(2) Temporary construction service equipment shall not be used for other than construction purposes and shall be disconnected when the permanent service is connected unless an extension for a definite period of time is granted by the department.

(3) Equipment ground fault protection systems required by the National Electrical Code shall be tested prior to being placed into service to verify proper installation and operation of the system as determined by the manufacturer's published instructions. The test shall be performed by a firm that ~~((is approved by the department and))~~ has qualified personnel and proper equipment to perform the tests required. A copy of the manufacturer's performance testing instructions and a signed, written performance test record must be provided for the inspectors records.

AMENDATORY SECTION (Amending WSR 90-19-015, filed 9/10/90, effective 10/11/90)

WAC 296-46-30001 Support of raceways and cables in suspended ceilings. Raceways, cables, and boxes shall be permitted to be supported from Number 9 and larger ~~((suspended ceiling support))~~ wires under the following conditions:

(1) Raceways and cables are not larger than 3/4 inch trade size.

(2) No more than two raceways or cables are supported by a support wire.

(3) Raceways and cables are secured to the support wires by fittings designed and manufactured for the purpose.

(4) The support wires are securely fastened to the structural ceiling and to the ceiling grid system.

(5) The raceways or cables serve equipment that is located within the ceiling cavity or is mounted on or supported by the ceiling grid system.

(6) Where not prohibited by the building code official.

AMENDATORY SECTION (Amending WSR 93-06-072, filed 3/2/93, effective 4/2/93)

WAC 296-46-360 Amusement rides or structures, carnivals, circuses, and similar traveling shows. (1) Electrical installations. Service equipment, separately derived systems, feeders and circuits for each amusement ride, structure or concession and the interconnection of each ride, structure or concession, shall comply with Article 525 of the National Electrical Code and this chapter.

~~((2))~~ ~~((Feeders and circuits for portable rides, structures or concessions shall be listed and labeled, multiconductor cord of a type identified in Table 400-4 of the National Electrical Code for hard usage or extra hard usage or as permitted under the conditions in this chapter, by individual, single conductor power cable. Ampacity shall be determined from the appropriate Table 400-5(A) or 400-5(B) in the National Electrical Code including all notes thereto.~~

~~((3))~~ Flexible multiconductor cords shall be connected to equipment by approved connectors designed for the purpose or by listed cord caps. Individual conductors of multiconductor cords in sizes #2 AWG and larger shall be permitted to be connected by listed and labeled connection systems ~~((receptacles and plugs) that ensure by design, first-make, last-break of the equipment grounding conductor))~~ in accordance with Article 520-53(K) of the National Electrical Code. Where conductors are connected individually by such connection systems, the outer jacket of multiconductor cord shall be secured to the electrical equipment independent from the receptacles and plugs by approved cable grips that are installed in a manner to prevent pressure from being applied to the receptacles and plugs.

~~((4))~~ (3) Individual, single conductor, insulated, portable power cable ~~((of a type identified in Table 400-4 of the National Electrical Code for extra hard usage, in sizes 1/0 AWG and larger, shall be permitted to be used in the electrical distribution system provided that)),~~ in addition to complying with Section 525-13 of the National Electrical Code, shall comply with the following:

(a) All conductors of the feeder or circuit including the equipment grounding conductor originate in the same electrical equipment and terminate in the same equipment.

(b) All conductors of the feeder or circuit including the ungrounded, grounded, and equipment grounding conductors are run together ~~((and)),~~ except for portions installed within approved cable protection systems ~~((and installed to comply with Article 520-53 of the National Electrical Code)).~~

~~((c))~~ ~~((All conductors including the grounded circuit conductor (neutral) if used, the equipment grounding conductor and the ungrounded conductors are listed and labeled cable of the same size, conductor material and insulation.~~

~~((d))~~ The cables are secured to the electrical equipment independent from the cable receptacles and plugs by approved cable grips that prevent pressure from being applied to the connectors.

~~((e))~~ (d) The cables are connected to electrical equipment by approved listed and labeled connection systems ~~((that ensure by design, first make, last break of the equipment grounding conductor))~~ in compliance with Section 520-53(K) of the National Electrical Code.

~~((5))~~ (4) Disconnecting means. A separate, enclosed, externally operable fused switch or circuit breaker, shall be installed on each amusement ride, structure or concession to disconnect all electrical equipment. The disconnecting means shall be readily accessible and identified as the disconnecting means. Where more than one power supply is employed, the disconnecting means shall be grouped.

~~((6))~~ (5) Rotating equipment. Components of amusement rides or structures that rotate more than three hundred sixty degrees and which have electrically operated equipment, shall be supplied by approved collector rings that shall be totally enclosed or located so they are accessible to authorized personnel only. The collector rings shall be factory produced with an equipment grounding segment having a voltage and current rating that equals or exceeds the rating of the current carrying segments. Collector rings shall have an ampacity not less than one hundred twenty-five percent of the full-load current of the largest device served plus the full-load current of all other devices served. Collector rings for control and signal purposes shall have an ampacity not less than one hundred twenty-five percent of the full-load current of the largest device served plus the full-load current of all other devices served.

~~((7))~~ (6) Equipment grounding. All noncurrent carrying metal parts of amusement rides and structures shall be grounded by an equipment grounding conductor routed with the feeder or circuit conductors in accordance with the National Electrical Code and these rules. The metallic structure shall not be used as a current carrying conductor.

Exception: The metallic structure shall be permitted to be used as the return path for low voltage systems that do not exceed thirty volts, provided that the ungrounded conductors are protected by an overcurrent device in accordance with the National Electrical Code and the system is factory built for such use.

~~((8))~~ (7) Existing amusement rides, concessions or games electrical systems shall comply with the National Electrical Code and shall be maintained in full compliance. Where new amusement rides, concessions or games are purchased, manufactured or constructed, or where existing rides, concessions or games have major modification, the electrical system shall comply with this chapter and the edition of the National Electrical Code in effect at that time. All rides, concessions, and games shall be identified in or on the disconnecting means as well as by make, model and serial number in records furnished to the department with the edition of the National Electrical Code the electrical system is intended to comply with.

AMENDATORY SECTION (Amending Order 87-07, filed 5/1/87)

~~WAC 296-46-370 ((Boat moorages, floating buildings, and similar installations. Docks, wharves, boat moorages, floating buildings, and similar facilities in addition to complying with the appropriate sections of Article 553 or~~

~~Article 555 of the National Electrical Code shall have a service disconnect located on the shoreline.~~

~~Where shore power is provided, each floating building or boat moorage berth shall have a disconnecting means located within sight of and not more than fifty feet from each floating building or berth. The disconnecting means shall be installed adjacent to but not in or on the floating building. Conductors in excess of 600 volts, nominal shall not be installed on floating portions of marinas, docks, or wharves. Refer to the Fire Protection Standard for Marinas and Boatyards, NFPA 303 for additional information.)~~
(Reserved.)

AMENDATORY SECTION (Amending WSR 93-06-072, filed 3/2/93, effective 4/2/93)

~~WAC 296-46-514 Gasoline dispensing and service stations ((and propane equipment)). ((In addition to complying with Article 514 of the National Electrical Code, each circuit leading to or through a gasoline pump shall be provided with an emergency disconnect switch or other approved means which shall simultaneously disconnect all circuit conductors including the grounded circuit conductor if any.))~~

The gasoline pump disconnecting means or operator shall be substantially red in color and identified with a sign as the emergency disconnecting means. The disconnecting means or operator shall be readily accessible and shall be located outdoors and within sight of the gasoline pump or dispenser ~~((the disconnect))~~ it controls. For multicircuit installations an electrically held contactor shall be permitted to be used.

NEW SECTION

WAC 296-46-553 Boat moorages, floating buildings, and similar installations. Docks, wharves, boat moorage's, floating buildings, and similar facilities in addition to complying with the appropriate sections of Article 553 or Article 555 of the National Electrical Code shall have a service rated disconnect located on the shoreline. Extra-hard usage portable power cable may only be used when extending a feeder between the structures indicated above where flexibility is required and must be connected to an approved wiring method within the first 15 feet of the end where flexibility is required.

Where shore power is provided, each floating building or boat moorage berth shall have a disconnecting means located within sight of and not more than fifty feet from each floating building or berth. The disconnecting means shall be installed adjacent to but not in or on the floating building. Conductors operating in excess of 600 volts, nominal shall not be installed on floating portions of marinas, docks, or wharves. Refer to the Fire Protection Standard for Marinas and Boatyards, NFPA 303 for additional information.

AMENDATORY SECTION (Amending WSR 93-06-072, filed 3/2/93, effective 4/2/93)

WAC 296-46-700 Emergency systems. (1) Exit and emergency lights shall be installed in accordance with the National Electrical Code, Article 700, and currently adopted

edition of the Uniform Building Code in all health or personal care facilities defined in WAC 296-46-130, educational facilities, institutional facilities, hotels, motels, and places of assembly for one hundred or more persons. Installation shall be made in strict accordance with the National Electrical Code, Article 700(~~and WAC 296-46-150~~)).

(2) ~~(Fire alarm systems. Fire alarm systems required by a city, county or state ordinance, statute, or regulation shall be installed in accordance with the National Electrical Code and this chapter. Power limited fire alarm systems shall be permitted to be installed in metallic raceways using conductors shown in Section 760-16(b) of the National Electrical Code for nonpower limited circuits or those 600 volt conductors which are rated for 90 degrees C or greater in Table 310-13 of the National Electrical Code.~~

(3) Junction boxes for fire alarm systems other than the surface raceway type, shall be substantially red in color. Power-limited fire protective signalling circuit conductors shall be durably and plainly marked in or on junction boxes or other enclosures to indicate that it is a power-limited fire protective signalling circuit. Conductors for light, heat, or power shall not be installed in any enclosure, raceway, cable, compartment, outlet box, or similar fitting containing fire alarm conductors.

(4) (3) All boxes and enclosures, including transfer switches, generators, and power panels for emergency systems and circuits shall be permanently marked with an adhesive label or decal or similar approved means that is suitable for the environment and is substantially red in color.

AMENDATORY SECTION (Amending WSR 90-19-015, filed 9/10/90, effective 10/11/90)

WAC 296-46-725 Class 2 and Class 3 cables. Class 2 and Class 3 cables shall be secured in compliance with Section ~~(336-15)~~ 336-18 of the National Electrical Code and shall be secured to boxes in compliance with Section ~~(370-7)~~ 370-17 of the National Electrical Code. Raceways for Class 2 and Class 3 conductors shall be installed in compliance with Chapter 3 of the National Electrical Code.

AMENDATORY SECTION (Amending WSR 92-08-102, filed 4/1/92, effective 5/2/92)

WAC 296-46-910 Inspection fees. To calculate the inspection fees, the amperage is based on the conductor ampacity or the overcurrent device rating.

- (1) RESIDENTIAL
 - (a) Single and two family residential (new construction)
 - (i) First 1300 sq. ft. or less ~~((60))~~ \$62
 - Each additional 500 sq. ft. or portion of \$20
 - (ii) Each outbuilding or detached garage inspected with the service ~~((see note))~~ . ~~((25))~~ \$26
 - (iii) Each outbuilding or detached garage inspected separately \$41

~~((Note: When not inspected at same time as service, refer to (b) of this subsection))~~

- (b) Multifamily residential (new construction)

Each service and or feeder

Service Ampacity	Service	Feeder
0 to 200	((65)) <u>67</u>	\$ 20
201 to 400	((80)) <u>83</u>	((40)) <u>41</u>
401 to 600	((110)) <u>114</u>	((55)) <u>57</u>
601 to 800	((140)) <u>146</u>	((75)) <u>78</u>
801 and over	((200)) <u>208</u>	((150)) <u>156</u>

(c) Single family or multifamily altered services including circuits

(i) Service Ampacity	Service or Feeder
0 to 200	\$ ((55)) <u>57</u>
201 to 600	((80)) <u>83</u>
over 600	((120)) <u>125</u>

(ii) Maintenance or repair of meter or mast (no alterations to service or feeder) ~~((30))~~ \$31

(d) Single or multi-family residential circuits only (no service inspection)

(i) 1 to 4 circuits (see note)	((40)) <u>\$41</u>
(ii) Each additional circuit	5

Note: Total fee per panel not to exceed (c)(i) of this subsection Service/Feeder

(e) Mobile homes; mobile home parks; and RV parks

(i) Mobile home service or feeder only	((40)) <u>\$41</u>
(ii) Mobile home service and feeder	((65)) <u>67</u>
(iii) Mobile home park sites and RV park sites	
(A) First service or feeder	((40)) <u>41</u>
(B) Each additional service; or a feeder inspected at same time as service	((25)) <u>26</u>

Note: For master service installations, see subsection (2).

(2) COMMERCIAL/INDUSTRIAL

(a) Service/feeder; and feeders inspected at the same time as service (circuits included)

(i) Service/Feeder Ampacity	Service/Feeder	Additional Feeder inspected at the same time
0 to 100	\$ ((65)) <u>67</u>	\$ ((40)) <u>41</u>
101 to 200	((80)) <u>83</u>	((50)) <u>52</u>
201 to 400	((150)) <u>156</u>	((60)) <u>62</u>
401 to 600	((175)) <u>182</u>	((70)) <u>73</u>

PROPOSED

601 to 800	((225)) <u>235</u>	((95)) <u>99</u>
801 to 1000	((275)) <u>287</u>	((115)) <u>120</u>
Over 1000	((300)) <u>313</u>	((160)) <u>167</u>

(ii) Over 600 volts surcharge ~~((50))~~
\$52

(b) Altered services or feeders (no circuits)

(i)	Service Ampacity	Service/ Feeder
	0 to 200	\$ ((65)) <u>67</u>
	201 to 600	((150)) <u>156</u>
	601 to 1000	((225)) <u>235</u>
	Over 1000	((250)) <u>261</u>

(ii) Over 600 volts surcharge ~~((50))~~
\$52

(iii) Maintenance or repair of meter or mast (no alteration of service equipment) ~~((55))~~
57

(c) Circuits only

(i) First five circuits per branch circuit panel ~~((50))~~
\$52

(ii) Each additional circuit per branch circuit panel 5

Note: Total fee per panel not to exceed (a)(i) of this subsection service/feeder

(3) TEMPORARY SERVICES

(a) Residential ~~((35))~~
\$36

(b) Commercial/industrial

	Service or Feeder Ampacity	
	0 to 100	((40)) <u>\$41</u>
	101 to 200	((50)) <u>52</u>
	201 to 400	((60)) <u>62</u>
	401 to 600	((80)) <u>83</u>
	Over 600	((90)) <u>94</u>

Each additional feeder inspected at the same time as service or first feeder add 50% of the fee above.

(4) IRRIGATION MACHINES, PUMPS AND EQUIPMENT
 Irrigation machines

(a) Each tower when inspected at same time as service and feeder \$5

(b) When not inspected at same time as service and feeders - first 6 ~~((60))~~
62

Each additional tower per (a) of this subsection 5

(5) MISCELLANEOUS - commercial/industrial and residential

(a) Thermostats

(i) First thermostat ~~((30))~~
\$31

(ii) Each additional thermostat inspected at the same time as first thermostat 10

Note: Thermostat is defined as:

(A) A device that interrupts electrical current while performing its function of controlling building, zonal, or room environmental air temperature; or

(B) In the case of environmental air temperature control by the use of sensors which do not interrupt current but rather transmit data to a zonal or central processing unit, "Thermostat" shall be considered to be the circuit extending from the central processing unit to the local controller. At times this local unit could control several zones or rooms individually or in concert.

(b) Low voltage fire alarm and burglar alarm

(i) First 2500 sq. ft. or less. Includes nurse call intercom, security systems and similar low energy circuits and equipment ~~((35))~~
\$36

(ii) Each additional 500 sq. ft. or portion thereof 10

Exception: Low voltage fire alarm and burglar alarm for commercial and industrial

Each control panel and up to four circuits or zones \$29

Each additional circuit or zone 7

(c) Signs and outline lighting

(i) First sign (no service) ~~((30))~~
\$31

(ii) Each additional sign inspected at the same time on the same bldg. or structure 15

(d) Berth at a marina or dock ~~((40))~~
\$41

Each additional berth inspected at the same time ~~((25))~~
26

(e) Yard pole meter loops only ~~((40))~~
\$41

Meters installed remote from service equipment: Inspected at same time as service, temporary service or other installations 10

(f) Emergency inspections requested outside normal work hours. Regular fee plus surcharge of ~~((75))~~
\$78

(g) Generators, refer to appropriate service/feeder section

~~((i) 50 KVA or less~~ \$50

~~((ii) Each additional 50 KVA or portion thereof~~ 10))

(h) Annual permit fee for plant location employing regular electrical maintenance staff - Each inspection two hour maximum.

	Fee	Inspections
1 to 3 plant electricians	((1,430)) <u>\$1,493</u>	12
4 to 6 plant electricians	((2,860)) <u>2,987</u>	24

PROPOSED

PROPOSED

7 to 12 plant electricians	((4,290)) 4,480	36
13 to 25 plant electricians	((5,720)) 5,974	52
more than 25 plant electricians	((7,150)) 7,468	52
(i) Carnival inspections		
(i) First field inspection each year		
(A) Each ride and generator truck		\$15
(B) Each remote distribution equipment, concession or gaming show		5
(C) Minimum fee	((75))	<u>78</u>
(ii) Subsequent inspections		
(A) First 10 rides, concessions, generators, remote distribution equipment or gaming show	((75))	<u>\$78</u>
(B) Each additional ride, concession, generator, remote distribution equipment or gaming show		5
(j) Trip fees		
(i) Requests to inspect existing installations	((60))	<u>\$62</u>
(ii) Submitter notifies the department that work is ready for inspection when it is not	((30))	<u>31</u>
(iii) Additional inspection required because submitter has provided wrong address	((30))	<u>31</u>
(iv) More than one additional inspection required to inspect corrections; or for repeated neglect, carelessness, or improperly installed electrical work	((30))	<u>31</u>
(v) Each trip necessary to remove a noncompliance notice	((30))	<u>31</u>
(vi) Corrections have not been made in the prescribed time, unless an exception has been requested and granted	((30))	<u>31</u>
((k)) Double fees will be charged for:		
((+)) (vii) Installations that are covered or concealed before inspection		<u>31</u>
((+)) (ii) Failure to obtain an electrical work permit prior to beginning the installation or alteration		<u>31</u>
Exception: Electrical work permits for emergency repairs to existing electrical systems shall be obtained the next business day.		
((+)) (k) Progress inspections		
On partial or progress inspections, each one-half hour	((30))	<u>\$31</u>

((+)) (l) Plan review fee		
(i) Fee is thirty-five percent of the electrical work permit fee as determined by WAC 296-46-495, plus a plan submission fee of		((50)) <u>\$52</u>
(ii) Supplemental submissions of plans per hour or fraction of an hour		((60)) <u>\$62</u>
((+)) (m) Other inspections		
Inspections not covered by above inspection fees shall be charged portal to portal per hour		((60)) <u>\$62</u>

AMENDATORY SECTION (Amending WSR 92-08-102, filed 4/1/92, effective 5/2/92)

WAC 296-46-915 Electrical contractor license, administrator certificate and examination, and copy fees.

(1) General or specialty contractor license (per twenty-four month period)	((200))	<u>\$208</u>
(2) Administrator certificate examination application (nonrefundable)	((25))	<u>\$26</u>
(3) Administrator original certificate (submitted with application)	((60))	<u>\$62</u>
(4) Administrator certificate renewal (per twenty-four month period)	((75))	<u>\$78</u>
(5) Late renewal of administrator certificate (per twenty-four month period)	((150))	<u>\$156</u>
(6) Transfer of administrator designation (within 10 days)	((30))	<u>\$31</u>
(7) Certified copy of each document (maximum \$44 per file)		<u>\$60</u>
\$20 first document		
\$2 each additional document		

AMENDATORY SECTION (Amending Order 87-07, filed 5/1/87)

WAC 296-46-920 Civil penalty. A person, firm, partnership, corporation or other entity that violates a provision of chapter 19.28 RCW, chapter 296-46 or 296-401 WAC is liable for a civil penalty based upon the following schedule.

(1) Offering to perform, submitting a bid for, installing or maintaining conductors or equipment that convey or utilize electrical current without having an unexpired, unrevoked and unexpired electrical contractor license.	First offense:	\$ 500
	Second offense:	\$ 1,000
	Third offense:	\$ 3,000
	Each offense thereafter:	\$ 5,000
(2) Employing an individual for the purposes of RCW 19.28.510 through 19.28.620 who does not possess a valid certificate of competency or training certificate.	First offense:	\$ 50
	Second offense:	\$ 100
	Each offense thereafter:	\$ 250
(3) Working as an electrician or electrical trainee in the electrical construction trade without having a valid certificate of competency or electrical training certificate.	First offense:	\$ 50
	Second offense:	\$ 100
	Each offense thereafter:	\$ 250
(4) Employing electricians and trainees in an improper ratio.	First offense:	\$ 50
	Second offense:	\$ 100
	Each additional offense:	\$ 250

(5) Failing to provide supervision to an electrical trainee as required by RCW 19.28.510.

First offense: \$ 50
 Second offense: \$ 100
 Each additional offense: \$ 250

(6) Working as an electrical trainee without proper supervision as required by RCW 19.28.510.

First offense: \$ 50
 Second offense: \$ 100
 Each additional offense: \$ 250

(7) Performing electrical installations, alterations or maintenance outside the scope of the firm's specialty electrical contractors license.

First offense: \$ 250
 Second offense: \$ 500
 Each additional offense: \$ 1,000

(8) Selling or exchanging electrical equipment associated with spas, hot tubs, swimming pools or hydromassage bathtubs which is not listed and labeled by an approved electrical testing laboratory.

First offense: \$ 500
 Second offense: \$ 1,000
 Each additional offense: \$ 2,000

Definition: The sale or exchange of electrical components associated with hot tubs, spas, swimming pools or hydromassage bathtubs means: "Sell, offer for sale, advertise, display for sale, dispose of by way of gift, loan, rental, lease, premium, barter or exchange."

(9) Covering or concealing installations prior to inspection.

First offense: \$ 500
Second offense: \$ 1,000
Each additional offense: \$ 2,000

(10) Failing to make corrections within fifteen days of notification by the department. Exception: Where an extension has been requested and granted, this penalty applies to corrections not completed within the extended time period.

First offense: \$ 250
Second offense: \$ 500
Each additional offense: \$ 1,000

(11) Failing to obtain an electrical work permit prior to beginning the installation or alteration. Exception: In cases of emergency repairs to existing electrical systems, this penalty will not be charged if the permit is obtained no later than the business day following completion of the emergency repair.

First offense: \$ 250
Homeowner: \$ 50
Second offense: \$ 500
Each additional offense: \$ 1,000

~~((9))~~ (12) Violating any of the provisions of chapter 19.28 RCW or chapters 296-46 or 296-401 WAC which are not identified in subsections (1) through ~~((8))~~ (11) of this section.

First offense: \$ 50
 Second offense: \$ 100
 Each additional offense: \$ 250

~~((10))~~ (13) Each day that a violation occurs will be a separate offense. A violation will be a "second" or "additional" offense only if it occurs within one year from the first violation.

~~((11))~~ (14) In case of continued, repeated or gross violation of the provisions of chapter 19.28 RCW, chapter 296-46 or 296-401 WAC or if property damage or bodily injury occurs as a result of the failure of a person, firm, partnership, corporation, or other entity to comply with chapter 19.28 RCW, the department may double the penalty amounts shown in subsections (1) through ~~((9))~~ (12) of this section.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-46-150 Wiring methods for designated building occupancies.

AMENDATORY SECTION (Amending Order 88-15, filed 7/21/88)

WAC 296-401-080 Eligibility for journeyman examination. A person holding an electrical training certificate who has: (1) Been employed under the direct supervision of a journeyman electrician for four years, or (2) has completed a four year apprenticeship program in the electrical construction trade that is registered with the state apprenticeship council or the Federal Bureau of Apprenticeship and Training, or (3) ~~((is a graduate of a trade school program in the electrical construction trade that was established during 1946, shall be eligible to take the examination for a journeyman certificate of competency.))~~ a person who has had two years of schooling under the conditions provided in RCW 19.28.530 in addition to two years of employment under the direct supervision of a journeyman electrician shall be eligible to take the examination for a journeyman certificate of competency.

AMENDATORY SECTION (Amending Order 88-15, filed 7/21/88)

WAC 296-401-090 Status of person who has failed an examination for an electrician certificate of competency. (1) A person who fails an examination for an electrician certificate of competency may take a training or refresher course that has been approved by the electrical board and may work in the electrical construction trade only if the person has a valid electrician training certificate or temporary permit. ~~((A person is eligible to retake an examination upon application and payment of applicable fees only upon satisfactory completion of an approved electrician training or refresher course.))~~

(2) A person who has a training certificate and ~~((not))~~ who is taking a refresher course shall work only under the supervision of a certificated electrician.

~~((3))~~ Upon application, the department may issue an electrician training certificate to a person who has failed an examination for a certificate of competency, only if the person furnishes evidence of enrollment in an electrician training or refresher course which is approved by the electrical board. To be eligible to renew the training certificate, the person must furnish evidence of, (a) successfully completing the electrician training or refresher course, and (b) failing the certificate of competency again.))

AMENDATORY SECTION (Amending Order 88-15, filed 7/21/88)

WAC 296-401-100 Computation of years of employment—Renewal of training certificates. (1) For the purposes of RCW 19.28.530, ~~((1800))~~ 2000 hours of employment shall be considered one year of employment.

(2) At the time of renewal of an electrical training certificate, the holder shall provide the department with an

PROPOSED

accurate list of the holder's employers in the electrical industry for the previous year, the specialty the holder worked in and the number of hours worked for each employer in each specialty.

(3) The employer or apprenticeship program director shall upon request by the holder of the training certificate furnish an accurate list of the hours worked by the holder within twenty days of the request.

(4) A person who has completed a four year apprenticeship program in the electrical construction trade that is registered with the state apprenticeship council or the Federal Bureau of Apprenticeship and Training shall be considered to have completed ~~((7200))~~ 8000 hours (four years) of employment.

AMENDATORY SECTION (Amending Order 88-15, filed 7/21/88)

WAC 296-401-120 Electrical training certificates.

(1) The department upon proper application and verification shall issue separate electrical training certificates for the first, second, third, and fourth years of training. If a person has ~~((1800))~~ 2000 hours of employment or less in the electrical construction trade, the department shall issue the individual a first year certificate; if more than ~~((1800))~~ 2000 through ~~((3600))~~ 4000 hours, a second year certificate; if more than ~~((3600))~~ 4000 through ~~((5400))~~ 6000 hours, a third year certificate; and if more than ~~((5400))~~ 6000 hours a fourth year certificate.

(2) A holder of an electrical training certificate may apply for the next year's certificate whenever he or she has sufficient hours of employment.

(3) A holder of an electrical training certificate may apply for authorization to work without supervision if he or she has over ~~((6299))~~ 7000 hours of employment, and has successfully completed or is currently enrolled in an approved apprenticeship program or in a technical school program in the electrical construction trade in a school approved by the superintendent of public instruction.

(4) The department shall not issue an electrical training certificate to a person who is eligible for a temporary or reciprocal electrician certificate of competency.

AMENDATORY SECTION (Amending WSR 94-01-005, filed 12/1/93, effective 1/1/94)

WAC 296-401-165 Issuing and renewing an electrician certificate of competency. (1) The department shall issue an electrician certificate of competency to journeyman or specialty electricians who meet the qualifications in RCW 19.28.530 and who have successfully passed a certification examination in accordance with RCW 19.28.540.

(2) The electrician certificate of competency shall expire on the ~~((dates identified in subsection (4) of this section))~~ holder's birthdate at least one year and not more than three years from the date of original issue. All subsequent certificates shall be issued for a three-year period. The department shall prorate the original electrician certification fee according to the number of months or major part of a month in a certificate period.

(3) ~~((An individual who successfully passes an examination for a certificate of competency, shall apply for a certificate of competency within thirty days of the date the~~

~~person is notified about the results of the examination. A person who does not apply for a certificate of competency within thirty days of the date the person is notified about the results of the examination, shall be required to apply for, take and pass the examination again.~~

~~(4)(a) The certificate of electricians whose last name begins with the letters A through K will expire on April 30.~~

~~(b) The certificate of electricians whose last name begins with the letters L through Z will expire on October 31.~~

~~(c) The expiration of the certificate identified in (a) and (b) of this subsection shall be not less than six months nor more than three years from the original date of issuance.~~

~~(5))~~ Certificate renewal requirements.

(a) Beginning April 30, 1997, to renew an electrician certificate of competency the holder must, prior to the expiration date of the certificate, remit the appropriate fee identified in WAC 296-401-175 and provide to the department evidence of the completion of approved continuing education course(s) of at least eight classroom hours duration per year of the prior certification period. Any portion of a year is equal to one year for continuing education requirements.

(b) An electrician certificate will be renewed within ninety days after the expiration date without reexamination, if the applicant furnishes to the department evidence of completion of approved continuing education course(s) of at least eight classroom hours duration per year of the prior certification, by payment of double the fee identified in WAC 296-401-175. All applications for renewal received more than ninety days after the expiration date of the certificate will require passage of the examination provided by RCW 19.28.540 for recertification.

(c) An electrician certificate will be renewed but will be placed in an inactive status if the renewal process concerning the remittance of application and proper fees complies with (a) or (b) of this subsection but the applicant has not completed the required hours of continuing education course(s). Persons holding a certificate placed in an inactive status will not be permitted to engage in the electrical construction trade. Certificates placed in an inactive status will be returned to active status upon presentation to the department of evidence that all classroom hours of continuing education that were required for renewal have been completed.

(d) Each application for renewal of a prior certification that covered a period of two years or more must include evidence of attendance at an approved continuing education class, of at least eight classroom hours duration, on the ~~((latest))~~ current National Electrical Code changes.

AMENDATORY SECTION (Amending WSR 95-15-034, filed 7/12/95, effective 8/14/95)

WAC 296-401-175 Journeyman, specialty and trainee certificate, and examination fees.

(1) Journeyman or specialty electrician certificate renewal (per 36-month period) -

~~((\$ 60))~~
\$ 92

(2) Late renewal of journeyman or specialty electrician certificate (per 36-month period) -	((\$120) \$125)
(3) Journeyman or specialty electrician examination application (nonrefundable) -	((\$25) \$ 26)
(4) Journeyman or specialty electrician original certificate (((submitted with application))) (submitted with application) -	((\$40) \$ 41)
(5) Trainee certificate (expires one year after purchase) -	\$ 20
(6) Trainee certificate renewal or update of hours -	\$ 20
(7) Journeyman or specialty electrician test or retest fee -	((\$45) \$ 47)

WSR 97-03-084
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed January 15, 1997, 11:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-21-069.

Title of Rule: Journeyman plumber certification and medical gas.

Purpose: Chapter 296-400 WAC, Certification of competency for journeyman plumbers, state-initiated proposed revisions to chapter 296-400 WAC, Certification of competency for journeyman plumbers, are made to comply with RCW 34.05.220(5). Consequently, clear rule-writing techniques have been used to rewrite the entire chapter. Following the recommendation of the Office of the Code Reviser, chapter 296-400 WAC has been repealed in its entirety and replaced with chapter 296-400A WAC. The following sections of chapter 296-400 WAC have been repealed: WAC 296-400-005 Definitions, 296-400-020 Plumbers with license or practicing the plumbing trade at effective date of the act, 296-400-030 Issuing of temporary certificate, 296-400-035 Inactive status, 296-400-045 Plumber examination, certification, reinstatement, and temporary permit fees, 296-400-050 Meetings of governor's advisory board, 296-400-070 Reciprocity, 296-400-100 Computation of years of employment, 296-400-110 Previous experience credit, 296-400-120 Plumber trainee certificates, 296-400-130 Penalties for false statements or material misrepresentation, 296-400-140 Enforcement, and 296-400-300 Procedures for notices of infraction.

Chapter 296-400A WAC, Certification of competency for journeyman plumbers, state-initiated proposed clear rule-writing amendments to chapter 296-400A WAC, Certification of competency for journeyman plumbers are made to:

- Move existing chapter 296-400 WAC requirements into new sections in chapter 296-400A WAC.
- Rewrite the rules in a clear rule-writing style.

- Remove outdated and redundant language to make the rules easier to read.
- Use questions for section titles to better describe the information contained in each rule section and to better engage the reader.
- Use a less formal voice in the rules and eliminated the passive voice when possible.
- Reorganize some rule sections to make them easier to use.

The following sections of chapter 296-400A WAC, Certification of competency for journeyman plumbers, have been rewritten in a clear rule-writing style without any substantive change to their content: WAC 296-400A-030 Do I need a temporary permit? WAC 296-400A-031 How do I qualify for a temporary permit? WAC 296-400A-033 What is the duration of a temporary permit? WAC 296-400A-050 When does the advisory board of plumbers meet? WAC 296-400A-110 Does previous work experience count toward my trainee certificate? and WAC 296-400A-140 How does the department enforce plumber certification requirements?

The following sections of chapter 296-400A WAC, Certification of competency for journeyman plumbers, have been rewritten in a clear rule-writing style **with state-initiated substantive changes to their content**. Basically, the state-initiated substantive changes clarify current department policies and practices, increase plumber fees by 4.45% and increase trainee hours to more closely approach national norms.

WAC 296-400A-005 What definitions do I need to know to understand these rules? Proposed changes are made:

- To clarify the definition of "journeyman plumber" by adding language describing the worksites on which a journeyman plumber may work.
- To include a definition of "trainee plumber."

WAC 296-400A-020 How do I obtain a certificate of competency? Proposed changes are made to delete the "grandfather clause" relating to the 1973 Plumbers Licensing Act (chapter 175, Laws of 1973 1st ex. sess.) because it is outdated and no longer affects the trade.

WAC 296-400A-032 How do I obtain a temporary permit? Proposed changes are made to clarify the fees that a trainee must pay to obtain a temporary permit.

WAC 296-400A-035 How can I be placed on inactive status? Proposed changes are made to describe what is meant by "inactive status."

WAC 296-400A-045 What fees will I have to pay? Proposed changes are made:

- To clarify the reciprocity fee charged by the department.
- To increase plumber fees by 4.45% to help off-set increased program costs.

WAC 296-400A-070 Can I work as a certified plumber in Washington without taking the Washington state plumbers competency examination? Proposed changes are made:

- To clarify the process of reciprocity.
- To clarify the reciprocity fee charged by the department.
- To identify the department's contact person regarding reciprocity questions.

WAC 296-400A-100 For certification purposes, how are "years of employment" computed and documented?

PROPOSED

Proposed changes are made to increase trainee hours to levels more in line with national apprenticeship standards.

WAC 296-400A-120 What do I need to know about plumber trainee certificates? Proposed changes are made to increase trainee hours to levels more in line with national apprenticeship standards.

WAC 296-400A-121 What do I need to know about trainee experience and plumber examination requirements? Proposed changes are made:

- To increase trainee hours to levels more in line with national apprenticeship standards.
- To clarify, by referencing RCW 18.106.070(3), when a trainee, working without direct supervision, can take the journeyman plumber examination.
- To add subsection (4) which provides a more realistic study timeline for applicants who have failed the competency examination and puts in-state apprentices on an equal footing with out-of-state plumbers moving to Washington by eliminating the mandatory six-month waiting period for reexamination.

WAC 296-400A-130 What if I make a false statement or a material misrepresentation on an application, an employment report or a trainee certificate? Proposed changes are made to increase the employment hours that a trainee may be penalized from 1,800 to 2,000.

Legislative-initiated proposed changes to chapter 296-400A WAC, Certification of competency of journeyman plumbers, are made to comply with recent amendments to chapter 18.106 RCW. These legislative-initiated proposed changes do establish additional compliance requirements.

WAC 296-400A-005 What definitions do I need to know to understand these rules? Proposed changes are made to add a definition for medical gas piping systems and to include medical gas piping system in the definition of "plumbing." Both changes are required by HB 1445 (1995).

WAC 296-400A-300 What procedures does the department follow when issuing a notice of infraction? Proposed changes are made to implement ESHB 2626 (1994) which clarifies who the department may cite for an infraction of either chapter 18.106 RCW or chapter 296-400 WAC and the appeal procedures available to the individual who has been cited.

WAC 296-400A-400 What are the monetary penalties for violating certification requirements? This proposed new rule will implement ESHB 2626 (1994) which authorizes the department to establish a schedule of penalties for plumbing infractions.

WAC 296-400A-425 What if I owe outstanding penalties related to a department issued plumber infraction? This proposed new rule will implement SHB 2498 (1996) which allows the department to deny renewing plumbing certificates if the holder owes the department infraction penalties.

Statutory Authority for Adoption: RCW 18.106.050, 18.106.070, 18.106.110, 18.106.125, 18.106.140, and 18.106.270.

Statute Being Implemented: RCW 18.106.010, 18.106.020, 18.106.100, and 18.106.270.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Kevin Morris, 7273 Linderson Way, Tumwater, WA, (360)

902-5578; Implementation and Enforcement: Frank Leuck, 7273 Linderson Way, Tumwater, WA, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

Rule is not necessitated by federal law, federal or state court decision. State laws ESHB 2626, HB 1445, and SHB 2498.

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has considered whether these proposed rules are subject to the Regulatory Fairness Act and has determined that they do not require a small business economic impact statement because the proposed rules will not place a more than minor impact on business.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. The proposed rule amendments are considered to be "significant legislative rules" for the following reasons:

- (1) The rules have been completely rewritten in a "clear rule writing" format.
- (2) The rules adopt new policies. See Purpose above.
- (3) The rules change the requirements for issuing trainee certificates by increasing trainee hours.
- (4) The rules subject a violator to infraction penalties.

Hearing Location: On February 25, 1997, at 1:00 p.m., at the Department of Labor and Industries Building, Auditorium, 7273 Linderson Way, Tumwater, WA; and on February 27, 1997, at 1:00 p.m., at the Spokane County Public Works Building, County Commissioners Assembly Room (lower level), 1026 West Broadway, Spokane, WA.

Assistance for Persons with Disabilities: Contact George Huffman by February 10, 1997, (360) 902-6411.

Submit Written Comments to: Department of Labor and Industries, Attention: Pete Schmidt, Program Manager for Specialty Compliance, P.O. Box 44655, Olympia, WA 98504-4655, by no later than 5:00 p.m., March 6, 1997.

In addition to written comments, the department will accept comments submitted to FAX (360) 902-5292. Comments submitted by FAX must be ten pages or less.

Date of Intended Adoption: May 20, 1997.

January 13, 1996 [1997]

Mark O. Brown
Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- | | |
|-----------------|--|
| WAC 296-400-005 | Definitions. |
| WAC 296-400-020 | Plumbers with license or practicing the plumbing trade at effective date of the act. |
| WAC 296-400-030 | Issuing of temporary certificate. |
| WAC 296-400-035 | Inactive status. |
| WAC 296-400-045 | Plumber examination, certification, reinstatement, and temporary permit fees. |

PROPOSED

WAC 296-400-050	Meetings of governor's advisory board.
WAC 296-400-070	Reciprocity.
WAC 296-400-100	Computation of years of employment.
WAC 296-400-110	Previous experience credit.
WAC 296-400-120	Plumber trainee certificates.
WAC 296-400-130	Penalties for false statements or material misrepresentation.
WAC 296-400-140	Enforcement.
WAC 296-400-300	Procedures for notices of infraction.

**Chapter 296-400A WAC
CERTIFICATION OF COMPETENCY FOR
JOURNEYMAN PLUMBERS**

NEW SECTION

WAC 296-400A-005 What definitions do I need to know to understand these rules? Unless a different meaning is clearly required by the context, the following terms and definitions are important:

"Advisory board" is the state advisory board of plumbers.

"Department" is the department of labor and industries.

"Director" is the director of the department of labor and industries.

"Journeyman plumber" is anyone who has learned the commercial plumbing trade and has been issued a journeyman certificate of competency by the department. A journeyman plumber may work on plumbing projects including residential, commercial and industrial worksite locations.

"Medical gas piping systems" are piping systems that convey or involve oxygen, nitrous oxide, high pressure nitrogen, medical compressed air and medical vacuum systems.

"Plumbing" is that craft involved in installing, altering, repairing and renovating potable water systems, liquid waste systems and medical gas piping systems within a building. The installation of water softening or water treatment equipment into a water system is not considered plumbing.

"Specialty plumber" is anyone who has been issued a specialty plumbers certificate of competency by the department. Specialty plumber certificates are limited to the installation, maintenance and repair of plumbing for single-family dwellings, duplexes and apartment buildings which do not exceed three stories.

"Trainee plumber" is anyone who has been issued a trainee certificate and is learning or being trained in the plumbing trade with direct supervision of either a journeyman plumber or specialty plumber working in their specialty.

NEW SECTION

WAC 296-400A-020 How do I obtain a certificate of competency? You can obtain a certificate of competency by completing the following requirements:

- (1) Submitting a competency examination application to the department; and

- (2) Paying the examination fee shown in WAC 296-400A-045; and

- (3) Submitting the required evidence of competency and experience to the department; and

- (4) Passing the competency examination.

NEW SECTION

WAC 296-400A-030 Do I need a temporary permit?

If you are an out-of-state journeyman residing in a state that does not have a reciprocal agreement with Washington and you would like to work as a plumber in Washington, you need a temporary permit.

NEW SECTION

WAC 296-400A-031 How do I qualify for a temporary permit? To qualify for a temporary permit, you must:

- (1) Have a state-issued journeyman plumbers certificate; and

- (2) Give the department sufficient qualifying evidence for a journeyman plumber certificate of competency; and

- (3) Never have taken the journeyman competency examination in Washington state; and

- (4) Not be an apprentice plumber.

NEW SECTION

WAC 296-400A-032 How do I obtain a temporary permit? If you qualify, you can obtain a temporary permit by applying to the department and paying both the examination application fee and the temporary permit fee shown in

WAC 296-400A-045.

NEW SECTION

WAC 296-400A-033 What is the duration of a temporary permit? A temporary permit is valid for ninety days and is nonrenewable.

NEW SECTION

WAC 296-400A-035 How can I be placed on inactive status? To be placed on inactive status, you must meet these three requirements:

- (1) Be a currently registered plumber; and

- (2) Be at least sixty-two years of age; and

- (3) Not be working in the plumbing trade.

Inactive status means that you are not currently working in the plumbing trade and you are not required to pay the annual certificate renewal fee. You may return to active status, without reexamination, by paying the reinstatement of a journeyman certificate fee shown in WAC 296-400A-045.

NEW SECTION

WAC 296-400A-045 What fees will I have to pay?

The following are the department's plumbers fees:

PROPOSED

<u>Type of Fee</u>	<u>Period Covered by Fee</u>	<u>Dollar Amount of Fee</u>
Examination application	Per examination	\$104.25
Reciprocity application	Per application	\$104.25
Trainee certificate*	One year	\$31.25
Trainee certificate	Less than one year	\$3.00 per month with a minimum fee of \$20.75
Temporary permit	90 days	\$52.00
Journeyman or specialty certificate**	Two years	\$83.50
Journeyman or specialty certificate	Less than two years	\$3.50 per month with a minimum fee of \$31.25
Reinstatement of a journeyman certificate		\$167.00
Replacement of all certificates		\$31.25

* The trainee certificate shall expire one year from the date of issuance and be renewed on or before the date of expiration.

** This fee applies to either the original issuance or a renewal of a certificate. If you have passed the plumbers certificate of competency examination and paid the certificate fee, you will be issued a certificate of competency that will expire on your birthdate.

If your birth year is:

(1) In an even-numbered year, your certificate will expire on your birthdate in the next even-numbered year.

(2) In an odd-numbered year, your certificate will expire on your birthdate in the next odd-numbered year.

NEW SECTION

WAC 296-400A-050 When does the advisory board of plumbers meet? The advisory board of plumbers meets every quarter on the third Tuesday of January, April, July and October.

NEW SECTION

WAC 296-400A-070 Can I work as a certified plumber in Washington without taking the Washington state plumbers competency examination? You may be eligible to work in Washington state without taking an examination if:

(1) You have a current plumbers certificate or license from another state; and

(2) That state has a current reciprocal agreement with the department of labor and industries; and

(3) You pay the reciprocity application fee and journeyman or specialty certificate fee shown in WAC 296-400A-045.

The director of labor and industries negotiates reciprocal agreements with states that have equivalent requirements for certification and licensing of journeyman and specialty plumbers. The agreement allows plumbers from those states to work in Washington and Washington-registered plumbers to work in the other state without taking competency examinations. To find out if your state has an agreement with the department, contact the plumber's certification clerk at the department's Tumwater, WA headquarters.

Reciprocity agreements cannot be used to take the Washington state competency examination instead of the examination in your home state.

NEW SECTION

WAC 296-400A-100 For certification purposes, how are "years of employment" computed and documented?

(1) For certification purposes, 2,000 hours of employment is considered one year. See RCW 18.106.070(2).

(2) When you renew your certificate, you must document your previous years' plumbing work by accurately completing the department's approved form and submitting it to the department.

(3) If you have completed a one, two, three, four or more years plumbing construction trainee program, you must have the necessary training hours for the year in which you are registered. See RCW 18.106.040.

NEW SECTION

WAC 296-400A-110 Does previous work experience count toward my trainee certificate? If your work experience was in plumbing construction, you will be given credit for all verifiable hours that are properly submitted on the department's approved form. (Refer to the definition of "plumbing" in WAC 296-400A-005.)

NEW SECTION

WAC 296-400A-120 What do I need to know about plumber trainee certificates? (1) The department issues separate trainee certificates according to the following schedule:

<u>Certificate Year</u>	<u>Hours Employed As Plumber Trainee</u>
First	Less than 2,000 hours
Second	More than 1,999 hours but less than 4,000 hours
Third	More than 3,999 hours but less than 6,000 hours
Fourth	More than 5,999 hours

(2) You may apply for the next year's trainee certificate whenever you have the required documented work hours.

(3) You cannot be issued a training certificate for more than eight years unless the department determines that there are extenuating circumstances.

(4) If you are a trainee applying for a journeyman certificate, you must complete a minimum of two of the required four years commercial plumbing experience.

(5) A certified specialty plumber working on a commercial job site may work as a journeyman trainee only if they have a current trainee certificate on their person while performing commercial plumbing work.

(6) On a job site, the ratio of certified plumbers to noncertified plumbers must be:

(a) One specialty plumber or journeyman working on a specialty plumbing job may supervise no more than two trainees.

(b) One journeyman plumber working on a commercial job may supervise no more than one trainee.

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NEW SECTION

WAC 296-400A-121 What do I need to know about trainee experience and plumber examination requirements? (1) If you possess a trainee certificate:

(a) You may take the specialty plumber examination after completing 6,000 hours of documented training.

(b) You may take the journeyman examination after completing 8,000 hours of documented training which must include 4,000 hours of commercial plumbing experience.

(2) All journeyman trainees must work under the direct supervision of a journeyman plumber until they have completed 7,500 hours of training. After completing the 7,500 supervised hours, a trainee may work without direct supervision until they complete 8,000 hours. (See RCW 18.106.070(3).)

When 8,000 training hours have been completed, the trainee must take the journeyman examination. Any trainee who has failed the journeyman plumber examination cannot retake the examination for at least one month and must work under the direct supervision of a journeyman plumber until the examination is passed.

(3) To be eligible for the specialty plumber's examination, a specialty trainee must complete 6,000 hours of training under the direct supervision of either a certified specialty plumber or a journeyman plumber. Any specialty trainee who has failed the specialty examination, cannot retake the examination for at least one month and must work under the direct supervision of a certified plumber until the examination is passed.

(4) **Any applicant** (trainee, specialty plumber or journeyman) who fails an examination, will be required to wait at least one month before retaking the examination. If an applicant fails the second attempt, the waiting period for reexamination will be extended to at least two months. An applicant who fails the examination a third time will have a mandatory waiting period of at least four months.

NEW SECTION

WAC 296-400A-130 What if I make a false statement or a material misrepresentation on an application, an employment report or a trainee certificate? (1) All required applications and annual statements of employment hours are made under oath. Making false statements and/or material misrepresentations carry serious consequences. Any person who knowingly makes a false statement or material misrepresentation on an application, an affidavit of experience or a trainee certificate may be referred to the county prosecutor for criminal prosecution. In addition, the department may subtract a maximum of 2,000 employment hours from a trainee's acceptable total hours.

(2) The department's decisions, under this section, can be appealed to the advisory board. The appeal hearing will be conducted according to the appropriate provisions of chapter 34.05 RCW.

NEW SECTION

WAC 296-400A-140 How does the department enforce plumbers certification requirements? The department enforces plumber certification requirements by means of job-site inspections conducted by department

compliance inspectors. The inspector must determine whether:

(1) Each person doing plumbing work has a proper certificate on their person; and

(2) The ratio of certified specialty and/or journeyman plumbers to certified trainees is correct; and

(3) That each certified trainee is directly supervised by either a certified specialty plumber or a certified journeyman.

NEW SECTION

WAC 296-400A-300 What procedures does the department follow when issuing a notice of infraction?

(1) If a compliance inspector determines that an individual has violated plumber certification requirements, the department must issue a notice of infraction describing the reasons for the citation.

(2) The department may issue a notice of infraction to either:

(a) An individual who is plumbing without a current plumber certificate; or

(b) The employer of the individual who is plumbing without a current plumber certificate; or

(c) The employer's authorizing agent or foreman that made the work assignment to the individual who is plumbing without a current plumber certificate.

(3) An individual may appeal a notice of infraction by complying with the appropriate provisions of RCW 18.106.-220.

(4) If good cause is shown, an administrative law judge may waive, reduce or suspend any monetary penalties resulting from the citation.

(5) Any monetary penalties collected under this chapter, must be deposited in the plumbing certificate fund.

NEW SECTION

WAC 296-400A-400 What are the monetary penalties for violating certification requirements? (1) A person cited for an infraction under RCW 18.106.020 (3)(a), (b) or (c) must be assessed a monetary penalty based upon the following schedule:

First Infraction	\$250.00
Second Infraction	\$500.00
Third Infraction	\$750.00
Fourth Infraction	Not more than \$1,000.00

(2) Each day a person is in violation must be considered a separate infraction.

(3) Each job site at which a person is in violation must be considered a separate infraction.

NEW SECTION

WAC 296-400A-425 What if I owe outstanding penalties related to a department issued plumber infraction? The department may deny renewal of your certificate of competency if you owe outstanding penalties. The department must notify you of their denial by registered mail, return receipt requested. This notice of denial will be mailed to the address on your application.

Upon receipt of the notice, you have twenty days to file a notice of appeal with the department. Your notice of

appeal must be accompanied by a certified check for two hundred dollars. This amount will be returned to you if the department's decision is not upheld by the hearings officer. If the hearings officer upholds the department's decision, the two hundred dollars must be applied to the cost of the hearing.

The office of administrative hearings shall conduct the hearing under chapter 34.05 RCW.

WSR 97-03-085
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed January 15, 1997, 11:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-14-118 on July 3, 1996; WSR 96-24-033 on November 26, 1996; WSR 96-24-036 on November 26, 1996; and WSR 96-24-084 on December 3, 1996.

Title of Rule: Cranes and derricks; confidential witness statements; hazard communication; PPE-Gen. Industry.

Purpose: Chapter 296-24 WAC, General safety and health standards, federal-initiated amendments, as published in Federal Register Volume 61, Number 86, dated May 2, 1996, and Federal Register Volume 61, Number 91, dated May 9, 1996, are made to be identical to the federal standard. These federal-initiated amendments will establish additional compliance requirements.

WAC 296-24-07801 Eye and face protection, federal-initiated proposed amendments are made:

- To add the words "The employer shall ensure" that employees use eye and face protection where needed; that employees use side protection when needed on safety glasses, that the use of prescription lenses is addressed, and that employees use proper filter lenses when exposed to injurious light radiation.

WAC 296-24-084 Occupational head protection, federal-initiated amendments are made:

- To add the words, "The employer shall ensure" that employees wear protective helmets when needed, including helmets designed to reduce electrical shock hazards.

WAC 296-24-088 Occupational foot protection, federal-initiated proposed amendments are made to:

- Add the words, "The employer shall ensure" that employees wear protective footwear when needed.

Chapter 296-27 WAC, Safety standards for record-keeping and reporting.

WAC 296-27-15503 Special exemptions for confidential reports within the department's files, state-initiated proposed amendments are made to:

- Correct a housekeeping error with respect to the release of confidential information when confidential witness statements are part of an investigative report that is available to the public upon request. This amendment will prohibit the release of confidential sources.

Chapter 296-62 WAC, Occupational safety and health standards, federal-initiated proposed amendments relating to the hazard communication standard are being made as a result of OSHA letter dated February 20, 1996, which stated

the current WISHA standard is not at-least-as-effective-as the federal standard as published in Federal Register Volume 59, Number 245, dated December 12, 1994. Proposed amendments are identical to the federal standard and add additional compliance requirements.

WAC 296-62-05413 Material safety data sheets, federal-initiated proposed amendments are made to:

- Require wholesale distributors provide material safety data sheets (MSDS) upon request to employers who purchase hazardous chemicals over the counter.
- Require wholesale distributors to post a sign informing such employers that material safety data sheets are available.

Chapter 296-155 WAC, Safety standards for construction, federal-initiated proposed amendments to crane standards in construction are made as a result of OSHA letter dated March 21, 1996, which identified this standard as not at-least-as-effective-as the federal standard. The following federal-initiated amendments will make the standard as effective as the federal standard and will not establish additional compliance requirements.

WAC 296-155-527 Appendix A to WAC 296-155-525, federal-initiated proposed amendments are made to:

- Correct a table chart reference which is used in selecting cable size from "1/6" inch to "1/16" inch.

Statutory Authority for Adoption: Chapter 49.17 RCW.
 Statute Being Implemented: RCW 49.17.040, [49.17].050, [49.17].060.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, 7273 Linderson Way, Tumwater, WA, (360) 902-5530; Implementation and Enforcement: Frank Leuck, 7273 Linderson Way, Tumwater, WA, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

Rule is necessary because of federal law, Federal Register Volume 61, Number 86, dated May 2, 1996; Federal Register Volume 61, Number 91, dated May 9, 1996; OSHA letter dated February 20, 1996; and OSHA letter dated March 21, 1996.

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Small business economic impact statements are not required because the proposed amendments do not place more than minor impact on business (RCW 19.85.061).

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Significant rule-making criteria does not apply to these rule amendments because they meet the exempt criteria outlined in RCW 34.05.328 (5)(b)(iii) and (iv). Significant rule-making criteria does not apply when adopting federal statutes or regulations without material change, when amending interpretive rules, or when adopting rules to correct information that is housekeeping in nature (typographical errors, address/name changes, or clarification of rule language without changing its effect).

Hearing Location: On February 26, 1997, at 9:30 a.m., at the Department of Labor and Industries Building, Auditorium, 7273 Linderson Way, Tumwater, WA.

Assistance for Persons with Disabilities: Contact Linda Dausener by February 14, 1997, (360) 902-5516.

Submit Written Comments to: Tracy Spencer, Standards Supervisor, Division of Consultation and Compliance, P.O. Box 44620, Olympia, WA 98504-4620, by March 5, 1997.

In addition to written comments, the department will accept comments submitted to FAX (360) 902-5529 (comments submitted by FAX must be ten pages or less).

Date of Intended Adoption: May 20, 1997.

January 15, 1997
Mark O. Brown
Director

AMENDATORY SECTION (Amending Order 94-16, filed 9/30/94, effective 11/20/94)

WAC 296-24-07801 General. (1) The employer shall ensure that each affected employee ((shall)) uses appropriate eye or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.

(2) The employer shall ensure that each affected employee ((shall)) uses eye protection that provides side protection when there is a hazard from flying objects. Detachable side protectors (e.g., clip-on or slide-on side shields) meeting the pertinent requirements of this section are acceptable.

(3) The employer shall ensure that each affected employee who wears prescription lenses while engaged in operations that involve eye hazards ((shall)) wears eye protection that incorporates the prescription in its design, or ((shall)) wears eye protection that can be worn over the prescription lenses without disturbing the proper position of the prescription lenses or the protective lenses.

(4) Eye and face PPE shall be distinctly marked to facilitate identification of the manufacturer.

(5) The employer shall ensure that each affected employee ((shall)) uses equipment with filter lenses that have a shade number appropriate for the work being performed for protection from injurious light radiation. The following is a listing of appropriate shade numbers for various operations.

Filter Lenses for Protection Against Radiant Energy

Operations	Electrode Size 1/32 (inches)	Minimum* Protective Arc Current	Shade
Shielded metal arc welding	Less than 3	Less than 60	7
	3-5	60-160	8
	5-8	160-250	10
	More than 8	250-550	11
Gas metal arc welding and flux cored arc welding		Less than 60	7
		60-160	10
		160-250	10
		250-500	10
Gas Tungsten arc welding		Less than 50	8
		50-150	8
		150-500	10
Air carbon Arc cutting	(Light)	Less than 500	10
	(Heavy)	500-1000	11

Plasma arc welding		Less than 20	6
		20-100	8
		100-400	10
		400-800	11
Plasma arc cutting	(Light)	Less than 300	8
	(Medium)**	300-400	9
	(Heavy)**	400-800	10
Torch brazing			3
Torch soldering			2
Carbon arc welding			14

Filter Lenses for Protection Against Radiant Energy

Operations	Plate thickness (inches)	Plate thickness (mm)	Minimum* Protective Shade
Gas welding:	Light	Under 1/8	4
	Medium	1/8 to 1/2	5
	Heavy	Over 1/2	6
Oxygen cutting:	Light	Under 1	3
	Medium	1 to 6	4
	Heavy	Over 6	5

* As a rule of thumb, start with a shade that is too dark to see the weld zone. Then go to a lighter shade which gives sufficient view of the weld zone without going below the minimum. In oxyfuel gas welding or cutting where the torch produces a high yellow light, it is desirable to use a filter lens that absorbs the yellow or sodium line in the visible light of the (spectrum) operation.

** These values apply where the actual arc is clearly seen. Experience has shown that lighter filters may be used when the arc is hidden by the workpiece.

(6) Criteria for protective eye and face devices.

(a) Protective eye and face devices purchased after February 20, 1995, shall comply with ANSI Z87.1-1989, "American National Standard Practice for Occupational and Educational Eye and Face Protection," which is incorporated by reference, or shall be demonstrated by the employer to be equally effective.

(b) Eye and face protective devices purchased before February 20, 1995, shall comply with the ANSI standard "American National Standard Practice for Occupational and Educational Eye and Face Protection," ANSI Z87.1-1968 or shall be demonstrated by the employer to be equally effective.

AMENDATORY SECTION (Amending WSR 96-09-030, filed 4/10/96, effective 6/1/96)

WAC 296-24-084 Occupational head protection. (1) General requirements.

(a) The employer shall ensure that each affected employee ((shall)) wears a protective helmet((s)) when working in areas where there is a potential for injury to the head from falling or flying objects.

(b) The employer shall ensure that a protective helmet((s)) designed to reduce electrical shock hazard ((shall be)) is worn by each such affected employee when near exposed electrical conductors which could contact the head.

(2) Criteria for protective helmets.

(a) Protective helmets purchased after February 20, 1995, shall comply with ANSI Z89.1-1986, "American

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National Standard for Personnel Protection—Protective Headwear for Industrial Workers- Requirements," which is incorporated by reference, or shall be demonstrated to be equally effective.

(b) Protective helmets purchased before February 20, 1995, shall comply with the ANSI standard "American National Standard Safety Requirements for Industrial Head Protection," ANSI Z89.1-1969, or shall be demonstrated by the employer to be equally effective.

(3) Persons working in the shops around machinery or in locations which present a hair catching or fire hazard shall wear caps or other type of head covering which completely covers the hair. Caps with metal buttons or metal visors shall not be worn around electrical hazards.

Note 1: The following will define hair lengths considered hazardous:

- (a) When the length would exceed the circumference of exposed revolving shafts or tools in fixed machines by 200 percent.
- (b) When the length would exceed the radius of pressure rolls with exposed in-running nip points.
- (c) When the employee is exposed to an ignition source and the employee may, with hair aflame, run into an area containing class -1 flammable liquids or combustible atmospheres.
- (d) When exposures require personal protective devices, such as mask-type respirators or ear-cup-type hearing protection devices, and hair, either facial or head, would interfere with a proper seal.

Note 2: When hair length is judged hazardous from a hair catching standpoint (instances (a) or (b) under interpretations in Note 1) minimal confinement shall be within netting which controls all loose ends.

Note 3: If hazardous from fire hazard aspects (instance (c) of Note 1) the hair must be confined within a solid-type material.

(4) Protective helmets shall be worn by employees who work around or under scaffolds or other overhead structures, or who are otherwise exposed to the hazards of falling materials and propelled objects.

AMENDATORY SECTION (Amending Order 94-16, filed 9/30/94, effective 11/20/94)

WAC 296-24-088 Occupational foot protection. (1) General requirements. The employer shall ensure that each affected employee (~~shall~~) wears protective footwear when working in areas where there is a danger of foot injuries due to falling or rolling objects, or objects piercing the sole, and where such employee's feet are exposed to electrical hazards.

(2) Criteria for protective footwear.

(a) Protective footwear purchased after February 20, 1995, shall comply with ANSI Z41-1991, "American National Standard for Personal Protection—Protective Footwear," which is incorporated by reference, or shall be demonstrated by the employer to be equally effective.

(b) Protective footwear purchased before February 20, 1995, shall comply with the ANSI standard "USA Standard for Men's Safety-Toe Footwear," ANSI Z41.1-1967, which is incorporated by reference, or shall be demonstrated by the employer to be equally effective.

(3) Calks or other suitable footwear which will afford reasonable protection from slipping shall be worn while working on logs.

AMENDATORY SECTION (Amending WSR 96-17-056, filed 8/20/96, effective 10/15/96)

WAC 296-27-15503 Special exemptions for confidential reports within the department's files. Whenever a departmental file contains an investigative report or information from a source who furnished such information under an express promise that the identity of such source would be held in confidence, such investigative report or information shall be exempt from disclosure to the extent that disclosure would reveal the identity of the source. If an investigative report can be disclosed in such a way as to conceal its source, the contents of such report may be withheld only to the extent necessary to do so. When such information is withheld, the records officer shall give a general characterization of the information withheld (~~and~~) but not the identity of the information's source.

AMENDATORY SECTION (Amending WSR 95-22-015, filed 10/20/95, effective 1/16/96)

WAC 296-62-05413 Material safety data sheets. (1) Chemical manufacturers and importers shall obtain or develop a material safety data sheet (MSDS) for each hazardous chemical they produce or import. Employers shall have a material safety data sheet in the workplace for each hazardous chemical which they use.

(2) Each material safety data sheet shall be in English (although the employer may maintain copies in other languages) and shall contain at least the following information:

(a) The identity used on the label, and, except as provided for in WAC 296-62-05417 on trade secrets:

(i) If the hazardous chemical is a single substance, its chemical and common name(s);

(ii) If the hazardous chemical is a mixture which has been tested as a whole to determine its hazards, the chemical and common name(s) of the ingredients which contribute to these known hazards, and the common name(s) of the mixture itself; or

(iii) If the hazardous chemical is a mixture which has not been tested as a whole:

(A) The chemical and common name(s) of all ingredients which have been determined to be health hazards, and which comprise 1% or greater of the composition, except that chemicals identified as carcinogens under WAC 296-62-05407(4) shall be listed if the concentrations are 0.1% or greater; and

(B) The chemical and common name(s) of all ingredients which have been determined to be health hazards, and which comprise less than one percent (0.1% for carcinogens) of the mixture, if there is evidence that the ingredient(s) could be released from the mixture in concentrations which would exceed an established WISHA or OSHA permissible exposure limit or ACGIH Threshold Limit Value, or could present a health risk to employees; and

(C) The chemical and common name(s) of all ingredients which have been determined to present a physical hazard when present in the mixture;

(b) Physical and chemical characteristics of the hazardous chemical (such as vapor pressure, flash point);

(c) The physical hazards of the hazardous chemical, including the potential for fire, explosion, and reactivity;

(d) The acute and chronic health hazards of the hazardous chemical, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the chemical;

(e) The primary route(s) of entry;

(f) The WISHA or OSHA permissible exposure limit, ACGIH threshold limit value, and any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the material safety data sheet (the PELs and TLVs include the 8-hour TWA, STEL, ceiling value and skin notation defined in WAC 296-62-05405), where available;

(g) Whether the hazardous chemical is listed in the National Toxicology Program (NTP) Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest editions), or by WISHA or OSHA;

(h) Any generally applicable precautions for safe handling and use which are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks;

(i) Any generally applicable control measures which are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, such as appropriate engineering controls, work practices, or personal protective equipment;

(j) Emergency and first aid procedures;

(k) The date of preparation of the material safety data sheet or the last change to it; and

(l) The name, address and telephone number of the chemical manufacturer, importer, employer or other responsible party preparing or distributing the material safety data sheet, who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary.

(3) If no relevant information is found for any given category on the material safety data sheet, the chemical manufacturer, importer or employer preparing the material safety data sheet shall mark it to indicate that no applicable information was found.

(4) Where complex mixtures have similar hazards and contents (i.e. the chemical ingredients are essentially the same, but the specific composition varies from mixture to mixture), the chemical manufacturer, importer or employer may prepare one material safety data sheet to apply to all of these similar mixtures.

(5) The chemical manufacturer, importer or employer preparing the material safety data sheet shall ensure that the information recorded accurately reflects the scientific evidence used in making the hazard determination. If the chemical manufacturer, importer or employer preparing the material safety data sheet becomes newly aware of any significant information regarding the hazards of a chemical, or ways to protect against the hazards, this new information shall be added to the material safety data sheet within three months. If the chemical is not currently being produced or imported the chemical manufacturer or importer shall add the information to the material safety data sheet before the chemical is introduced into the workplace again.

(6)(a) Chemical manufacturers or importers shall ensure that distributors and employers are provided an appropriate material safety data sheet with their initial shipment, and with the first shipment after a material safety data sheet is updated;

(b) The chemical manufacturer or importer shall either provide material safety data sheets with the shipped containers or send them to the distributor or employer prior to or at the time of the shipment;

(c) If the material safety data sheet is not provided with a shipment that has been labeled as a hazardous chemical, the distributor or employer shall obtain one from the chemical manufacturer or importer as soon as possible; and

(d) The chemical manufacturer or importer shall also provide distributors or employers with a material safety data sheet upon request.

(7)(a) Distributors shall ensure that material safety data sheets, and updated information, are provided to other distributors and employers with their initial shipment and with the first shipment after a material safety data sheet is updated;

(b) The distributor shall either provide material safety data sheets with the shipped containers, or send them to the other distributor or employer prior to or at the time of the shipment;

(c) Retail distributors selling hazardous chemicals to employers having a commercial account shall provide a material safety data sheet to such employers upon request, and shall post a sign or otherwise inform them that a material safety data sheet is available;

(d) Wholesale distributors selling hazardous chemicals to employers over-the-counter may also provide material safety data sheets upon request of the employer at the time of the over-the-counter purchase, and shall post a sign or otherwise inform such employers that a material safety data sheet is available;

(e) If an employer without a commercial account purchases a hazardous chemical from a retail distributor not required to have material safety data sheets on file (i.e., the retail distributor does not have a commercial account and does not use the materials), the retail distributor shall provide the employer, upon request, with the name, address, and telephone number of the chemical manufacturer, importer, or distributor from which a material safety data sheet can be obtained;

(f) Wholesale distributors shall also provide material safety data sheets to employers or other distributors upon request; and

(g) Chemical manufacturers, importers, and distributors need not provide material safety data sheets to retail distributors that have informed them that the retail distributor does not sell the product to commercial accounts or open the sealed container to use it in their own workplaces.

(8) The employer shall maintain in the workplace copies of the required material safety data sheets for each hazardous chemical, and shall ensure that they are readily accessible during each work shift to employees when they are in their work area(s). (Electronic access, microfiche, and other alternatives to maintaining paper copies of the material safety data sheets are permitted as long as no barriers to immediate employee access in each workplace are created by such options.)

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(9) Where employees must travel between workplaces during a workshift, i.e., their work is carried out at more than one geographical location, the material safety data sheets may be kept at a central location at the primary workplace facility. In this situation, the employer shall ensure that employees can immediately obtain the required information in an emergency.

(10) Material safety data sheets may be kept in any form, including operating procedures, and may be designed to cover groups of hazardous chemicals in a work area where it may be more appropriate to address the hazards of a process rather than individual hazardous chemicals. However, the employer shall ensure that in all cases the required information is provided for each hazardous chemical, and is readily accessible during each work shift to employees when they are in their work area(s).

(11) Material safety data sheets shall also be made readily available, upon request, to designated representatives and to the director or his/her designee in accordance with the requirements of WAC 296-62-05209. NIOSH shall also be given access to material safety data sheets in the same manner.

(12) If a purchaser has not received a material safety data sheet within thirty calendar days after making a written request to the chemical manufacturer, importer, or distributor in accordance with WAC 296-62-05413(6), he/she may make a written request for assistance to the Department of Labor and Industries, Right-to-Know Program, P.O. Box 44610, Olympia, Washington 98504-4610. Such written request shall include:

- (a) A copy of the purchaser's written request to the chemical manufacturer, importer, or distributor;
- (b) The name of the product suspected of containing a hazardous chemical;
- (c) The identification number of the product if available;
- (d) A copy of the product label if available; and
- (e) The name and address of the chemical manufacturer, importer, or distributor from whom the product was obtained.

Upon receipt of a written request for material safety data sheet, the department shall attempt to procure the material safety data sheet from the chemical manufacturer, importer or distributor and upon procurement, shall forward a copy of the material safety data sheet at no cost to the purchaser. In providing this service priority will be given to small employers.

AMENDATORY SECTION (Amending WSR 95-17-036, filed 8/9/95, effective 9/25/95)

WAC 296-155-527 Appendix A to WAC 296-155-525. Due to crane design configuration to maintain mobility, sheave diameters and rope, design factors are limited. Because of these limited design parameters, inspection to detect deterioration in accordance with subsections below and timely replacement are essential.

(1) Frequent inspection.

(a) All running ropes in service should be visually inspected once each working day. A visual inspection shall consist of observation of all rope which can reasonably be expected to be in use during the day's operations. These visual observations should be concerned with discovering

gross damage, such as listed below, which may be an immediate hazard:

(i) Distortion of the rope such as kinking, crushing, unstranding, birdcaging, main strand displacement, or core protrusion. Loss of rope diameter in a short rope length or unevenness of outer strands should provide evidence that the rope or ropes must be replaced.

(ii) General corrosion.

(iii) Broken or cut strands.

(iv) Number, distribution and type of visible broken wires. (See subsection below for further guidance.)

(v) Core failure in rotation resistant ropes. When such damage is discovered the rope shall be either removed from service or given an inspection as detailed in periodic inspection.

(b) Care shall be taken when inspecting sections of rapid deterioration such as flange points, crossover points and repetitive pickup points on drums.

(c) Care shall be taken when inspecting certain ropes such as the following:

(i) Rotation resistant ropes, because of their higher susceptibility to damage and increased deterioration when working on equipment with limited design parameters. The internal deterioration of rotation resistant ropes may not be readily observable.

(ii) Boom hoist ropes, because of the difficulties of inspection and the important nature of these ropes.

(2) Periodic inspection.

(a) The inspection frequency shall be determined by a qualified person and shall be based on such factors as expected rope life as determined by experience on the particular installation or similar installations, severity of environment, percentage of capacity lifts, frequency rates of operation, and exposure to shock loads. Inspections need not be at equal calendar intervals and should be more frequent as the rope approaches the end of its useful life. This inspection shall be performed at least annually.

(b) Periodic inspections shall be performed by a qualified person. This inspection shall cover the entire length of rope. Only the surface wires of the rope need be inspected. No attempt should be made to open the rope. Any deterioration resulting in an appreciable loss of original strength, such as described below, shall be noted and determination made as to whether further use of the rope would constitute a hazard:

(i) Points listed in subsection (1) of this section (Frequent inspection).

(ii) Reduction of rope diameter below nominal diameter due to loss of core support, internal or external corrosion, or wear of outside wires.

(iii) Severely corroded or broken wires at end connections.

(c) Care shall be taken when inspecting sections of rapid deterioration, such as the following:

(i) Sections in contact with saddles, equalizer sheaves, or other sheaves where rope travel is limited;

(ii) Sections of the rope at or near terminal ends where corroded or broken wires may protrude.

(3) Rope replacement.

(a) No precise rules can be given for determination of the exact time for replacement of rope, since many variable factors are involved. Continued use in this respect depends

largely upon good judgment by an appointed or authorized person in evaluating remaining strength in a used rope after allowance for deterioration disclosed by inspection. Continued rope operations depends upon this remaining strength.

(b) Conditions such as the following shall be sufficient reason for questioning continued use of the rope or increasing the frequency of inspection:

(i) In running ropes, six randomly distributed broken wires in one lay or three broken wires in one strand in one lay (for special conditions relating to rotation resistant rope refer to paragraph 5-3.2.1.1 (d)(1)(b) ANSISASME B30.5 1989).

(ii) One outer wire broken at the point of contact with the core of the rope which has worked its way out of the rope structure and protrudes or loops out from the rope structure. Additional inspection of this section is required.

(iii) Wear of one-third the original diameter of outside individual wires.

(iv) Kinking, crushing, birdcaging, or any other damage resulting in distortion of the rope structure.

(v) Evidence of any heat damage from any cause.

(vi) Reductions from nominal diameter of more than:

(A) 1/64 in. (0.4 mm) for diameters up to and including 5/16 in. (8.0 mm);

(B) 1/32 in. (0.8 mm) for diameters 3/8 in. (9.5 mm) to and including 1/2 in. (13.0 mm);

(C) 3/64 in. (1.2 mm) for diameters 9/16 in. (14.5 mm) to and including 3/4 in. (19.0 mm);

(D) ~~(1/16 in. (1.6 mm) for diameters 7/8 in. (22.0 mm) to and including 1 1/8 in. (38.0 mm);)~~ 1/16 in. (1.6 mm) for diameters 7/8 in. (22.0 mm) to and including 1 1/8 in. (29.0 mm);

(E) 3/32 in. (2.4 mm) for diameters 1 1/4 in. (32.0 mm) to and including 1 1/2 in. (38.0 mm).

(vii) In standing ropes, more than two broken wires in one lay in sections beyond end connections or more than one broken wire at an end connection.

(c) Replacement rope shall have a strength rating at least as great as the original rope furnished or recommended by the crane manufacturer. Any deviation from the original size, grade, or construction shall be specified by a rope manufacturer, the crane manufacturer or a qualified person.

(d) Rope not in regular use. All rope which has been idle for a period of a month or more due to shutdown or storage of a crane on which it is installed shall be given an inspection before it is placed in service. This inspection shall be for all types of deterioration and shall be performed by an appointed or authorized person.

(e) Inspection records:

(i) Frequent inspection; no records required.

(ii) Periodic inspection: In order to establish data as a basis for judging the proper time for replacement, a dated report of rope condition at each periodic inspection shall be kept on file. This report shall cover points of deterioration. If the rope is replaced only that part need be recorded.

(f) A long-range inspection program should be established and should include records on the examination of ropes removed from service so that a relationship can be established between visual observation and actual condition of the internal structure.

(4) Rope maintenance.

(a) Rope should be stored to prevent damage or deterioration.

(b) Unreeling or uncoiling of rope shall be done as recommended by the rope manufacturer and with care to avoid kinking or inducing a twist.

(c) Before cutting a rope, seizings shall be placed on each side of the place where the rope is to be cut to prevent unlaying of the strands. On preformed rope, one seizing on each side of the cut is required. On nonpreformed ropes of 7/8 in. (22 mm) diameter or smaller, two seizings on each side of the cut are required, and for nonpreformed rope of 1 in. (26 mm) diameter or larger, three seizings on each side of the cut are required.

(d) During installation, care should be exercised to avoid dragging of the rope in dirt or around objects which will scrape, nick, crush, or induce sharp bends in it.

(e) Rope should be maintained in a well lubricated condition. It is important that lubricant applied as part of a maintenance program shall be compatible with the original lubricant, and to this end, the rope manufacturer should be consulted; lubricant applied shall be of the type which does not hinder visual inspection. Those sections of rope which are located over sheaves or otherwise hidden during inspection and maintenance procedures require special attention when lubricating rope. The object of rope lubrication is to reduce internal friction and to prevent corrosion.

(f) When an operating rope shows greater wear at well-defined localized areas than on the remainder of the rope, rope life can be extended (in cases where a reduced rope length is adequate) by cutting off a section at the worn end, and thus shifting the wear to different areas of the rope.

(5) Operating near electric power lines:

(a) Cranes shall be operated so that no part of the crane or load enters into the danger zone.

Exceptions: The danger zone may be entered if the electrical distribution and transmission lines have been de-energized and visibly grounded at the point of work; or the danger zone may be entered if insulating barriers (not a part of nor an attachment to the crane) have been erected to prevent physical contact with the lines.

(i) For lines rated 50 kV. or below, minimum clearance between the lines and any part of the crane or load (including handling appendages) shall be 10 feet (3 m).

(ii) Caution shall be exercised when working near overhead lines because they can move horizontally or vertically due to wind, moving the danger zone to new positions.

(iii) While in transit with no load and boom lowered, the clearance shall be as specified in WAC 296-155-525 (3)(e).

(iv) A qualified signal person shall be assigned to observe the clearance when the crane moves to within a boom's length of the limits specified in WAC 296-155-525 (3)(e). The operator is not in the best position to judge distance between the power line and the crane or its protruberances.

(b) If cage-type boom guards, insulating links, or proximity warning devices are used on cranes, such devices shall not be a substitute for the requirements of WAC 296-155-525 (3)(e), even if such devices are required by law or regulation. In view of the complex, invisible, and lethal nature of the electrical hazard involved, and to lessen the

potential of false security, limitations of such devices, if used, shall be understood by operating personnel and tested in the manner and intervals prescribed by the manufacturer of the device. Compliance with WAC 296-155-525 (3)(e) is the recommended practice of this regulation in determining permissible proximity of the crane and its protuberances, including load, to electrical power lines.

(c) Before the commencement of operations near electrical lines, the person responsible for the job shall notify the owners of the lines or their authorized representatives, provide them with all pertinent information, and request their cooperation.

(d) Any overhead wire shall be considered to be an energized line unless and until the person owning such line or the electrical utility authorities verify that it is not an energized line.

(e) Exceptions to this procedure, if approved by the owner of the electrical lines, may be granted by the administrative or regulatory authority if the alternate procedure provides protection and is set forth in writing.

(f) Durable signs shall be installed at the operator's station and on the outside of the crane warning that electrocution or serious bodily injury may occur unless a minimum clearance of 10 feet (3 m) is maintained between the crane or the load being handled and energized power lines. Greater clearances are required because of higher voltage as stated in WAC 296-155-525 (3)(e). These signs shall be revised when local jurisdiction requires greater clearances.

(6) Site preparation and erection.

(a) All load bearing foundations, supports, and rail tracks shall be constructed or installed to support the crane loads and to transmit them to the soil or other support medium. In addition to supporting vertical load, foundations and supports, rail supports excepted, should be designed to provide a moment resisting overturning equal to a minimum of 150% of the maximum crane overturning moment.

(b) Rails should be level and straight, unless specifically designed for curves or grades, and properly spaced for the crane trucks in accordance with the manufacturer's specifications. The track and support system should have sufficient rigidity to limit dynamic oscillations and deviations from plumb.

(c) Rails shall be securely attached to the supporting surface in a manner capable of resisting the horizontal and vertical loads specified by the manufacturer. When applicable, provisions should be made for thermal expansion and contraction.

(d) Splices in rail tracks (bolted or welded) shall have smooth joints.

(e) When required, a designated portion of the track should be arranged and constructed as an out-of-service parking area complete with means needed for supporting the crane against storm wind effects and anchoring it against unwanted movement along the track; the parking track should be in place before erection commences.

(f) Rails shall be electrically grounded when they carry cranes electrically powered from an outside source.

(g) Both ends of all tracks shall be provided with stops or buffers adjusted for simultaneous contact with both sides of the travel base.

(h) When more than one crane will be operating on a run of track, particular consideration should be given to the number and disposition of parking areas.

(i) The hazard of earthquake effects appropriated to the site or zone should be considered.

(j) The crane manufacturer shall provide maximum resulting loads at the base of the crane, or wheel loads, for use in design of the supports.

(7) General erection requirements.

(a) When cranes are erected, the manufacturer's or a qualified person's written erection instructions and a list of the weights of each component to be erected shall be at the site.

(b) Cranes shall be erected in accordance with the crane manufacturer's or a qualified person's recommendations. Erection shall be performed under the supervision of a qualified person.

(c) Procedures shall be established before erection work commences to implement the erection instructions and to adapt them to the particular needs of the site. The need for temporary guying and bracing during erection shall be established.

(d) Before crane components are erected, they shall be visually inspected for damage. Damaged members shall not be erected until repaired in accordance with the manufacturer's or qualified person's instructions, or replaced.

(e) Slings and lifting accessories shall be selected and arranged to avoid damaging or marring crane members during erection.

(f) Wind velocity at the site at the time of erection should be considered as a limiting factor that could require suspending the erection operation.

(g) Crane towers shall be erected plumb to a tolerance that is specified by the manufacturer.

(h) Cranes required to weathervane when out-of-service shall be installed with clearance for the boom and superstructure to swing a full 360° arc without striking a fixed object or other crane.

WSR 97-03-090

PROPOSED RULES

INSURANCE COMMISSIONER'S OFFICE

[Filed January 16, 1997, 12:00 p.m.]

Supplemental Notice to WSR 97-01-059.

Preproposal statement of inquiry was filed as WSR 96-17-028.

Title of Rule: Personal injury protection.

Purpose: To establish minimum standards for the termination, limitation, or denial of personal injury protection (PIP) claims review in automobile liability insurance policies; and to establish minimum standards for PIP arbitration clauses.

Other Identifying Information: Insurance Commissioner Matter No. R 96-6.

Statutory Authority for Adoption: RCW 48.02.060, 48.22.105, 48.30.010.

Statute Being Implemented: RCW 48.01.030, 48.22.005, 48.22.085, 48.22.100.

Summary: This rule is proposed as a substitute to the PIP rule filed on October 23, 1996. The rule requires an

insurer to advise an insured that it may deny, limit, or terminate an insured's medical and hospital benefits as soon as possible after the insured presents a PIP medical claim. The rule requires an insurer to deny, limit, or terminate claims in writing and to provide the "true and actual" reason for the denial in terms that explain the reasons for the insurer's action. The insurer must provide a means for a professional reconsideration of such actions upon request of the insured. Medical and health professionals that review records must be currently licensed, certified, or registered in the same health field or specialty as the insured's treating professional. Insurers must maintain information in the insured's claims file to verify the credentials of the reviewer. Insurers may not deny property damage claims of insureds that do not participate in "independent medical examinations." And, finally, minimum standards for PIP arbitration clauses are set forth.

Reasons Supporting Proposal: The commissioner has received over seven hundred complaints in less than five years about the way insurers deny, limit, or terminate PIP benefits after review of the insured's treatment records or "independent medical examinations." Insurers are entitled to disclosure prior to the loss of benefits and to a reconsideration of the action by a second professional reviewer. After consideration of the public testimony in favor of or in opposition to the rule as proposed on October 23, 1996, several changes were made and the rule is being reset for public comment. The most significant change is the requirement that the reviewing professional have the same license as the professional being reviewed.

Name of Agency Personnel Responsible for Drafting: Melodie Bankers, Olympia, Washington, (360) 586-3574; **Implementation and Enforcement:** Greg Scully, Olympia, Washington, (360) 664-3785.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule requires an insurer to disclose to an insured that it may deny, limit, or terminate an insured's medical and hospital benefits as soon as possible after the insured presents a PIP medical claim. The rule requires an insurer to deny, limit, or terminate claims in writing and to provide the "true and actual" reason for the denial in terms that explain the reasons for the insurer's action. The insurer must provide a means for a professional reconsideration of such actions upon request of the insured. Medical and health professionals that review records must be currently licensed, certified, or registered in the same health field or specialty as the professional that is treating the insured. Insurers must maintain information in the insured's claims file to verify the credentials of the reviewer. Insurers may not deny property damage claims of insureds that do not participate in "independent medical examination." And, finally, minimum standards for PIP arbitration clauses are set forth.

Proposal does not change existing rules.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

(a) **Is the rule required by federal law or federal regulation?** No.

(b) **What industry is affected by the proposed rule?** Fire, Marine, and Casualty Insurance (# 6331).

(c) **List the specific parts of the proposed rule, based on the underlying statutory authority (RCW section), which may impose a cost to businesses.**

Written Disclosure: After receipt of actual notice of an insured's intent to file a personal injury protection medical and hospital benefits claim, and in every case prior to denying, limiting, or terminating an insured's medical and hospital benefits, an insurer is required to advise an insured in writing that it reserves the right to deny medical and hospital benefits to an insured after review.

Written Notification of Claim Denials: After an insurer concludes that it intends to deny, limit, or terminate an insured's medical and hospital benefits, the insurer shall advise an insured in writing. The notification shall be clear and unambiguous. The insurer shall outline in writing the means by which an insured may request a prompt reconsideration or appeal of that determination.

Standards for Claim Denials: Health care professionals upon whom the insurer will rely to make a decision to deny, limit, or terminate an insured's medical and hospital benefits shall be currently licensed, certified, or registered in the same health field or specialty as the treating professional.

(d) **What will be the compliance costs for industries affected?** The following potential costs to insurers are considered:

- Preparing or amending written notification to all insured persons intending to file a personal injury claim.
- Preparing or modifying letters notifying clients of claim denials.
- Contracting with appropriate health care professionals to perform medical reviews.

(e) **What percentage of the industries in the four-digit standard industrial classification will be affected by the rule?** One hundred percent of the insurers that choose to offer personal injury protection as part of automobile liability insurance policies in the state of Washington.

(f) **Will the rule impose a proportionately higher economic burden on small businesses within the four-digit classification?** No. The rule imposes no lump sum costs or fixed costs that would disproportionately affect smaller businesses. All potential costs of this rule are marginal costs per claim by policy holder; thus, potential costs would be in direct proportion to the volume of claims filed. The cost of compliance per employee may vary on a company-by-company basis; however, this variance is based on the extent to which the company already meets the new standards and not on the size of the insurer.

(g) **Can mitigation be used to reduce the economic impact of the rule on small businesses and still meet the stated objective of the statutes which are the basis of the proposed rule?** Potential costs of compliance have been reduced to a negligible amount (see (i) for more detail). Note the potential costs considered in this evaluation:

1. Preparing or amending written notification to all insured persons intending to file a personal injury claim. The potential costs of this rule have been reduced to the

negligible cost of merely modifying already existing cover letters sent with claim forms for an estimated 95% of the insurers. The remaining 5% of insurers that may not be sending cover letters shall be required to provide written notification with appropriate language. See (i) for specific cost information.

2. Preparing or modifying letters notifying clients of claim denials. It is the practice of all insurers to send written notification of the claim denial¹. Thus, this rule does not impose any significant additional administrative costs.

3. Contracting with appropriate health care professionals to perform medical reviews. Insurers already utilize health care professionals to review medical claims. Insurers often utilize health care professionals in the same field as the treating professionals in order to avoid potential complaints from the insured and for legal purposes (in the event the case goes to trial, a health care reviewer in the same field often proves to be a more credible witness).² This proposed rule may potentially restrict an insurer's pool of reviewing health care professionals by requiring reviewers to be in the same field as the treating health care professional; however, only a small portion of the PIP claims (SAFECO estimates that only 1% of all claims filed) are reviewed by insurers using independent exams. Any additional costs imposed by this requirement would only affect this small portion of claims. When these costs are spread over the entire number of PIP claims filed in a given year (estimations from various insurers range from 60,000 to 70,000 claims per year in the state of Washington), the potential costs per claim are minimal.

The commissioner believes that any further mitigation would prevent the rule from meeting the objective of providing standards for prompt, fair and equitable settlements applicable to automobile personal injury protection insurance.

(h) What steps will the commissioner take to reduce the costs of the rule on small businesses? Various forms of mitigation are included in section (i) of this statement.

(i) Which mitigation techniques have been considered and incorporated into the proposed rule? Consideration of cost mitigation has occurred throughout the rule drafting process. With regards to the specified cost implications in (c), potential record-keeping and administrative costs have been reduced in the following manner:

PROPOSED

Preliminary Drafts		Draft proposal upon filing of CR-102
<p>In previous drafts of this rule, insurers were required to mail and maintain proof of letters notifying policyholders of the insurer's right to deny medical benefits upon review.</p>		<p>Because an estimated 95% of all insurers already provide written procedures when mailing claim forms, this requirement was modified to comply as much as possible with insurers current practice such that, at the most, only a one sentence amendment to current form letters would be required by this rule.</p>
<p>Cost estimated by Insurers: > \$1.00 per claim</p>	<p>Cost Reduction →→→→</p>	<p>Cost estimated by Insurers: For an estimated 95% of insurers, the cost would be negligible (simply amending or modifying current cover letter). For the remaining 5%, the cost would be approximately \$0.40 per claim to draft, print, and mail a cover letter with required language.</p>
<ul style="list-style-type: none"> • Previous drafts of this rule included requirements that the health care professionals on which the insurance company relies for medical reviews of claims must complete a questionnaire detailing their type of practice upon request. • Previous drafts considered requirements that reviewing health care professionals be licensed in the state of Washington. 		<ul style="list-style-type: none"> • Because of the difficulties specified by insurers, this rule was modified so that no questionnaire (to be completed by health care professionals) is required. • The rule no longer requires that these health care professionals be licensed exclusively in the state of Washington.
<p>Cost estimated by Insurers:</p> <ul style="list-style-type: none"> • Difficulties would exist in forcing health care professionals to complete said form. • In some cases, a professional licensed in the state of Washington may not be available nor convenient for a given situation and might potentially impose travel costs on either the health care professional or policyholder. 	<p>Cost Reduction →→→→</p>	<p>Cost estimated by Insurers:</p> <ul style="list-style-type: none"> • Insurers will not be required to complete said form. • Insurers will be allowed the flexibility to utilize out-of-state health care reviewers which may be more appropriate and less costly in border regions and in special situations where the policyholder seeks out-of-state health care.

(j) Which mitigation techniques were considered for incorporation into the proposed rule but were rejected, and why? The comments from insurers regarding this rule include recommendations to withdraw the proposed rule, insisting that no rule is necessary because other claims settlement practice rules already apply. Although insurers feel they are already settling personal injury protection claims in a fair manner, the number of complaints and inquiries the commissioner's office receives regarding this matter indicates there are problems with the current settlement process. The commissioner's office logged over seven hundred complaints and inquiries in the past four years regarding personal injury protection matters. This rule is designed to address these complaints.

The commissioner also considered eliminating the requirement that health care professionals reviewing the claims be registered, licensed, or certified in the same field due to complications arising in locations that may not have a sufficient supply of all types of health care professionals as well as in cases where fraud is suspected and willing reviewing professionals in the same field are difficult to find.

This form of mitigation was considered and rejected at this time because the commissioner believes this form of mitigation would prevent policyholders from exercising their right to choose health care professionals that best suit their needs. The commissioner believes that the only fair manner in which to review these health care professionals would be by professionals that are licensed, registered, or certified in the same field as the health care professionals that treat the insureds. In the event that insurers are not using professionals in the same field as the treating health care professional, this rule would require insurers to change the type of professional they utilize. The rule would not require additional professional services because insurers currently use a variety of reviewing professionals from all types of health care professions.

(k) Briefly describe the reporting, record-keeping, and other compliance requirements of the proposed rule. Insurers will have to maintain information in an insured's claims file such as copies of letters of denials to policyholders and proof of certification of the reviewing health care professional. Some insurers voiced concerns that this type

of regulation would require them to maintain additional costly paper files and copies of health care professional certificates, curriculum vitae, etc. This is not the case. This proposed rule merely requires that insurers maintain "sufficient information to verify the credentials of the health care professional with whom it consulted." This information could be kept in any form (e.g. electronic, paper, coded) that the insurer chooses. This should not result in any significant costs.

(l) List the kinds of professional services that a small business is likely to need in order to comply with the reporting, record-keeping, and other compliance requirements of the proposed rule. Small businesses are not likely to need any new or additional professional services to comply with these rules.

(m) Analyze the cost of compliance including, specifically:

- Cost of equipment: No new equipment will be required.
- Cost of supplies: No new supplies will be required; however, in the event the insurers are not already sending cover letters with claim forms to policyholders upon notification of an accident, the cost of one additional sheet of paper per claim may be imposed.
- Cost of labor: The employees of the insurer may be required to modify or amend the insurer's cover letter included with the mailing of claim forms and claim denial reports.
- Cost of increased administration: No new administrative costs are anticipated.

(n) Compare the cost of compliance for small business with the cost of compliance for the largest businesses in the same four-digit classification, using one or more of the following (as specifically required by RCW 19.85.040 (1)(a), (b), and (c)). The number of employees hired by companies varies proportionately with the number of policyholders and volume of claims. Because the only potential costs imposed by these rules are marginal costs per claim, the costs of compliance per employee for small insurers should be no greater than the costs per employee for large insurers. The cost of compliance per employee may vary on a company-by-company basis; however, this variance is not based on the size of the insurer (measured in terms of employees, hours of labor, and sales volume), but rather on the extent to which the company already meets the new standards. In a phone survey, sampling over 10% of the insurers of varying size, no relationship was found between the size of the firm and the extent to which the company already meets the new standards; thus, the per employee cost should not be substantially different between the largest and the smallest insurance insurers in this business.

(o) Have businesses that will be affected been asked what the economic impact will be? Yes. On August 14, 1996, a meeting was held to discuss a possible rule regarding utilization review standards in personal injury protection coverage where all affected parties were invited to attend. From August 12th through October 17th, comments from affected parties regarding a preliminary draft of [the] proposed rule were solicited and reviewed by staff. These comments included information on specific cost implications of the rule. On October 14, 1996, a second work group meeting was held to discuss the fourth draft of the proposed

rule. In October, a phone survey was conducted, sampling over 10% of the affected insurance insurers of various sizes to determine the potential costs of the proposed rule. On November 26, 1996, a public hearing was held to solicit comments from representatives of insurers and the public regarding an earlier version of this proposed rule.

(p) How did the commissioner involve small businesses in the development of the proposed rule? The commissioner contacted a number of insurers that volunteered to assist in the development of the rule, the accurate assessment of the costs of the proposed rule, and the means to reduce the costs imposed on small insurers and agents. The insurers that participated ranged from large to small, and included the associations that represent a vast majority of the property/casualty insurers engaged in the transactions of insurance in this state.

In addition, a phone survey was conducted, sampling over 10% of the affected insurance insurers of various sizes to determine the potential costs of the proposed rule. This survey intentionally included samples from both the largest and smallest affected insurers in the industry.

(q) How and when were affected small businesses advised of the proposed rule? See (o) and (p) above.

In addition, a copy of the proposed rule will be sent to the Association of Washington Businesses and to the Independent Business Association. Insurers known to be interested in this rule regardless of size, were directly involved.

Conclusion: The commissioner has the responsibility of protecting consumers against unfair practices in the insurance industry. The objective to protect the consumer has guided the drafting of this rule. While the Regulatory Fairness Act requires the commissioner to involve small licensees in the rule making, the commissioner recognizes that this rule also impacts the health care providers who provide services to insureds. The commissioner also recognizes that many of these providers are an important part of the small business community. This rule was developed after review of the commissioner's complaints database and after health care providers and attorneys that represent insureds asked the commissioner to provide some protection against the unfair claims settlement practices of insurers. Commissioner representatives met with providers and consumers representatives, as well as insurers during the drafting process of this rule.

¹ This conclusion is based on interviews, a survey, and comments solicited from the insurers.

² This conclusion is based on interviews, a survey, and comments solicited from the insurers.

³ Estimation based on a phone survey, sampling 10% of the insurers affected by proposed rule.

A copy of the statement may be obtained by writing to Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, internet: inscomr@aol.com, phone (360) 664-3790, or FAX (360) 586-3535.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This is not a "significant legislative rule" as defined at RCW 34.05.328 and the costs to implement are minimal. The rule reflects the practices of many insurers. This rule is necessary for the protection of policy-

holders. After consideration of many alternatives this rule is the least burdensome alternative that provides protection for consumers. No federal or state laws or rules also govern the same subject matter and no insurer will be required to take any action that violates state or federal laws or regulations. RCW 48.22.005(7) defines "medical and hospital benefits" as "payments for reasonable and necessary expenses incurred..." This rule establishes minimum standards for insurers as they apply the definition to individual PIP claims.

Hearing Location: General Administration Building, 1st Floor Auditorium, 11th and Columbia, Olympia, Washington, on February 26, 1997, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Lori Vilaflores by February 5, 1997, TDD (360) 586-0691.

Submit Written Comments to: Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, Internet: inscomr@aol.com, FAX (360) 586-3535, by February 25, 1997, 5 p.m.

Date of Intended Adoption: March 31, 1997.

January 16, 1997

Deborah Senn

Insurance Commissioner

NEW SECTION

WAC 284-30-395 Standards for prompt, fair and equitable settlements applicable to automobile personal injury protection insurance. The commissioner finds that some insurers limit, terminate, or deny coverage for personal injury protection insurance without adequate disclosure to insureds of their bases for such actions. Personal injury protection benefits are a significant element in the cost of automobile liability insurance and limiting the increases in such costs is lawful under chapter 48.22 RCW. To eliminate unfair acts or practices in accord with RCW 48.30.010, the following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance specifically applicable to automobile personal injury protection insurance. The following standards apply to an insurer's consultation with health care professionals when reviewing the adequacy or appropriateness of treatment of the insured claiming benefits under his or her automobile personal injury protection benefits in an automobile liability insurance policy, as those terms are defined in RCW 48.22.005 (1), (7), and (8), and as prescribed at RCW 48.22.085 through 48.22.100. This section applies only where the insurer relies on the medical opinion of health care professionals to deny, limit, or terminate medical and hospital benefit claims. When used in this section, the term "medical or health care professional" does not include an insurer's claim representatives, adjusters, or managers or any health care professional in the direct employ of the insurer.

(1) Within a reasonable time after receipt of actual notice of an insured's intent to file a personal injury protection medical and hospital benefits claim, and in every case prior to denying, limiting, or terminating an insured's medical and hospital benefits, an insurer shall provide an insured with a written explanation of the coverage provided by the policy, including a notice that the insurer may deny, limit, or terminate benefits if the insurer determines that the medical and hospital services:

(a) Are not reasonable;

(b) Are not necessary;

(c) Are not related to the accident; or

(d) Are not incurred within three years of the automobile accident.

These are the only grounds for denial, limitation, or termination of medical and hospital services permitted pursuant to RCW 48.22.005(7), 48.22.095, or 48.22.100.

(2) Within a reasonable time after an insurer concludes that it intends to deny, limit, or terminate an insured's medical and hospital benefits, the insurer shall provide an insured with a written explanation that describes the reasons for its action. The insurer shall include the true and actual reason for its action as provided to the insurer by the medical or health care professional with whom the insurer consulted in clear and simple language, so that the insured will not need to resort to additional research to understand the reason for the action. A simple statement, for example, that the services are "not reasonable or necessary" is insufficient.

(3) If an insurer denies, limits, or terminates an insured's medical and hospital benefits, the insurer shall outline in writing the means by which an insured may request a prompt reconsideration or appeal of that determination. The costs for the reconsideration shall be paid for by the insurer. If the insured's treating health care professional provides additional information for use in a reconsideration of the insurer's action, the reconsideration may be undertaken by the original professional reviewer; however, if no additional information is provided by the treating health care professional, the review shall be completed by a different professional reviewer.

(4) Health care professionals with whom the insurer will consult regarding its decision to deny, limit, or terminate an insured's medical and hospital benefits shall be currently licensed, certified, or registered to practice in the same health field or specialty as the health care professional that treated the insured.

(5) To assist in any examination by the commissioner or the commissioner's delegatee, the insurer shall maintain in the insured's claim file sufficient information to verify the credentials of the health care professional with whom it consulted.

(6) An insurer shall not refuse to pay expenses related to a covered property damage loss arising out of an automobile accident solely because an insured failed to attend, or chose not to participate in, an independent medical examination requested under the insured's personal injury protection coverage.

(7) In order to define and effect reasonable uniformity of arbitration clauses in all personal injury protection policies, if an automobile liability insurance policy includes an arbitration provision, it shall provide no less than the following:

(a) The arbitration shall commence within a reasonable period of time after it is requested by an insured.

(b) The arbitration shall take place in the county in which the insured resides or the county where the insured resided at the time of the accident, unless the parties agree to another location.

(c) Relaxed rules of evidence shall apply, unless other rules of evidence are agreed to by the parties.

PROPOSED

(d) The arbitration shall be conducted pursuant to arbitration rules similar to those of the American Arbitration Association, the Center for Public Resources, the Judicial Arbitration and Mediation Service, chapter 7.04 RCW, or any other rules of arbitration agreed to by the parties.

WSR 97-03-092
PROPOSED RULES
GAMBLING COMMISSION
 [Filed January 17, 1997, 12:01 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-11-125.

Title of Rule: WAC 230-20-115 Gift certificates—Requirements.

Purpose: This rule establishes a limit on the number of occasions in which a gift certificate may be awarded as a bingo prize and clarifies that a gift certificate prize may not exceed forty dollars in value.

Statutory Authority for Adoption: RCW 9.46.070 (1), (8), (11), (14), (16), (20).

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: David Shaw, Lacey, (360) 438-7654, ext. 310; Implementation: Frank Miller, Lacey, (360) 438-7654, ext. 302; and Enforcement: Ben Bishop, Lacey, (360) 438-7654, ext. 370.

Name of Proponent: Bingo Task Force, Private.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2), therefore, a small business economic impact statement is not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Howard Johnson Hotel, 3105 Pine Street, Everett, WA 98201, on March 14, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Green by March 10, 1997, TDD (360) 438-7638, or (360) 438-7654, ext. 302.

Submit Written Comments to: David Shaw, P.O. Box 42400, Olympia, Wa 98504-2400, FAX (360) 438-8652, by March 10, 1997.

Date of Intended Adoption: March 14, 1997.

January 13, 1997

David D. Shaw

Rules and Policy Coordinator

AMENDATORY SECTION (Amending Order 288 [WSR 96-07-078], filed 3/19/96, effective 7/1/96)

WAC 230-20-115 Gift certificates—Requirements. Gift certificates may be sold or issued as prizes during bingo games and such shall not be deemed sales of bingo cards for purposes of this title if licensees comply with the following restrictions:

(1) If sold, gift certificates shall be paid for in full at the time they are issued;

(2) Gross receipts from the sale of certificates shall be deposited separately into the gambling account no later than five banking days after receipt. The certificate numbers relating to the funds deposited shall be a part of the deposit record;

(3) For gift certificates awarded as prizes, the value of the certificate is recorded as a bingo prize on the daily bingo records for the sessions in which the certificate was issued. The certificate will be supported by a bingo prize receipt;

(4) Gift certificates shall be purchased from a commercial printer or licensed distributor and shall be prenumbered, consecutively issued, and have a predetermined value with the following information imprinted:

(a) The name of the organization issuing the certificate;

(b) The date issued and an expiration date no later than three months from the date issued for awarded certificates; and one year for sold certificates;

(c) The dollar value of the certificate; and

(d) Any conditions or contingencies related to redemption of the certificate;

(5) ~~((If given as a prize, the value of the certificate shall be no more than forty dollars U.S. currency))~~ Gift certificates may only be awarded as prizes on up to four occasions per year, and no prize shall include more than forty dollars U.S. currency in gift certificates;

(6) Certificates shall only be redeemed for bingo cards, food, drink, merchandise, punchboards or pull tabs upon the licensed premises from which it was issued;

(7) Certificates redeemed shall be applied against bingo activity and daily bingo records shall be modified in the cash reconciliation section of the approved record format to document the number and dollar value of certificates redeemed;

(8) A reconciliation of gift certificate inventory to certificates issued shall be performed on a monthly basis and will include the following control features:

(a) Purchase invoices will be retained for gift certificates and they will include the organization name, date of purchase, and beginning and ending certificate numbers;

(b) Redeemed certificates will be maintained with the corresponding daily sales records;

(c) Certificates not redeemed within the expiration date shall be properly accounted for as a donation; and

(d) A certificate log will be maintained and will include the following:

(i) Certificate number;

(ii) Certificate value;

(iii) Date of issue;

(iv) Expiration date;

(v) Date of redemption; and

(vi) If awarded as a prize, the session and date the prize is awarded.

PROPOSED

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 97-03-093
PROPOSED RULES
GAMBLING COMMISSION
 [Filed January 17, 1997, 12:03 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-20-026.

Title of Rule: WAC 230-02-520 School-aged minors—Defined, 230-04-138 Commercial amusement games—Authorized locations, 230-08-060 Commercial amusement game records, 230-12-230 Agreement restricting freedom to buy and sell—Prohibited, 230-20-600 Amusement game—License to give notice to local police prior to conducting, 230-20-630 Amusement games—Fees, rules, prizes and variations in objects to be posted—Fees to be paid cash or scrip—Prizes not to differ from those posted, 230-20-685 Commercial amusement games—Wager and prize limitations, and 230-20-700 Coin or token activated amusement games—Standards.

Purpose: WAC 230-02-520, this rule establishes that children under the age of six years old do not qualify as "school aged minors."

WAC 230-04-138, this rule authorizes the location of commercial amusement games in department or grocery stores having at least ten thousand square feet of retail and support space, and offering for retail sale a minimum line of grocery or nongrocery items.

WAC 230-08-060, this rule changes the scope and nature of record keeping required in several areas. One change amends the previous requirement of records for each individual game to the new standard of records for each location games are located. A second change allows coin or token activated games meeting specific standards to modify their reporting requirements and frequency of reporting. A third change modifies the frequency with which merchandise prize information is reported. A fourth change modifies the frequency and scope of information required for amusement games that issue prize tickets.

WAC 230-12-230, this rule authorizes the use of three-year exclusivity agreements for the purchase of amusement games, and devices, materials, products, equipment, and services used in connection with an amusement game. In addition, these exclusivity agreements may provide for automatic renewal for an additional three-year period if notice of termination is not provided thirty days in advance.

WAC 230-20-600, this rule amends the requirement of local police notification to apply only when an amusement game is located at a new location.

WAC 230-20-630, this rule allows notification requirements to be met by preprinting such information on the amusement game machine, as long as the activity is coin or token activated and all activity takes place within four feet of the player. Additionally, only "limited location" licensees need to assign each amusement concession a number.

WAC 230-20-685, this rule increases the limit on cost of prizes offered from one hundred dollars to five hundred

dollars and increases the limit on maximum wager from fifty cents to one dollar.

WAC 230-20-700, this rule authorizes the use of electronic and electro-mechanical metering devices for measuring coin or token activated play. Operators are responsible for obtaining and maintaining accuracy specifications for these measurement devices and removing from play any game using such measurement device that becomes inoperable in any way. Additionally, this rule allows the use of bill acceptors on amusement games when either the game machine returns change, a change machine is located nearby and disclosed to the player, or change services are located nearby and disclosed to the player.

Statutory Authority for Adoption: RCW 9.46.0331, 9.46.070 (1), (3), (8), (9), (11), (13), (14), (20).

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: David Shaw, Lacey, (360) 438-7654, ext. 310; Implementation: Frank Miller, Lacey, (360) 438-7654, ext. 302; and Enforcement: Ben Bishop, Lacey, (360) 438-7654, ext. 370.

Name of Proponent: Washington Amusement Game and Music Operators Association, private.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal Changes the Following Existing Rules: See Title of Rule and Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal falls under the exemption set forth at RCW 19.85.025(2).

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Howard Johnson Hotel, 3105 Pine Street, Everett, WA 98201, on March 14, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Green by March 10, 1997, TDD (360) 438-7638, or (360) 438-7654, ext. 302.

Submit Written Comments to: David Shaw, P.O. Box 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by March 10, 1997.

Date of Intended Adoption: March 14, 1997.

January 13, 1997

David D. Shaw

Rules and Policy Coordinator

AMENDATORY SECTION (Amending Order 227, filed 9/18/91, effective 10/19/91)

WAC 230-02-520 School-aged minors defined. School-aged minors are defined as persons that are at least six years old and who have not reached an age of ~~((18))~~ eighteen years.

AMENDATORY SECTION (Amending Order 300, filed 7/23/96 [9/18/96], effective 10/19/96 [10/20/96])

WAC 230-04-138 Commercial amusement games—Authorized locations. (1) Amusement games may only be

conducted by commercial amusement game licensees when operated as a part of, and/or upon the site of:

(a) Any agricultural fair as authorized under chapter 15.76 or 36.37 RCW; or

(b) A civic center of a county, city or town; or

(c) A world's fair or similar exposition which is approved by the Bureau of International Expositions at Paris, France; or

(d) A community-wide civic festival held not more than once annually and sponsored or approved by the city, town, or county in which it is held; or

(e) A commercial exposition organized and sponsored by an organization or association representing the retail sales and service operators conducting business in a shopping center or other commercial area developed and operating for retail sales and service, but only upon a parking lot or similar area located in said shopping center or commercial area for a period of no more than seventeen consecutive days by any licensee during any calendar year; or

(f) An amusement park. An amusement park is a group of activities, at a permanent location, to which people go to be entertained through a combination of various mechanical or aquatic rides, theatrical productions, motion picture and/or slide show presentation with food and drink service. The amusement park must include at least five different mechanical or aquatic rides, three additional activities and the gross receipts must be primarily from these amusement activities; or

(g) Within a regional shopping center. A regional shopping center is a shopping center developed and operated for retail sales and service by retail sales and service operators and consisting of more than six hundred thousand gross square feet not including parking areas. Amusement games conducted as a part of, and upon the site of, a regional shopping center shall not be subject to the prohibition on leases of premises based on a percentage of gambling receipts set forth in RCW 9.46.120; or

(h) Any location that possesses a valid license from the Washington state liquor control board and prohibits minors on their premises; or

(i) Movie theaters, bowling alleys, miniature golf course facilities, skating facilities, and amusement centers. For the purposes of this section an amusement center shall be defined as a permanent location whose primary source of income is from the operation of ten or more amusement devices; or

(j) Any business whose primary activity is to provide food service for on premises consumption; or

(k) Within a department or grocery store (~~(-A grocery store is any retail store selling a)~~) whose primary business is the retail sale of a full line of clothing, accessories, and household goods, or a full line of dry grocery, canned goods, or nonfood items plus some perishable items, or a combination of both, and consisting of more than ((twelve)) ten thousand gross square feet of retail and support space not including the parking areas; or

(l) Any premise controlled and operated by a bona fide charitable/nonprofit organization that it currently licensed to operate punchboards and pull tabs and/or bingo if the rent or other consideration paid to the charitable/nonprofit organization is equal to or greater than twenty-two percent of the gross gambling receipts of the activity.

(2) No amusement games may be conducted in any location except in conformance with local zoning, fire, health, and similar regulations.

(3) No amusement games may be conducted in any location(s) without first having obtained written permission to do so from the person or organization owning the premises or property where the activity will be operated. If the games are conducted as a part of or in conjunction with any of the activities set out in subsection (1)(a), (b), (c), (d), or (e) of this section, written permission must be obtained from the person or organization sponsoring the activity.

(4) All rental agreements relating to use of a premises or site to conduct amusement games must be submitted to the commission as a part of the application.

(5) Any operator licensed to conduct Class B or above amusement games may enter into a contract with the business owner of any of the locations set out in subsection (1)(f), (g), (h), (i), (j), (k), or with charitable/nonprofit organizations set out in subsection (l) of this section to locate and operate amusement games upon their premises if they are licensed to conduct amusement games. All such contracts must be written and specific in terms, setting out the time of the contract, amount of rent or consideration, rent due dates, and all expenses to be borne by each party.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending Order 244, filed 9/15/93, effective 10/16/93)

WAC 230-08-060 Commercial amusement game records. Licensees for the operation of commercial amusement games shall be required to prepare a detailed record for each (~~(game or concession)~~) location games are operated. These records shall be maintained for a period of not less than three years. These records shall (~~(be recorded using a prescribed format provided by the commission and)~~) include details necessary to determine the gross gambling receipts received from players, the value of prizes awarded, and the fact that prizes were awarded to winners. Records shall include the following:

(1) The gross gambling receipts collected from (~~(each separate)~~) amusement games at each location or concession, supported by proper receipting records. ((The minimum r)) Records shall contain an entry for each withdrawal of receipts from ((a)) the games((-For)); Provided, That coin or token activated amusement games ((with coin in meters)) that meet standards set forth in WAC 230-20-700 shall only require an entry of the ending meter reading, the number of plays, and gross gambling receipts at the end of each month: Provided further, That a summary of the operation of the activity, which includes at least coin-in meter readings and gross gambling receipts, shall be provided to charitable/nonprofit organizations each time a game is serviced and/or moneys received. ((-the minimum entry will be the coin-in meter reading at the time of each withdrawal of receipts of a game: Provided, That a summary of the operation of the activity, which includes at least coin in meter readings and gross gambling receipts, shall be provided to charitable/nonprofit organizations each time a game is serviced and/or moneys received));

(2) The number and actual cost of merchandise prizes awarded for each location reported at a minimum on a monthly basis. ((The minimum records shall contain an entry of the number and actual cost of prizes each time prizes are added to the inventory of a game or concession and when disbursements are made for prizes));

(3) For amusement games that issue tickets for the redemption of prizes the minimum entry shall be a log of the beginning/ending non-resettable ticket out meters or ticket numbers at each collection of funds from each game ((ticket numbers at the end of the month for each game)); and

(4) Full details on all expenses ((including:

(a) ~~All cash disbursements;~~

(b) ~~The number and actual cost of all prizes purchased;~~

(c) ~~All other expenses directly related to the conduct of amusement games; and~~

(d) All disbursements of receipts to locations authorized by WAC 230-04-138)) directly related to the conduct of licensed amusement games for each licensee.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 15, filed 4/17/74)

WAC 230-12-230 Agreements restricting freedom to buy and sell—Prohibited. (1) Except as provided in subsections (3) ad (4), n((N))o person shall enter into any agreement, expressly or implied, with any other person which requires any person to purchase exclusively from, or sell exclusively to, any other person, or which prohibits any person from purchasing from or selling to any other person, any devices, materials, products, equipment or services which are used or offered in any way in connection with a gambling activity.

(2) No person shall enter into any agreement, express or implied, wherein any person is prohibited from, or required to, make purchases or sales only within a particular geographic area: *Provided*, That such agreements may be entered into between a licensee and its licensed representative.

(3) For amusement games, a person may enter into an agreement with another person for a period up to three years requiring such person to purchase exclusively from or sell exclusively to such other person, amusement games. The agreement may provide that it shall be automatically renewed for another three year period, or successive three year periods, if neither party gives termination notice of the agreement at least thirty days prior to its termination date.

(4) As related exclusively to amusement games, a person may enter into an agreement with another person for a period up to three years requiring such person t purchase exclusively from or sell exclusively to such other person, devices, materials, products, equipment, or services which are used in connection with a particular amusement game. The agreement shall provide that it shall be automatically

renewed for another three year period, or successive three year periods, if neither party gives termination notice of the agreement at least thirty days prior to its termination date. [Order 15, ' 230-12-230, filed 4/17/74.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 55, filed 6/25/76)

WAC 230-20-600 Amusement games—Licensee to give notice to local police jurisdiction prior to conducting—Inspection of equipment by police. No person licensed to conduct amusement games shall conduct any such games at any location within the state of Washington without having first given notice to the local police agency of the jurisdiction within which the amusement games are to be conducted. Such notice shall be in writing, addressed to the head of the local police agency, and shall be delivered no less than ten days in advance of the date upon which the amusement games are to be conducted: *Provided*, That this time may be reduced by the chief officer of the local law enforcement agency for good cause shown.

Such notice shall include the following information:

(1) The name and address of the licensee, and the name and local address of the person exercising managerial authority over the conduct of the games at that location;

(2) The date or dates the amusement games will be conducted;

(3) The location at which the amusement games will be conducted.

The licensee shall not utilize any equipment in the conduct of the amusement games unless the equipment has been available for inspection by the local police agency for a period of two hours immediately preceding such utilization.

(4) The requirements in this section shall not apply to locating individual commercial amusement games at an existing location.

AMENDATORY SECTION (Amending WSR 95-12-051, filed 6/2/95, effective 7/3/95)

WAC 230-20-630 Amusement games—Fees, rules, prizes and variations in objects to be posted—Fees to be paid in cash or scrip—Prizes not to differ from those posted. Amusement game operators shall fully inform players regarding all aspects of the activity, including at least the following:

(1) No person shall conduct any amusement game at any location within the state of Washington unless ((there is posted in a conspicuous place, readily visible to persons playing the game, a sign(s))) players are notified of the cost to play, rules of play, and prizes available. Notification shall

be by posting of a sign that is readily visible, unobstructed form view, made of permanent material, such as wood, poster board, metal or plastic ((with)), and all required information is imprinted by use of lettering at least one and one-half inches in height ((that contains the following information)): Provided, That if the activity is a coin or token activated game and all aspects of the activity are within four feet of the player, the sign and information required by this subsection may either be preprinted on the machine by the manufacturer or by a sign attached to the machine. The lettering for such signs may be smaller than one and one-half inches in height as long as the sign is conspicuous and legible to players. The following information shall be imprinted on signs required by this section:

(a) Fees charged for playing;
 (b) The rules by which the game is to be played;
 (c) Prizes or numbers of tickets to be won;
 (d) Any variation in the size or weight of objects utilized in the game which is not readily visible to the player;

(e) The name of the operator and an assigned concession number, if applicable; and

(f) The group number of the game being conducted.

(2) ~~((Licensed amusement game operators))~~ All licensees operating amusement games under a "limited location" license shall assign each concession a number and a list of all concessions and their assigned numbers shall be kept available in the concession office.

(3) No amusement games shall be conducted wherein the price charged for playing said game is paid other than in cash, or in an amount other than that posted upon the premises of said game. The term "cash" as used herein shall include checks. In addition, the operator may accept as consideration, tokens, scrip or tickets, but only under the following conditions:

(a) The value of each token, ticket or item of scrip, as measured by the equivalent amount of cash which a player would have to present in lieu of said token, ticket or scrip, must be indicated on the face thereof;

(b) Said tokens, tickets or scrip are not redeemable for cash;

(c) Said tickets or scrip shall bear the name of the operator or sponsor.

(4) No amusement games shall be conducted within the state of Washington wherein the prize to be given to a prospective winner is other than that posted upon the premises of said game: *Provided, however,* That after an individual player has won two or more prizes, an operator may offer said player the opportunity to exchange said prizes for one or more other prizes, but only if the prize to be received by the player in exchange was on display during the play of the game. Any prize system which requires forfeiture of previously won prize(s) in exchange for another play is prohibited. Operators of amusement games may utilize a scheme for distribution of prizes wherein the winners of individual prizes receive tickets, which are subsequently redeemable in combination with other tickets won for a merchandise prize.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 93-12-082, filed 5/28/93, effective 7/1/93)

WAC 230-20-685 Commercial amusement games—Wager and prize limitations. For locations authorized under WAC 230-04-138 (1)(g), (i), (j), or (k) where school-aged minors are allowed to play, the following limitations shall apply.

(1) Prize limitations. No prize offered shall exceed a cost to the operator of ~~((one))~~ five hundred dollars.

(2) Consideration. The maximum wager for play shall not exceed ~~((fifty cents))~~ one dollar.

AMENDATORY SECTION (Amending Order 260, filed 11/17/94, effective 1/5/95 [1/1/95])

WAC 230-20-700 Coin or token activated amusement games—Standards. All coin or token activated amusement games must meet the standards set forth below:

(1) ~~((All coin or token activated a))~~ Amusement games operated at locations authorized under WAC 230-04-138 (1)(f), (g), (i), (j), (k), or (l) must have ~~((nonresettable coin-in meters, the removal or disconnection of which stops the play of the machine. The meter))~~ a mechanical, electro-mechanical, or electronic means of measuring and recording the number of times the game was activated for play. The manufacturer's specifications for the applicable measurement device must certify that such device is ((must be certified as)) accurate to within plus or minus ((1 coin or token)) one play in ((1,000)) one thousand plays. The operator is responsible for both obtaining such specifications and maintaining this information on file and available for agency review. If such measuring device or meter becomes inoperable by any means, the operator must remove the game from play until repairs are made.

(2) All coin or token activated amusement games must ~~((have a coin acceptor capable of taking money for one play and))~~ provide players the ability to purchase a single play. Such games may have ((an additional)) a bill acceptor to ((include)) allow paper money to be utilized if: ((All games utilizing paper money acceptors shall either return change or clearly disclose to the customer that change is not returned by the device and where on the premises this change may be obtained prior to play. Operators using amusement games that do not return change must have a change-making bill acceptor or the ability to obtain change, in))

(a) The machine returns change to the player; or

(b) A change machine that accepts paper money is located in the immediate vicinity of such games and the location of such is clearly disclosed to the player; or

(c) The operator provides change services in the immediate vicinity and discloses such to the player.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 97-03-096
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed January 17, 1997, 1:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-08-029.

Title of Rule: Chapter 308-58 WAC, Reporting destroyed vehicles.

Purpose: To incorporate the effects of SSB 6271, chapter 26, Laws of 1996 into the procedures for reporting destroyed vehicles.

Other Identifying Information: Chapter 26, Laws of 1996 (SSB 6271).

Statutory Authority for Adoption: RCW 46.01.110 and 46.12.075.

Statute Being Implemented: RCW 46.12.005, 46.12.050, and 46.12.075.

Summary: SSB 6271 created a new class of vehicle referred to as a "salvage vehicle." The proposed rule making will incorporate this new class of vehicle into the procedures for reporting and branding the ownership documents of vehicles reported as destroyed.

Reasons Supporting Proposal: The proposed rule making is in support of legislation enacted by the 1996 session of the legislature.

Name of Agency Personnel Responsible for Drafting: Marlene Epp, 1125 Washington Street S.E., Olympia, WA, (360) 902-3823; Implementation: Debra McCurley, 1125 Washington Street S.E., Olympia, WA, (360) 902-4045; and Enforcement: Nancy Kelly, 1125 Washington Street S.E., Olympia, WA, (360) 902-3754.

Name of Proponent: Department of Licensing, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-58-050, instructions for application of certificate of ownership for a vehicle reported destroyed and not rebuilt.

Proposal Changes the Following Existing Rules: WAC 308-58-010, add condition for determining when a vehicle is destroyed; and WAC 308-58-030, amending conditions for perfecting the sale of a vehicle after it has been reported as destroyed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030. The proposed rule making does not impose more than a minor cost on businesses in an industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The contents of the proposed rules are explicitly and specifically dictated by statute.

Hearing Location: Highways-Licenses Building, Conference Room 303, 1125 Washington Street S.E., Olympia, WA, on February 25, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Jack Lince by February 21, 1997, TDD (360) 664-8885.

Submit Written Comments to: Jack L. Lince, Contracts Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, FAX (360) 664-0831, by February 21, 1997.

Date of Intended Adoption: February 28, 1997.

January 17, 1997

Nancy Kelly, Administrator
 Title and Registration Services

AMENDATORY SECTION (Amending WSR 91-04-025, filed 1/29/91, effective 3/1/91)

WAC 308-58-010 Definitions. (1) For the purpose of RCW 46.12.070, destruction of a vehicle or total loss, less salvage value, shall mean the vehicle is:

(a) Dismantled with the intention of never again operating it as a vehicle; or

(b) Damaged to the extent that the cost of repair exceeds its market value immediately prior to the damage; or

(c) Damaged to the extent that the cost of repairing it plus its salvage value in its damaged condition exceeds or approximately equals the market value in its repaired or restored condition; or

(d) Damaged to the extent that the owner, an insurer, or other person acting on behalf of the owner, has determined that the cost of parts and labor plus the salvage value has made it uneconomical to repair. "Uneconomical to repair" means the cost of repairing the vehicle is greater than the economic value placed on the repaired vehicle by the owner.

(2) For the purpose of RCW 46.12.070, the settlement of an insurance claim as a total loss, less salvage value shall mean the date on which an insurance company actually makes payment to the claimant for the damage.

AMENDATORY SECTION (Amending Order TL/RG 44, filed 9/30/88)

WAC 308-58-030 Sale of salvage. (1) After ~~((the title has been sent to the department of licensing as a part of the report of destruction, and the owner decides to sell the damaged vehicle, it))~~ a vehicle has been reported destroyed pursuant to RCW 46.12.070, the vehicle may be sold by the insurer using a bill of sale instead of ((the title)) a release of interest on a certificate of ownership. The bill of sale must ~~((include the statement that the vehicle's title has been sent to Olympia as a part of the report of destruction. In the case of a registered owner, his signature on the bill of sale must be notarized to convey his interest in the vehicle to a purchaser unless the purchaser is a licensed auto wrecker or dealer in which case a bill of sale need not be notarized. In the case of an insurer, the bill of sale must))~~ be signed by ((someone authorized by the insurance company to sign on its behalf. The title of the person signing for the insurance company must be shown on the bill of sale)) a representative of the insurer and provide their appellative title. The representative's signature need not be notarized.

~~((An auto))~~ (2) After a vehicle has been reported destroyed pursuant to RCW 46.12.070 and the vehicle is retained by the registered owner, the vehicle may be sold in its present condition using a bill of sale. The bill of sale must be signed by the owner.

(3) A motor vehicle wrecker licensed ((under)) pursuant to chapter 46.80 RCW may utilize a bill of sale issued in accordance with ((the preceding paragraph)) subsections (1) and (2) of this section in lieu of a ((title)) certificate of ownership to comply with RCW 46.80.090.

AMENDATORY SECTION (Amending WSR 92-15-022, filed 7/6/92, effective 8/6/92)

WAC 308-58-040 (~~(Destroyed)~~) **Salvage vehicles rebuilt.** (~~(Certificates of ownership and registration reissued for a)~~) (1) Rebuilt salvage vehicles (reported destroyed that is less than four years old will contain the word "rebuilt" in an appropriate location on the) defined in RCW 46.12.005 whose title has been turned in to the department pursuant to RCW 46.12.070, shall be issued certificates of ownership and ((the certificate of)) registration pursuant to RCW 46.12.075. Certificates of ownership and registration shall prominently display a REBUILT inscription on the face of the document. ((This description)) The inscription will continue to appear on every subsequent certificates of ownership and registration issued ((by the department)) for this vehicle.

(2) The application for certificate of ownership of ((the)) a rebuilt salvage vehicle will be accompanied by a release of interest or a bill of sale transferring ownership to the applicant and a Washington state patrol inspection ((if the vehicle is to be operated in Washington)), as provided in WAC 308-56A-460.

NEW SECTION

WAC 308-58-050 Destroyed vehicle retitled. The application for certificate of ownership to a vehicle reported destroyed, pursuant to RCW 46.12.070 and not rebuilt, must be accompanied by the following:

(1) A release of interest on the certificate of ownership, a notarized release of interest or notarized bill of sale from the owner of record, or a bill of sale from a licensed vehicle wrecker or insurer; and

(2) A Washington state patrol inspection as provided in WAC 308-56A-460.

**WSR 97-03-112
PROPOSED RULES
NORTHWEST AIR
POLLUTION AUTHORITY**

[Filed January 21, 1997, 9:45 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Northwest Air Pollution Authority (NWAPA).

Purpose: To amend, add and delete subsections of the NWAPA regulation to provide more clarity for users, to make the regulation more consistent with state and federal rules and to promote more effective air pollution control.

Statutory Authority for Adoption: Chapter 70.94 RCW.
Statute Being Implemented: RCW 70.94.141.

Summary: Subsections:

104.2 Referenced recently adopted federal rules in 40 CFR 60, 61, and 63.

114 Revised wording in confidential information subsection to be consistent with chapter 70.94 RCW.

131.21 Insert the word "business" after the word "ten" to allow ten business days for a response to a violation.

131.4 Change from two to five years after which any suspended portion of a penalty becomes null and void.

132.6 Add words "per day per violation" for consistency with federal law and other parts of subsection 132. This is necessary to receive full delegation from EPA of the Title 5 Air Operating Permit Program.

200 Add a definition for solid waste consistent with chapter 173-434 WAC, revise definition of Best Available Control Technology (BACT) to identify BACT as a technology not an emission limit, redefine standard conditions to be consistent with traditional air pollution engineering assumptions (20 degrees C. and 760 mm mercury), change correction factor in definition of standard cubic foot of gas to 68 degrees F from 60 degrees F.

321.3 Improve language referring to sources that lose their registration status if they cease operation for more than one year in the Northwest Air Pollution Authority jurisdiction.

342.3 Add the words "if requested by the Control Officer" after "submit a report."

360 Include air operating permit sources.

365 Include air operating permit sources.

462.1 and 2 Add word averaged before "for a sixty consecutive minute period" to make rule consistent with state requirement.

530.1 Revised wording of nuisance section for clarity.

535.3 Revised wording of nuisance odor subsection for clarity.

580.6 Modify subsection on gasoline stations to be consistent with chapter 173-491 WAC.

580.8 Revise subsection to be consistent with federal rules on leak detection and repair at petroleum refineries.

580.11 Add CARB (California Air Resources Board) as a resource for reference testing methods.

580.12 Remove all compliance dates for Section 580 because they are after the fact or Stage II requirements have changed.

Reasons Supporting Proposal: To clarify nuisance rules to be more consistent with state rules on confidential information and Stage II Vapor Controls.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James Randles, 302 Pine Street, # 207, Mount Vernon, WA 98273-3852, (360) 428-1617.

Name of Proponent: Northwest Air Pollution Authority, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above.

Proposal Changes the Following Existing Rules: See Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required of this organization.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Skagit Administration Building, Second Street and Kincaid Street, Hearing Room "C", Mount Vernon, Washington 98273, on March 13, 1997, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Susan Duffy by February 28, 1997, (360) 428-1617, ext. 200.

Submit Written Comments to: Northwest Air Pollution Authority, FAX (360) 428-1620, by March 12, 1997.

Date of Intended Adoption: March 13, 1997.
 January 17, 1997
 James B. Randles
 Assistant Control Officer

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 97-04 issue of the Register.

WSR 97-03-113
PROPOSED RULES
POLLUTION LIABILITY
INSURANCE AGENCY
 [Filed January 21, 1997, 11:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-23-060.

Title of Rule: Amendments to sections of chapter 374-70 WAC, Heating oil pollution liability insurance program.

Purpose: These amendments are needed to ensure fairness in the distribution of services and the solvency of the heating oil pollution liability insurance program.

Other Identifying Information: To protect the trust fund from future pollution liability insurance claims based on suspected heating oil releases from active heating oil tanks.

Statutory Authority for Adoption: Chapter 70.149 RCW.

Statute Being Implemented: Chapter 70.149 RCW.

Summary: This rule is being adopted to amend existing language in chapter 374-70 WAC. RCW 70.149.070 directs disbursement from the trust fund established by RCW 70.149.080. The Pollution Liability Insurance Agency is amending sections of chapter 374-70 WAC to protect the trust fund from future pollution liability insurance claims based on suspected heating oil releases from active heating oil tanks. This rule change will ensure that the purpose of the program is satisfied, but that program funds will not be expended to discover whether or not contamination actually exists. The burden of proof that a release has occurred is the responsibility of the tank owner/operator. Excavation of an underground heating oil tank is the responsibility of the tank owner/operator. These amendments will ensure fairness in the distribution of services and solvency of the heating oil pollution liability insurance program.

The heating oil pollution liability insurance program was established to address a solution to the threat posed to human health and the environment by accidental releases of heating oil from active heating oil tanks. The Pollution Liability Insurance Agency believes it is in the best interest of the citizens of Washington state that in order to protect the trust fund established by chapter 70.149 RCW, it is imperative that the burden of proof that a release from an active heating oil tank has occurred is the responsibility of owners/operators of active heating oil tanks. These amendments will ensure fairness in the distribution of services and solvency of the heating oil pollution liability insurance program.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James Sims, Olympia, Washington 98504, (360) 586-5997.

Name of Proponent: Pollution Liability Insurance Agency, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above.

Proposal Changes the Following Existing Rules: WAC 374-70-020: Subsection (7)(b) and (11) amends definition of "corrective action" to reflect that tank removal is no longer paid for under the heating oil pollution liability insurance program; and subsection (12) adds definition of "insurer."

WAC 374-70-030: Subsection (4) adds clarification that the Pollution Liability Insurance Agency acts as the designated representative of the insurer.

WAC 374-70-060: Subsection (1) adds additional clarification that corrective action for accidental releases occurring prior to the effective date of coverage will not be covered under the heating oil pollution liability insurance program; subsections (3)(g) and (4)(e) amends sections to reflect that tank removal is no longer paid for under the heating oil pollution liability insurance program; and subsection (6) adds clarification that a claim is accepted only after an investigation has confirmed the existence of an accidental release which is eligible for coverage under the heating oil pollution liability insurance program.

WAC 374-70-070: Subsection (1) amends section to further clarify and expand the responsibilities of the heating oil tank owner or operator; subsection (4) amends the responsibilities and involvement of the Pollution Liability Insurance Agency; subsection (5) amends the involvement of the third-party administrator; and subsection (7) amends section to reflect that tank removal is no longer paid for under the heating oil pollution liability insurance program and to clarify the responsibilities of the heating oil tank service provider.

WAC 374-70-080: Amends section to further clarify that coverage under the heating oil pollution liability insurance program is in excess of other valid insurance and warranties and that the most cost effective method of corrective action must be utilized; subsection (3) changes time for notification to the Pollution Liability Insurance Agency of accidental release from within seven to within ten days of discovery of the accidental release; subsection (4) amends section to indicate that the list of heating oil tank service providers, supplied by the Pollution Liability Insurance Agency, are insurer approved rather than prequalified; subsection (6) amends section to place the responsibility of determining the source and extent of a suspected accidental release on the heating oil tank owner. The heating oil tank owner must also contact the homeowners' insurance company to determine if coverage is provided; subsection (7) amends to clarify that if claim is valid, corrective action shall be performed by an insurer approved heating oil tank service provider; subsections (8) and (9) removes "prequalified"; subsection (10) removes "incompliance with MTCA independent remedial action"; subsection (12) amends to reduce the information that the heating oil tank service provider must provide on the project field report; and

January 21, 1997
James M. Sims
Director

subsection (13) amends to reduce the information that the heating oil tank service provider must provide upon completion of corrective action.

WAC 374-70-090: Amends section to further clarify that coverage under the heating oil pollution liability insurance program is in excess of other valid insurance and warranties and that the most cost effective method of corrective action must be utilized; subsection (3) changes time for notification to the Pollution Liability Insurance Agency, by a third-party claimant, from within ten days to within fifteen days; subsection (5) amends and clarifies procedures to be followed for a third-party claim; subsection (6) amends section to clarify that if third-party claim is valid, third-party claimant will be instructed to contact a heating oil tank service provider, approved by the insurer, to perform corrective action; subsections (7) and (8) removes "prequalified"; subsection (9) removes "incompliance with MTCA independent remedial action"; subsection (10) clarifies that work is performed by the heating oil tank service provider on behalf of the third-party claimant and the insured; subsection (11) amends to reduce the information that the heating oil tank service provider must provide on the project field report; and (13) amends to reduce the information that the heating oil tank service provider must provide upon completion of corrective action.

WAC 374-70-100: Subsection (1) amends section to clarify that heating oil tank service providers are insurer approved rather than prequalified. Amends the responsibilities of the heating oil tank service provider to reflect that tank removal is no longer paid for under the heating oil pollution liability insurance program; subsection (2) removes the requirements for a heating oil tank service provider to be prequalified. Clarifies that the heating oil tank service provider works with the insurer and the Pollution Liability Insurance Agency, as the insurer's designated representative; subsection (3) removes "prequalified"; and subsection (4) adds "Whenever possible."

WAC 374-70-120: Subsection (1)(f)(g) removed to reflect that heating oil tank service providers are insurer approved rather than prequalified.

WAC 374-70-130: Subsection (1) amends to clarify that information obtained during heating oil tank registration can not be subject to public disclosure under chapter 42.17 RCW.

WAC 374-70-110, entire section repealed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The amendments proposed do not involve any impact on small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Pollution Liability Insurance Agency is not one of the major agencies addressed in section 20, chapter 403, Laws of 1995.

Hearing Location: Pollution Liability Insurance Agency, 1015 10th Avenue S.E., Olympia, WA 98501, on February 25, 1997, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Washington Relay Number, TDD (800) 833-6388.

Submit Written Comments to: Pollution Liability Insurance Agency, P.O. Box 40930, Olympia, WA 98504, FAX (360) 586-7187.

Date of Intended Adoption: March 3, 1997.

AMENDATORY SECTION (Amending WSR 96-01-101, filed 12/19/95, effective 1/19/96)

WAC 374-70-020 Definitions. Unless the context requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Abandoned heating oil tank" means a heating oil tank system that has been abandoned or decommissioned and is no longer active and in use.

(2) "Accidental release" means a sudden or nonsudden release of heating oil from an active heating oil tank that results in bodily injury, property damage, or a need for corrective action, neither expected nor intended by the owner or operator.

(3) "Active" heating oil tank means a heating oil tank that:

(a) Is in use at the time of registration for the heating oil pollution liability insurance program;

(b) Has been in continuous use for a period of eighteen months prior to registration; and

(c) Has been continuously in use between registration and submission of a notice of claim.

(4) "Agency" means the Washington state pollution liability insurance agency established pursuant to chapter 70.148 RCW. For purposes of chapter 70.149 RCW, agency shall also mean staff or employees of the pollution liability insurance agency.

(5) "Bodily injury" means bodily injury, sickness, or disease sustained by a person, including death at any time, resulting from the injury, sickness, or disease.

(6) "Claim" means a demand made by a named insured, or the insured's representative, for payment of the benefits provided under the heating oil pollution liability insurance program.

(7)(a) "Corrective action" means those actions reasonably required to be undertaken by the insured to remove, treat, neutralize, contain, or clean up an accidental release in order to comply with a statute, ordinance, rule, regulation, directive, order, or similar legal requirement, in effect at the time of an accidental release, of the United States, the state of Washington, or a political subdivision of the United States or the state of Washington. "Corrective action" includes, where agreed to in writing, in advance by the insurer, action to remove, treat, neutralize, contain, or clean up an accidental release to avert, reduce, or eliminate the liability of the insured for corrective action, bodily injury, or property damage. "Corrective action" also includes actions reasonably necessary to monitor, assess, and evaluate an accidental release.

(b) "Corrective action" does not include:

(i) Removal, replacement or repair of heating oil tanks or other receptacles; ((~~or~~))

(ii) Replacement or repair of piping, connections, and valves of tanks or other receptacles; or

(iii) Costs directly associated with tank removal.

(8) "Director" means the director of the Washington state pollution liability insurance agency or the director's appointed representative.

(9) "Heating oil" means any petroleum product used for space heating in oil-fired furnaces, heaters, and boilers, including stove oil, diesel fuel, or kerosene. "Heating oil" does not include petroleum products used as fuels in motor vehicles, marine vessels, trains, buses, aircraft, or any off-highway equipment not used for space heating, or for industrial processing or the generation of electrical energy.

(10) "Heating oil tank" means an active tank and its connecting pipes, whether above or below ground, or in a basement, with pipes connected to the tank for space heating of human living or working space on the premises where the tank is located. "Heating oil tank" does not include a decommissioned or abandoned heating oil tank, or a tank used solely for industrial process heating purposes or generation of electrical energy.

(11) "Heating oil tank service provider" is an independent contractor responsible for ~~((all aspects of))~~ corrective action including ~~((excavation, tank/line removal,))~~ sampling and testing, remedial actions, site restoration, and submittal of required reports to PLIA.

(12) "Insurer" means the commercial insurance company providing pollution liability insurance to registered owners of heating oil tanks under the heating oil pollution liability insurance program. PLIA is the reinsurer of the commercial insurance company and acts as the designated representative of the insurer for the heating oil pollution liability insurance program.

(13) "MTCA" means the Model Toxics Control Act (chapter 70.105D RCW).

~~((13))~~ (14) "Named insured" means the individual insureds who are heating oil tank owners registered for coverage under the heating oil pollution liability insurance program.

~~((14))~~ (15) "Occurrence" means an accident, including continuous or repeated exposure to conditions, that results in an accidental release from an active heating oil tank.

~~((15))~~ (16) "Owner" means the person, or his or her authorized representative, legally responsible for a heating oil tank, its contents, and the premises upon which the heating oil tank is located.

~~((16))~~ (17) "Owner or operator" means a person in control of, or having responsibility for, the daily operation of a heating oil tank.

~~((17))~~ (18) "Per occurrence, per site, per year" means one accidental release per site, per year.

~~((18))~~ (19) "Pollution liability insurance agency" (PLIA) means the Washington state pollution liability insurance agency established pursuant to chapter 70.148 RCW. For purposes of chapter 70.149 RCW, pollution liability insurance agency shall also mean staff or employees of the pollution liability insurance agency.

~~((19))~~ (20) "Pollution liability insurance agency trust account" means the pollution liability insurance agency trust account established under chapter 70.148 RCW and established in the custody of the state treasurer. Expenditures from the account are used for the purposes of chapter 70.148 RCW including the payment of costs of administering the pollution liability insurance program, and payment of reinsurance claims.

~~((20))~~ (21) "Property damage" means:

(a) Physical injury to, destruction of, or contamination of tangible property, including the loss of use of the property resulting from the injury, destruction, or contamination; or

(b) Loss of use of tangible property that has not been physically injured, destroyed, or contaminated but has been evacuated, withdrawn from use, or rendered inaccessible because of an accidental release.

~~((21))~~ (22) "Property damage restoration" means the restoration of property to a similar condition to that of the property prior to the accidental release. Restoration includes the replacement of sod, plants or concrete driveway or walkway, or the cleaning or replacement of carpet in the case of a basement tank.

~~((22))~~ (23) "Release" means a spill, leak, emission, escape, or leaching into the environment.

~~((23))~~ (24) "Third-party claimant" means a person alleged to have suffered property damage requiring corrective action or bodily injury as a direct result of a leak or spill from the heating oil tank of a named insured.

~~((24))~~ (25) "Third-party liability" means the liability of a heating oil tank owner to another person due to property damage requiring corrective action or bodily injury that results from a leak or spill from an active heating oil tank.

AMENDATORY SECTION (Amending WSR 96-01-101, filed 12/19/95, effective 1/19/96)

WAC 374-70-030 Responsibility. (1) The director of the pollution liability insurance agency is directed by chapter 70.149 RCW to establish the heating oil pollution liability insurance program to assist owners and operators of active heating oil tanks. The agency implements and administers the pollution liability insurance program established by chapter 70.148 RCW and the heating oil pollution liability insurance program established by chapter 70.149 RCW.

(2) The location of the principal office and the mailing address of the agency is:

Pollution Liability Insurance Agency
State of Washington
1015 10th Avenue, S.E.
P.O. Box 40930
Olympia, WA 98504-0930

(3) The principal administrative and appointing officer of the agency is the director. The director may designate other employees of the agency to act in his or her behalf in the director's absence or with respect to those matters in which so doing would enhance the efficiency of the agency's operations.

(4) In administering the heating oil pollution liability insurance program, PLIA acts as the designated representative of the insurer providing pollution liability insurance to registered owners of heating oil tanks.

AMENDATORY SECTION (Amending WSR 96-01-101, filed 12/19/95, effective 1/19/96)

WAC 374-70-060 Coverage. (1) The effective date of coverage under the heating oil pollution liability insurance program is January 1, 1996. Thereafter, individual heating oil tank coverage shall become effective upon receipt, by PLIA, of the completed registration form. Corrective action

for an accidental release occurring prior to the effective date of coverage will not be covered under the program.

(2) The heating oil pollution liability insurance program provides coverage for corrective action costs up to sixty thousand dollars per occurrence, per site, per year, exclusive of other valid insurance or warranties.

(3) **Corrective action costs covered under the heating oil pollution liability insurance program include:**

(a) Corrective action if the accidental release occurs after the registration of an active heating oil tank;

(b) Actions necessary to determine the extent and severity of an accidental release;

(c) Costs, not to exceed sixty thousand dollars per occurrence, per site, per year;

(d) Costs in excess of other valid insurance or warranties;

(e) First-party property damage restoration, including landscaping, limited to one thousand five hundred dollars per occurrence, per site, per year;

(f) Third-party property damage restoration, including landscaping, limited to one thousand five hundred dollars for each third-party claimant per occurrence, per site, per year;

(g) Excavation, treatment and/or removal and proper disposal of any soil or water contaminated by the accidental release and ~~((removal and))~~ proper disposal of nonrepairable heating oil tank or tanks; and

(h) Required soil and water sampling and testing to determine if corrective action standards have been met.

(4) **Corrective action costs not covered under the heating oil pollution liability insurance program include:**

(a) Corrective action if the accidental release occurred prior to the registration of an active heating oil tank;

(b) Costs covered by other valid insurance or warranties;

(c) Costs in excess of sixty thousand dollars per occurrence, per site, per year, exclusive of other valid insurance or warranties;

(d) Cleanup of contamination from other sources;

(e) Removal, repair or replacement of the heating oil tank, lines, or furnace;

(f) Emergency heat restoration procedures;

(g) Cleanup of a site beyond the MTCA cleanup levels;

(h) Corrective action associated with an abandoned or decommissioned heating oil tank or site;

(i) First-party property damage restoration, including landscaping, in excess of one thousand five hundred dollars per occurrence, per site, per year;

(j) Third-party property damage restoration, including landscaping, in excess of one thousand five hundred dollars for each third-party claimant per occurrence, per site, per year; and

(k) Defense costs, including the costs of legal representation, expert fees, and related costs and expenses incurred in defending against claims or actions brought by or on behalf of:

(i) The United States, the state of Washington, or a political subdivision of the United States or state of Washington to require corrective action or to recover costs of corrective action; or

(ii) A third party for bodily injury or property damage caused by an accidental release.

(5) If a claim exceeds sixty thousand dollars in total damages, coverage within the sixty thousand dollar policy

limit shall be on a pro rata basis between the insured heating oil tank owner and third-party claimant(s).

(6) A claim will be accepted for coverage only after an investigation has confirmed the existence of an accidental release which is eligible for coverage under these rules.

AMENDATORY SECTION (Amending WSR 96-01-101, filed 12/19/95, effective 1/19/96)

WAC 374-70-070 Parties involved with an accidental release and corrective action. Among the potential parties involved when an accidental release is suspected from a heating oil tank or line are the heating oil tank owner or operator, adjacent property owners, heating oil supplier, PLIA, third-party administrator, department of ecology, and heating oil tank service providers.

(1) Heating oil tank owner or operator. All liabilities caused by an accidental release originating from a heating oil tank are the sole responsibility of the heating oil tank owner. The pollution liability insurance agency and/or the state of Washington accepts no liability, nor portion of the liability, from the heating oil tank owner. The heating oil tank operator may submit forms to PLIA on behalf of the owner, however, no corrective action may be performed without the specific written consent of the heating oil tank owner. The heating oil tank owner or operator is responsible for ~~((selecting a heating oil tank service provider from the prequalified list supplied by PLIA, working with that service provider to file the appropriate forms and reports with PLIA, and for))~~ notifying the heating oil supplier in the case of a suspected accidental release and investigating the source and extent of the suspected accidental release. The heating oil tank owner is responsible for notification of homeowner's insurer and determination of whether coverage will be provided. If corrective action is implemented, the heating oil tank owner is responsible for selecting a service provider approved by the insurer and approving the completed corrective action.

(2) Adjacent property owners. If an accidental release migrates off-site, or is suspected to have migrated, the adjacent property owner may be involved in the corrective action. In this situation, the heating oil tank owner or operator shall notify PLIA of the occurrence and provide the adjacent property owner's name, address and telephone number.

(3) Heating oil supplier. Some heating oil suppliers provide customer services which may be a resource to evaluate a suspected accidental release to the environment. If after investigating a heating system malfunction, a heating oil supplier determines that an accidental release may have occurred, the heating oil supplier should inform the owner or operator of the accidental release.

(4) ~~((PLIA registers heating oil tanks, purchases insurance and provides reinsurance, provides a list of prequalified heating oil tank service providers, manages claims, investigates sites and provides certification that a claim is closed.~~

~~((5) Third party administrator. PLIA will appoint a third party administrator to perform all initial investigations and site assessments. Investigation will include, but not necessarily be limited to, verification that the accidental release is from an active, registered heating oil tank, investigation of the existence of any other valid insurance or~~

~~warranties providing coverage for the heating oil tank and/or property, and determination of the extent and severity of the accidental release. The heating oil tank owner or operator shall cooperate fully with the third party administrator and supply any information necessary for the third party administrator to complete the initial investigation and site assessment, including, but not limited to, a copy of any homeowner, pollution liability, or environmental impairment insurance policy(ies). A report of the investigation will be submitted to PLIA. If no contamination requiring corrective action is discovered during the investigation, all costs associated with the investigation will be the responsibility of the heating oil tank owner.)~~ PLIA acts as the designated representative of the insurer for purposes of the heating oil pollution liability insurance program. PLIA provides informal advice and assistance to heating oil tank owners and operators, registers heating oil tanks for insurance coverage, provides listings of service providers approved by the insurer, manages claims for the insurer and provides certification that a claim is closed.

(5) Third-party administrator. PLIA may appoint a third-party administrator to assist in monitoring, investigation and corrective action.

(6) Department of ecology. The department of ecology administers state-wide laws and rules detailing MTCA cleanup standards for both soil and ground water. To be eligible for coverage under the heating oil pollution liability insurance program, corrective action must satisfy MTCA and pertinent local government requirements.

(7) Heating oil tank service provider. A heating oil tank service provider is an independent contractor ((responsible for all aspects of corrective action including excavation, tank/lid removal, sampling and testing, remedial actions, site restoration, and submittal of required reports to PLIA)) who contracts with an owner or operator to perform corrective action, including submitting reports to PLIA on behalf of the owner or operator.

AMENDATORY SECTION (Amending WSR 96-01-101, filed 12/19/95, effective 1/19/96)

WAC 374-70-080 Claims ((procedures)). Coverage under the heating oil pollution liability insurance program shall be in excess of other valid insurance and warranties. Payment of a claim will be made only if the cleanup of contamination resulting from an accidental release is not covered by other valid insurance and warranties. Corrective action will be accomplished by the most cost-effective method available. To receive payment from the heating oil pollution liability insurance program for covered corrective action costs, the following actions are required:

(1) The claim must be for corrective action resulting from an accidental release from an active heating oil tank which has been registered with PLIA prior to the accidental release;

(2) The claim must satisfy all requirements and restrictions established by chapter 70.149 RCW and this chapter. Any failure to satisfy all requirements and restrictions may be a basis for denial of claim;

(3) The heating oil tank owner or operator must provide notice to PLIA that a potential claim exists within ((seven))

ten days of discovery that an accidental release may have occurred;

(4) Upon receipt of notice of a potential claim, PLIA will commence completion of the notice of claim, and will provide the heating oil tank owner or operator with a list of ((prequalified)) insurer approved heating oil tank service providers;

(5) The heating oil tank operator may submit reports and forms on behalf of the heating oil tank owner; however, no corrective action will be initiated or performed without the specific written consent of the heating oil tank owner;

(6) ((Initial investigation and site assessment will be performed by a third party administrator appointed by PLIA. Investigation will include, but not necessarily be limited to, verification that the accidental release is from an active, registered heating oil tank, investigation of the existence of any other valid insurance or warranties providing coverage for the heating oil tank and/or property, and determination of the extent and severity of the accidental release. The heating oil tank owner or operator shall cooperate fully with the third party administrator and supply any information necessary for the third party administrator to complete the initial investigation and site assessment, including, but not limited to, a copy of any homeowner, pollution liability, or environmental impairment insurance policy(ies). A report of the investigation will be submitted to PLIA. If no contamination requiring corrective action is discovered during the investigation, all costs associated with the investigation will be the responsibility of the heating oil tank owner;)) The heating oil tank owner is responsible for investigation to determine the source and extent of a suspected accidental release. The heating oil tank owner is also responsible for notification of the homeowner's insurer and determination of whether coverage will be provided;

(7) If the claim is determined by PLIA to be valid, PLIA will so notify the heating oil tank owner or operator ((will be notified by PLIA to select)). The corrective action shall be performed by a heating oil tank service provider((; from the list of prequalified heating oil tank service providers, to perform corrective action. PLIA's list of prequalified heating oil tank service providers will be updated quarterly. The heating oil tank owner or operator must contact PLIA, prior to selecting a heating oil tank service provider, to confirm that the heating oil tank service provider is still included on the agency's list of prequalified heating oil tank service providers)) approved by the insurer;

(8) The ((prequalified)) heating oil tank service provider will notify PLIA of selection by the heating oil tank owner or operator. PLIA will then forward to the heating oil tank service provider the following forms:

(a) Scope of work proposal. This form will provide the heating oil tank owner or operator and PLIA a proposal of the extent and elements of corrective action, as well as a specific cost proposal;

(b) Change order. This form provides a proposal for change or deviation from the scope of work proposal;

(c) Project field report. This form provides a record of all corrective action and work elements, as well as a record of detailed costs. The project field report must include color photographs of the project at commencement, completion, and any significant steps in between, as well as appropriate project sketches and/or plans; and

(d) Claim report. This form will include a project closeout report, final cleanup report, and corrective action cost claim;

(9) The ~~((prequalified))~~ heating oil tank service provider will submit for approval to the heating oil tank owner or operator and to PLIA a scope of work proposal for corrective action at the heating oil tank site;

(10) Upon receipt of approval by the heating oil tank owner or operator and PLIA of the scope of work proposal, the heating oil tank service provider may commence work to accomplish corrective action ~~((in compliance with MTCA independent remedial action));~~

(11) All work performed by the heating oil tank service provider on behalf of the heating oil tank owner or operator and PLIA must be within the terms of the contract and the approved scope of work proposal and shall not exceed costs included in the scope of work proposal. Any change(s) or deviation(s) from the approved scope of work proposal must be accomplished through a change order request which must be approved in advance by the heating oil tank owner or operator and PLIA. Any work performed by the heating oil tank service provider that has not been approved, prior to performance, by the heating oil tank owner or operator and PLIA, or is beyond the terms of the scope of work proposal or change order(s), or is in excess of costs approved in the scope of work proposal or change order(s), will not be paid or reimbursed under the heating oil pollution liability insurance program. Such work or excess costs will be the responsibility of the heating oil tank owner and/or heating oil tank service provider;

(12) Corrective action activities and costs must be recorded by the heating oil tank service provider on the project field report form provided by PLIA ~~((The project field report must include color photographs of the project at commencement, completion and any significant steps between, as well as appropriate project sketches and/or plans));~~

(13) Upon completion of all corrective action, the heating oil tank owner or operator must sign the project closeout report indicating approval of and satisfaction with all work performed by the heating oil tank service provider;

(14) Upon completion of ~~((all))~~ corrective action and approval by the heating oil tank owner or operator, the heating oil tank service provider must submit to PLIA a complete claim report ~~((The claim report will include the project closeout report, project field report, final cleanup report and corrective action cost claim. After review and approval of the claim report by PLIA, the heating oil tank service provider will receive payment));~~

(15) Upon completion of corrective action that appears to satisfy the requirements of all applicable state and local statutes, the director will certify that the claim has been closed;

(16) Approval of claims and payment of covered costs are contingent upon the availability of revenue. The director reserves the right to defer payment at any time that claim demands exceed the revenue available for the heating oil pollution liability insurance program. Payment will commence with sufficient revenue;

(17) PLIA will maintain all records associated with a claim for a period of ten years; and

(18) In the case of an emergency, the director may authorize deviation from this procedure to the extent necessary to adequately respond to the emergency.

AMENDATORY SECTION (Amending WSR 96-01-101, filed 12/19/95, effective 1/19/96)

WAC 374-70-090 Third-party claims ~~((procedures))~~.

Coverage under the heating oil pollution liability insurance program shall be in excess of other valid insurance and warranties. Payment of a claim will be made only if the cleanup of contamination resulting from an accidental release is not covered by other valid insurance and warranties. Corrective action will be accomplished by the most cost-effective method available. For a third party to receive payment from the heating oil pollution liability insurance program for covered corrective action costs, the following actions are required:

(1) The claim must be for corrective action resulting from a leak or spill from an active heating oil tank which has been registered with PLIA prior to the leak or spill;

(2) The claim must satisfy all requirements and restrictions established for third-party claims by chapter 70.149 RCW and this chapter. Any failure to satisfy all requirements and restrictions may be a basis for denial of claim;

(3) The third-party claimant must provide notice to PLIA that a potential third-party claim may exist within ~~((ten))~~ fifteen days of discovery that damage may have occurred from a leak or spill from a named insured's active heating oil tank;

(4) Upon receipt of notice of a potential claim, PLIA will commence completion of the notice of claim;

~~((Initial investigation and site assessment will be performed by a third party administrator appointed by PLIA. Investigation will include, but not necessarily be limited to, verification that the leak or spill is from an active, registered heating oil tank, investigation of the existence of any other valid insurance or warranties providing coverage for the heating oil tank and/or property, and determination of the extent and severity of the leak or spill. The third party claimant shall cooperate fully with the third party administrator and supply any information necessary for the third party administrator to complete the initial investigation and site assessment. A report of the investigation will be submitted to PLIA. If no contamination requiring corrective action is discovered during the investigation, all costs associated with the investigation will be the responsibility of the heating oil tank owner.))~~ If an accidental release from a named insured's heating oil tank has been confirmed, PLIA, as designated representative of the insurer will initiate an investigation to determine the extent and source of the contamination. Investigation will be performed by PLIA or a designated representative approved by the insurer. PLIA may also assist the named insured heating oil tank owner in determining if the insured's homeowner's insurance provides coverage for third-party damage. The third-party claimant shall cooperate fully with the investigator and provide any information or access necessary to complete the investigation;

(6) If the claim is determined by PLIA to be valid, the third-party claimant will be notified by PLIA to select a heating oil tank service provider, ~~((from the list of~~

~~prequalified heating oil tank service providers)) approved by the insurer, to perform corrective action ((PLIA's list of prequalified heating oil tank service providers will be updated quarterly. The third-party claimant must contact PLIA, prior to selecting a heating oil tank service provider, to confirm that the heating oil tank service provider is still included on the agency's list of prequalified heating oil tank service providers));~~

(7) The ~~((prequalified))~~ heating oil tank service provider will notify PLIA of selection by the third-party claimant. PLIA will then forward to the heating oil tank service provider the following forms:

(a) Scope of work proposal. This form will provide the third-party claimant and PLIA a proposal of the extent and elements of corrective action, as well as a specific cost proposal;

(b) Change order. This form provides a proposal for change or deviation from the scope of work proposal;

(c) Project field report. This form provides a record of all corrective action and work elements, as well as a record of detailed costs. The project field report must include color photographs of the project at commencement, completion, and any significant steps in between, as well as appropriate project sketches and/or plans; and

(d) Claim report. This form will include a project closeout report, final cleanup report, and corrective action cost claim;

(8) The ~~((prequalified))~~ heating oil tank service provider will submit for approval to the third-party claimant and to PLIA a scope of work proposal for corrective action;

(9) Upon receipt of approval by the third-party claimant and PLIA of the scope of work proposal, the heating oil tank service provider may commence work to accomplish corrective action ~~((in compliance with MTCA independent remedial action));~~

(10) All work performed by the heating oil tank service provider on behalf of the third-party claimant and ~~((PLIA))~~ the insurer must be within the terms of the contract and the approved scope of work proposal and shall not exceed costs included in the scope of work proposal. Any change(s) or deviation(s) from the approved scope of work proposal must be accomplished through a change order request which must be approved in advance by the third-party claimant and PLIA. Any work performed by the heating oil tank service provider that has not been approved, prior to performance, by the third-party claimant and PLIA, or is beyond the terms of the scope of work proposal or change order(s), or is in excess of costs approved in the scope of work proposal or change order(s), will not be paid or reimbursed under the heating oil pollution liability insurance program. Such work or excess costs will be the responsibility of the third-party claimant and/or heating oil tank service provider;

(11) Corrective action activities and costs must be recorded by the heating oil tank service provider on the project field report form provided by PLIA ~~((The project field report must include color photographs of the project at commencement, completion and any significant steps between, as well as appropriate project sketches and/or plans));~~

(12) Upon completion of all corrective action, the third-party claimant must sign the project closeout report indicat-

ing approval of and satisfaction with all work performed by the heating oil tank service provider;

(13) Upon completion of ~~((all))~~ corrective action and approval by the third-party claimant, the heating oil tank service provider must submit to PLIA a complete claim report. ~~((The claim report will include the project closeout report, project field report, final cleanup report and corrective action cost claim.))~~ After review and approval of the claim report by PLIA, the heating oil tank service provider will receive payment;

(14) Upon completion of corrective action that appears to satisfy the requirements of all applicable state and local statutes, the director will certify that the claim has been closed;

(15) Approval of claims and payment of covered costs are contingent upon the availability of revenue. The director reserves the right to defer payment at any time that claim demands exceed the revenue available for the heating oil pollution liability insurance program. Payment will commence with sufficient revenue;

(16) PLIA will maintain all records associated with a claim for a period of ten years; and

(17) In the case of an emergency, the director may authorize deviation from this procedure to the extent necessary to adequately respond to the emergency.

AMENDATORY SECTION (Amending WSR 96-01-101, filed 12/19/95, effective 1/19/96)

WAC 374-70-100 Service provider requirements and procedures. (1) All corrective action shall be performed by ~~((prequalified))~~ insurer approved heating oil tank service providers. A heating oil tank service provider is an independent contractor responsible for ~~((all aspects of))~~ corrective action including excavation, ~~((tank/lime removal,))~~ sampling and testing, remedial actions, site restoration, and submittal of required reports to PLIA. ~~((PLIA will maintain a list of prequalified heating oil tank service providers. This list will be made available to heating oil tank owners and operators. PLIA will continually monitor the performance of the prequalified heating oil tank service providers.))~~

~~(2) To qualify as a prequalified heating oil tank service provider, a contractor must submit to PLIA the following documents:~~

~~(a) Certificates of insurance covering general liability, vehicles, and workers' compensation, including limits of coverage;~~

~~(b) Copy of state general contractor's license; and~~

~~(c) A signed agreement to terms and conditions, established by PLIA, for prequalified heating oil tank service providers.~~

~~(3))~~ (2) Once retained, the heating oil tank service provider works with the insurer, PLIA, as the insurer's designated representative, the heating oil tank owner or operator and/or the third-party claimant to perform the following:

(a) Perform the corrective action;

(b) Document the costs of the corrective action; and

(c) File the forms required to receive payment from the heating oil pollution liability insurance program.

PROPOSED

~~((4))~~ (3) All ~~((prequalified))~~ heating oil tank service providers must follow claims procedures as outlined in WAC 374-70-070.

~~((5))~~ (4) Whenever possible, all corrective action activities must meet the criteria established by MTCA and any pertinent local ordinances or requirements.

AMENDATORY SECTION (Amending WSR 96-01-101, filed 12/19/95, effective 1/19/96)

WAC 374-70-120 Appeals. (1) A person may appeal any of the following decisions made under the heating oil pollution liability insurance program to the director:

- (a) A denial of eligibility for coverage;
- (b) Amount of payment allowed for corrective action;
- (c) Amount of payment allowed for property damage;
- (d) Amount of payment allowed for a third-party claim;

and

(e) A determination that cleanup does not meet MTCA standards;

~~(f) A denial of inclusion on the agency's list of prequalified heating oil tank service providers; and~~

~~(g) Removal of a heating oil tank service provider from the agency's list of prequalified heating oil tank service providers).~~

(2) A person has forty-five days after the decision to file a written request for a hearing.

(3) If the written request for a hearing is received within forty-five days, the director shall conduct an adjudicative hearing proceeding under chapter 34.05 RCW.

(4) If the written request for a hearing is not received within forty-five days after the decision, no further consideration will be given to the appeal.

AMENDATORY SECTION (Amending WSR 96-01-101, filed 12/19/95, effective 1/19/96)

WAC 374-70-130 Confidentiality of information. (1) All information obtained during heating oil tank registration shall be confidential and may not be ~~((made))~~ subject to public ~~((or otherwise disclosed to any person, firm, corporation, agency, association, government body, or other entity))~~ disclosure under chapter 42.17 RCW.

(2) All examination and proprietary reports and information obtained in soliciting bids from insurers and in monitoring the selected insurer shall be confidential and may not be made public or otherwise disclosed to any person, firm, corporation, agency, association, government body, or other entity.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 374-70-110 Quality assurance.

WSR 97-03-117

PROPOSED RULES

PUBLIC DISCLOSURE COMMISSION

[Filed January 21, 1997, 12:21 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-23-053.

Title of Rule: Amend WAC 390-16-041 Forms—Summary of total contributions and expenditures.

Purpose: Amend the summary contribution and expenditure form (C-4) to better track independent expenditures.

Statutory Authority for Adoption: RCW 42.17.370(1), 42.17.090 (1)(k).

Statute Being Implemented: RCW 42.17.090.

Summary: The summary contribution and expenditure form (C-4) would be amended to require political committees, including political parties and caucus committees, to indicate on the front of the form whether the report contains any independent expenditures supporting or opposing a state or local office candidate.

Reasons Supporting Proposal: To facilitate tracking by the public and the Public Disclosure Commission of independent expenditures, which have become increasingly prevalent since the enactment of contribution limits.

Name of Agency Personnel Responsible for Drafting and Implementation: Melissa Warheit and Vicki Rippie, 711 Capitol Way, Room 403, Olympia, WA, (360) 753-1111; and Enforcement: Melissa Warheit and Susan Harris, 711 Capitol Way, Room 403, Olympia, WA, (360) 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

Rule is necessary because of federal court decision, (in part), *Colorado Republican Federal Campaign Committee v. FEC*, 64 U.S.L.W. 4663 (6/26/96).

Explanation of Rule, its Purpose, and Anticipated Effects: As part of the campaign disclosure reporting process, political committees (including PACs, political parties, and caucus political committees) and candidates itemize expenditures of over \$50 as part of the C-4 campaign disclosure report. One of the types of political committee expenditures that is becoming more popular since the passage of contribution limits in I-134 is independent expenditures that support or oppose a candidate for office. There is no special reporting of these independent expenditures. They only appear as part of the political committee's C-4 report. There are approximately two hundred fifty business and union PACs that may choose to make independent expenditures in lieu of or in addition to directly giving to candidates. Also, the political parties may now make independent expenditures since a ruling by the United States Supreme Court earlier this year held that parties may not be precluded by law from making such expenditures. Similarly, it does not appear that caucus political committees can be precluded from making independent expenditures.

One of the purposes of the disclosure law is to allow voters to learn before an election how much money an entity is spending to influence an election. In order to facilitate tracking of independent expenditures by the public and the Public Disclosure Commission, the commission proposes to adopt a rule requiring political committees, including PACs, political parties, and caucus political committees, to indicate on the front of the form whether the report contains any independent expenditures supporting or opposing a state or local office candidate.

Proposal Changes the Following Existing Rules: The proposal would amend WAC 390-16-041 Forms—Summary of total contributions and expenditures to require political

committees to indicate on the front of the C-4 form whether the report contains any independent expenditures supporting or opposing a state or local candidate office.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposal would affect PACs, political parties, and caucus political committees. It would not affect businesses in an industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Public Disclosure Commission is not an agency listed in subsection (5)(a)(i) of section 201. Further, the Public Disclosure Commission does not voluntarily make section 201 applicable to this rule adoption pursuant to subsection (5)(a)(ii) of section 201, and to date, JARRC has not made section 201 applicable to this rule adoption.

Hearing Location: Evergreen Plaza Building, 711 Capitol Way, 2nd Floor Conference Room, Olympia, WA 98504, on February 25, 1997, at 9:00 a.m.

Submit Written Comments to: Vicki Rippie, Assistant Director, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, FAX (360) 753-1112, by February 14, 1997.

Date of Intended Adoption: February 25, 1997.

January 21, 1997

Melissa Warheit

Executive Director

AMENDATORY SECTION (Amending WSR 94-05-011, filed 2/3/94)

WAC 390-16-041 Forms—Summary of total contributions and expenditures. (1) The official form for reports of contributions and expenditures by candidates and political committees who use the "full" reporting option is designated "C-4", revised ((11/93)) 3/97, and includes Schedule A, revised 11/93, Schedule B, revised 11/93, Schedule C, revised 3/93, and Schedule L, revised 11/93.

(2) The official form for reports of contributions and expenditures by candidates and political committees who use the "abbreviated" reporting option is designated "C-4abb," revised 11/93.

(3) Copies of these forms are available at the commission office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8-1/2" x 11" white paper.

PROPOSED



PDC FORM C4 <small>(11/93)</small>	CONTRIBUTION AND EXPENDITURE SUMMARY
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Please consult PDC instruction manuals when completing this report.
Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

WHO MUST FILE

Each candidate and political committee using Full Reporting.

FILING DATES

- 1) File with C-1 (Registration) if you received contributions or made expenditures before registering.
- 2) File on the 10th of each month if contributions or expenditures were over \$200 since last C-4 was filed. (Note: These 10th-of-the-month reports are not required if another C-4 must be filed during that month. See #3 below.)
- 3) For each primary, general and special election in which the candidate or political committee makes an expenditure, file
 - ◆ 21 days prior to the election
 - ◆ 7 days prior to the election
 - ◆ 10th of the first month after the election*

(*Not required after primary from candidates who will be in the general election or from continuing political committees.)

4) File final report when campaign is finished or committee closes operation. Often, this coincides with the primary or general post-election, 10th-of-the-month report.

All reports are considered filed as on the postmark date or the date hand-delivered to PDC.

WHERE TO SEND REPORTS

Send original C-4 reports along with any attachments to PDC at the above address. Candidates send a duplicate copy to their County Auditor (County Elections Department). Political committees send a copy to County Auditor of the county in which their headquarters is located or, if no headquarters, the county in which their treasurer resides.

(Candidates for city offices, city ballot issue committees and other political committees who give to city candidates or ballot issue committees check with City Clerk regarding any local filing requirement.)

PROPOSED



SUMMARY, FULL REPORT RECEIPTS AND EXPENDITURE

C4 (11/93) PDC OFFICE USE POST RECEIVED

Candidate or Committee Name (Do not abbreviate. Use full name.) Mailing Address City Zip + 4 Office Sought (Candidates) Report Period Covered From: (last C-4) To: (end of period) Is this your final report? Yes No

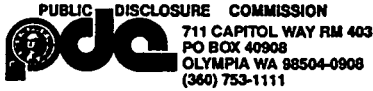
RECEIPTS 1. Previous total cash and in kind contributions (From line 8, last C-4) 2. Cash received (From line 2, Schedule A) 3. In kind contributions received (From line 1, Schedule B) 4. Total Cash and in kind contributions received this period (Line 2 plus 3) 5. Loan principal repayments made (From line 2, Schedule L) 6. Corrections (From line 1 or 3, Schedule C) Show + or (-) 7. Net adjustments this period (Combine line 5 & 6) Show + or (-) 8. Total cash and in kind contributions during campaign (Combine lines 1, 4 & 7) 9. Total pledge payments due (From line 2, Schedule B)

EXPENDITURES 10. Previous total cash and in kind expenditures (From line 17, last C-4) 11. Total cash expenditures (From line 4, Schedule A or line 5, Schedule A-s/I) 12. In kind expenditures (goods & services) (From line 1, Schedule B) 13. Total cash and in kind expenditures made this period (Line 11 plus line 12) 14. Loan principal repayments made (From line 2, Schedule L) 15. Corrections (From line 2 or 3, Schedule C) Show + or (-) 16. Net adjustments this period (Combine lines 14 & 15) Show + or (-) 17. Total cash and in kind expenditures during campaign (Combine lines 10, 13 and 16)

CANDIDATES Please complete: Won Lost Unopposed Name not on ballot Primary election General election Treasurer's Daytime Telephone No.: CASH SUMMARY 18. Cash on hand (Line 8 minus line 17) 19. Liabilities: (Sum of loans and debts owed) 20. Balance (Surplus or deficit) (Line 18 minus line 19)

CERTIFICATION: I certify that the information herein and on accompanying schedules and attachments is true to the best of my knowledge. Candidate's Signature Date Treasurer's Signature Date

PROPOSED



SUMMARY, FULL REPORT RECEIPTS AND EXPENDITURES

C4 (3/97)

PDC OFFICE USE

Candidate or Committee Name (Do not abbreviate. Include full name)

Mailing Address

City

Zip + 4

Office Sought (Candidates)

Report Period Covered

From (last C-4)

To (end of period)

Final Report?

Yes No

*For PACs, Parties & Caucus Committees: During this report period, did the committee make an independent expenditure (i.e., an expense not considered a contribution) supporting or opposing a state or local candidate?

*See reverse side.

Yes No

RECEIPTS

- 1. Previous total cash and in kind contributions (From line 8, last C-4)
2. Cash received (From line 2, Schedule A)
3. In kind contributions received (From line 1, Schedule B)
4. Total cash and in kind contributions received this period (Line 2 plus 3)
5. Loan principal repayments made (From line 2, Schedule L)
6. Corrections (From line 1 or 3, Schedule C)
7. Net adjustments this period (Combine line 5 & 6)
8. Total cash and in kind contributions during campaign (Combine lines 1, 4 & 7)
9. Total pledge payments due (From line 2, Schedule B)

EXPENDITURES

- 10. Previous total cash and in kind expenditures (From line 17, last C-4)
11. Total cash expenditures (From line 4, Schedule A)
12. In kind expenditures (goods & services) (From line 1, Schedule B)
13. Total cash and in kind expenditures made this period (Line 11 plus line 12)
14. Loan principal repayments made (From line 2, Schedule L)
15. Corrections (From line 2 or 3, Schedule C)
16. Net adjustments this period (Combine lines 14 & 15)
17. Total cash and in kind expenditures during campaign (Combine lines 10, 13 and 16)

CANDIDATES ONLY

Table with columns: Won, Lost, Unopposed, Name not on ballot. Rows: Primary election, General election.

Treasurer's Daytime Telephone No.:

()

CASH SUMMARY

- 18. Cash on hand (Line 8 minus line 17)
19. Liabilities: (Sum of loans and debts owed)
20. Balance (Surplus or deficit) (Line 18 minus line 19)

CERTIFICATION: I certify that the information herein and on accompanying schedules and attachments is true and correct to the best of my knowledge.

Candidate's Signature

Date

Treasurer's Signature

Date

PROPOSED



PDC FORM C4 (397)	SUMMARY OF RECEIPTS AND EXPENDITURES
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**Please consult PDC instruction manuals when completing this report.
 Reporting requirements are contained in and governed by RCW 42.17 and WAC 390.**

WHO MUST FILE

Each candidate and political committee using Full Reporting.

FILING DATES

- 1) File with C-1 or C-1pc (Registration form) if you received contributions or made expenditures before registering.
- 2) File on the 10th of each month if contributions or expenditures are over \$200 since last C-4 was filed. (These 10th-of-the-month reports are not required if another C-4 must be filed during that month. See #3 below.)
- 3) For each primary, general and special election in which the candidate or political committee makes an expenditure, file
 - 21 days prior to the election
 - 7 days prior to the election
 - 10th of the first month after the election — see note below

(Note: Not required after primary election from candidates who will be in the general election or from continuing political committees.)

- 4) File final report when campaign is finished or committee closes operation. Often, this coincides with the primary or general post-election, 10th-of-the-month report.

All reports are considered filed as of the postmark date or the date hand-delivered to PDC.

WHERE TO SEND REPORTS

Send original C-4 reports, along with all schedules and attachments, to PDC. Candidates send a duplicate copy to their County Auditor (County Elections Department). Political committees send a copy to County Auditor of the county in which their headquarters is located or, if no headquarters, the county in which their treasurer resides.

Candidates for city offices, city ballot issue committees and other political committees who give to city candidates or ballot issue committees should check with city clerk regarding any local filing requirements.

***FOR ALL PACS, POLITICAL PARTIES & CAUCUS POLITICAL COMMITTEES**

The question posted near the top of the front side of this form regarding independent expenditures applies to **ALL POLITICAL COMMITTEES** required to file C-4 reports, **except ballot issue committees** that neither contribute to candidates nor make independent expenditures regarding them and **candidate committees** (because they are prohibited from making expenditures that are not directly related to their own campaigns).

All other Political Committees and PACs must indicate whether they made any independent expenditures supporting or opposing one or more candidates for state or local office.

If the response is "yes," the independent expenditure(s) MUST be itemized on the appropriate schedule (either Schedule A, or Part 3 of Schedule B), showing:

- the date of the expense;
- the name and address of the vendor or recipient of the funds;
- if using Schedule A, an "I" in the Code column;
- the name and office sought of the candidate supported or opposed;
- an indication of support or opposition; and
- a brief description of the expense (e.g., brochure mailed to absentee voters).

PROPOSED

CASH RECEIPTS AND EXPENDITURE

SCHEDULE **A**
to C4 (11/93)

Candidate or Committee Name (Do not abbreviate. Use full name.)

1. CASH RECEIPTS (Contributions) which have been reported on C3. List each deposit made since last C4 report was submitted.

Date of deposit	Amount	Date of deposit	Amount	Date of deposit	Amount	Total deposits

2. TOTAL CASH RECEIPTS

Enter also on line 2 of C4

CODES FOR CLASSIFYING EXPENDITURES: If one of the following codes is used to describe an expenditure, no other description is generally needed.

The exceptions are:

- 1) If expenditures are in-kind or earmarked contributions to a candidate or committee or independent expenditures that benefit a candidate or committee, identify the candidate or committee in the Description block;
- 2) When reporting payments to vendors for travel expenses, identify the traveller and travel purpose in the Description block; and
- 3) If expenditures are made directly or indirectly to compensate a person or entity for soliciting signatures on a statewide initiative or referendum petition, use code "V" and provide the following information on an attached sheet: name and address of each person/entity compensated, amount paid each during the reporting period, and cumulative total paid all persons to date to gather signatures.

CODE DEFINITIONS ON REVERSE	C - Contributions (monetary, in-kind & transfers)	P - Postage, Mailing Permits
	I - Independent Expenditures	S - Surveys and Polls
	L - Literature, Brochures, Printing	F - Fundraising Event Expenses
	B - Broadcast Advertising (Radio, TV)	T - Travel, Accommodations, Meals
N - Newspaper and Periodical Advertising	M - Management/Consulting Services	
O - Other Advertising (yard signs, buttons, etc.)	W - Wages, Salaries, Benefits	
V - Voter Signature Gathering	G - General Operation and Overhead	

3. EXPENDITURES

- a) Expenditures of \$50 or less, including those from petty cash, need not be itemized. Add up these expenditures and show the total in the amount column on the first line below.
- b) Itemize each expenditure of more than \$50 by date paid, name and address of vendor, code/description, and amount.
- c) For each payment to a candidate, campaign worker, PR firm, advertising agency or credit card company, attach a list of detailed expenses or copies of receipts/invoices supporting the payment.

Date Paid	Vendor or Recipient (Name and Address)	Code	Purpose of Expense and/or Description	Amount
N/A	Expenses of \$50 or less	N/A	N/A	

Total from attached pages _____

4. TOTAL CASH EXPENDITURES

Enter also on line 11 of C4

PROPOSED

EXPENDITURE CODE DEFINITIONS AND USES

(for use on Schedule A and Schedule B, Item 3)

- C MONETARY, IN-KIND AND EARMARKED CONTRIBUTIONS** your campaign legally makes to other campaigns. Put a "C" in the Code column, in the Description column specify who was benefited and, if in-kind, what was purchased.
- I INDEPENDENT EXPENDITURES** (those expenditures that benefit other candidates or committees but are made independently of them). Put an "I" in the Code column and fully describe purpose.
- L LITERATURE**. Use "L" for expenditures made for the preparation and production of campaign literature and printed solicitations, including expenditures for mailing lists, design, photography, copy, layout, printing and reproduction. Use "P" for literature mailing costs.
- B BROADCAST ADVERTISING**. Use "B" for expenditures associated with the production and purchase of radio and television advertising.
- N NEWSPAPER & PERIODICAL ADVERTISING**. Use "N" for expenditures associated with the production and purchase of advertising in newspapers, periodicals and other publications.
- O OTHER ADVERTISING**. Use "O" for expenditures associated with the production and purchase of advertising on billboards, yard signs and campaign paraphernalia such as buttons, bumper stickers, T-shirts, etc.
- V VOTER SIGNATURE GATHERING**. Use "V" for expenditures made directly or indirectly to compensate a person or entity for soliciting or procuring signatures on a statewide initiative or referendum petition. Attach itemization of each such payment.
- P POSTAGE**. Use "P" for expenditures for stamps, postage, United Parcel Service, Federal Express and direct mail services (postage only). Use "L" for design and other production costs associated with producing campaign literature.
- F FUNDRAISING EVENTS**. Use "F" for expenditures associated with holding a fundraiser, including payments to restaurants, hotels, caterers, other food and refreshment vendors, entertainers and speakers. Use "L" for expenditures for printed matter produced in connection with fundraising events.
- S SURVEYS AND POLLS**. Use "S" for expenditures associated with designing or producing polls, reports on election trends, voter surveys, telemarketing, telephone banks, GOTV drives, etc.
- T TRAVEL, ACCOMMODATIONS, MEALS**. Use "T" for expenditures associated with travel. If vendor has been paid directly, identify the traveller in Description column. If travel payment was made to credit card company or traveller (for out-of-pocket expenses), itemize expenses on separate sheet and attach to Schedule A.
- M MANAGEMENT AND CONSULTING SERVICES**. Use "M" for salaries, fees and commissions paid to campaign management companies and contract consultants, including law firms, whether the person is retained or formally employed by the campaign (for tax withholding purposes).
- W WAGES, SALARIES, BENEFITS**. Use "W" for expenditures associated with hiring campaign employees and other freelance workers who provide miscellaneous services other than campaign management or consulting.
- G GENERAL OPERATION AND OVERHEAD**. Use "G" for general campaign operating expenses and overhead, including filing fees, miscellaneous campaign expenses, headquarters rental, utilities, and purchase or rental of office equipment and furniture for the campaign.


EXPENDITURES CONTINUATION SHEET (Attachment to Schedule A) Page _____

Candidate or Committee Name (Do not abbreviate. Use full name.)

Report Date _____

PROPOSED

Date Paid	Vendor or Recipient (Name and Address)	Code	Purpose of Expense and/or Description	Amount

(Adopted 3/93) * * f 

Page Total _____

IN KIND CONTRIBUTIONS, PLEDGES, ORDERS, DEBTS, OBLIGATIONS

SCHEDULE **B**
to C4 (11/93)

Candidate or Committee Name (Do not abbreviate. Use full name.)

1. IN KIND CONTRIBUTIONS RECEIVED (goods, services, discounts, etc.)

Date Received	Contributor's Name and Address	Description of Contribution	Fair Market Value	Aggregate Total	P R I	G E N	If \$100 or more, Employer Name, City, State & Occup.
							Occupation
							Occupation
							Occupation
<input type="checkbox"/> Check here if additional pages are attached		TOTAL (Enter also on line 3 and line 12 of C4)					Occupation

2. PLEDGES RECEIVED BUT NOT YET PAID. List each pledge of \$100.00 or more.

Date Notified of Pledge	Name and Address of Pledge Maker	Fair Market Value	Aggregate Total	P R I	G E N	If \$100 or more, Employer Name, City, State & Occup.
						Occupation
						Occupation
<input type="checkbox"/> Check here if additional pages are attached		TOTAL (include new pledges above and all other outstanding pledges.) (Enter also on line 9 of C4)				Occupation

3. ORDERS PLACED, DEBTS, OBLIGATIONS. (Give estimate if actual amount not know. Exclude loans. Report loans on Schedule L.)

- a. List each debt, obligation or estimated expenditure that is more than \$250.00.
- b. List each debt, obligation or estimated expenditure that is more than \$50.00 and has been outstanding for over 30 days.

Expenditure Date	Vendor's/Recipient's Name and Address)	Amount Owed	Code*	OR	Description of Obligation
<input type="checkbox"/> Check here if additional pages are attached		TOTAL (Include in line 19 of C4)			

*Code Definitions on Reverse

PROPOSED

EXPENDITURE CODE DEFINITIONS AND USES

(for use on Schedule A and Schedule B, Item 3)

- C MONETARY, IN-KIND AND EARMARKED CONTRIBUTIONS** your campaign legally makes to other campaigns. Put a "C" in the Code column, in the Description column specify who was benefited and, if in-kind, what was purchased.
- I INDEPENDENT EXPENDITURES** (those expenditures that benefit other candidates or committees but are made independently of them). Put an "I" in the Code column and fully describe purpose.
- L LITERATURE**. Use "L" for expenditures made for the preparation and production of campaign literature and printed solicitations, including expenditures for mailing lists, design, photography, copy, layout, printing and reproduction. Use "P" for literature mailing costs.
- B BROADCAST ADVERTISING**. Use "B" for expenditures associated with the production and purchase of radio and television advertising.
- N NEWSPAPER & PERIODICAL ADVERTISING**. Use "N" for expenditures associated with the production and purchase of advertising in newspapers, periodicals and other publications.
- O OTHER ADVERTISING**. Use "O" for expenditures associated with the production and purchase of advertising on billboards, yard signs and campaign paraphernalia such as buttons, bumper stickers, T-shirts, etc.
- V VOTER SIGNATURE GATHERING**. Use "V" for expenditures made directly or indirectly to compensate a person or entity for soliciting or procuring signatures on a statewide initiative or referendum petition. Attach itemization of each such payment.
- P POSTAGE**. Use "P" for expenditures for stamps, postage, United Parcel Service, Federal Express and direct mail services (postage only). Use "L" for design and other production costs associated with producing campaign literature.
- F FUNDRAISING EVENTS**. Use "F" for expenditures associated with holding a fundraiser, including payments to restaurants, hotels, caterers, other food and refreshment vendors, entertainers and speakers. Use "L" for expenditures for printed matter produced in connection with fundraising events.
- S SURVEYS AND POLLS**. Use "S" for expenditures associated with designing or producing polls, reports on election trends, voter surveys, telemarketing, telephone banks, GOTV drives, etc.
- T TRAVEL, ACCOMMODATIONS, MEALS**. Use "T" for expenditures associated with travel. If vendor has been paid directly, identify the traveller in Description column. If travel payment was made to credit card company or traveller (for out-of-pocket expenses), itemize expenses on separate sheet and attach to Schedule A.
- M MANAGEMENT AND CONSULTING SERVICES**. Use "M" for salaries, fees and commissions paid to campaign management companies and contract consultants, including law firms, whether the person is retained or formally employed by the campaign (for tax withholding purposes).
- W WAGES, SALARIES, BENEFITS**. Use "W" for expenditures associated with hiring campaign employees and other freelance workers who provide miscellaneous services other than campaign management or consulting.
- G GENERAL OPERATION AND OVERHEAD**. Use "G" for general campaign operating expenses and overhead, including filing fees, miscellaneous campaign expenses, headquarters rental, utilities, and purchase or rental of office equipment and furniture for the campaign.

CORRECTIONS

SCHEDULE **C**
to C4

Candidate or Committee Name (Do not abbreviate. Use full name.)

Date

1. CONTRIBUTIONS AND RECEIPTS (Include mathematical corrections.)

Date of report	Contributor's name or description of correction	Amount reported	Corrected amount	Difference (+ or -)
Total corrections to contributions Enter on line 6 of C4. Show + or (-).				

2. EXPENDITURES (Include mathematical corrections.)

Date of report	Vendor's name or description of correction	Amount reported	Corrected amount	Difference (+ or -)
Total corrections to expenditures Enter on line 15 of C4. Show + or (-).				

3. REFUNDS FROM VENDORS. The below listed amounts have been received as refunds on expenditures previously reported. The refund has been deposited and reported on C3 report, Line 1d.

Date of refund	Source/person making refund	Amount of refund
Total refunds Enter as (-) on line 6 & line 15 of C4.		

PROPOSED

LOANS

See instructions and examples on reverse

SCHEDULE TO C3 OR C4

L
(11/93)

Candidate or committee name

1. LOAN RECEIVED. (Loans are considered contributions and are subject to any applicable limit.)

Date loaned	Lender's name and address	<table border="1"><tr><td>P</td><td>R</td><td>I</td></tr><tr><td>G</td><td>E</td><td>N</td></tr></table>	P	R	I	G	E	N	Amount of loan	Annual interest rate	Repayment schedule	Date due
P	R	I										
G	E	N										

Also include this amount on line 1c, C3 report →

Name and Address of Each Loan Endorser, Co-signer	<table border="1"><tr><td>P</td><td>R</td><td>I</td></tr><tr><td>G</td><td>E</td><td>N</td></tr></table>	P	R	I	G	E	N	Amount Liable For	Aggregate Total	If Total Contributed is \$100 or More, Show Endorser's Occupation and Name, City, & State of Employer
P	R	I								
G	E	N								

Check here if continued on attached sheet.

2. LOAN PAYMENTS. (Candidates may be repaid amount loaned or \$3,000 per election, which ever is less. See instruction manual for details.)

Date paid	Lender's name and address	Principal paid	Interest paid	Total payment	Balance owed

Total Principal Paid (Enter also on lines 5 and 14, C-4 report) →

Total Payments (Enter as an expenditure on Schedule A) →

3. LOAN FORGIVEN.

Date	Lender's name and address	Original amount	Principal repaid	Amount forgiven	Balance owed

4. LOAN STILL OWED. (List each loan which has previously been reported and still has a balance due.)

Date	Lender's name and address	Original amount	Principal repaid or forgiven	Amount owed
				Subtotal _____
				New loans received during this reporting period _____
				Total Loans Owed (Include in total on line 19, C-4 report) _____

Check here if continued on attached sheet.

PROPOSED



SCHEDULE TO C3 OR C4	L (11/93)	LOANS
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Please consult PDC instruction manuals when completing this schedule.
 Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

WHO MUST FILE Each candidate and political committee using full reporting that receives one or more campaign loans.

FILING DATES When a loan is received by the campaign, complete Part 1 and file the Schedule L with the C-3 report that corresponds with the loan's deposit into the account. Use a separate schedule for each loan received.

When a loan is paid or forgiven, in whole or in part, complete Part 2 and/or Part 3 and file the Schedule L with the C-4 covering the period when the payment or forgiveness occurred.

When one or more loans remain unpaid, complete Part 4 and file the schedule with each C-4 report until all loans are repaid in full or forgiven. (The same schedule may be used to show loan payments, forgiveness information and to show which loans remain unpaid.)

PROPOSED

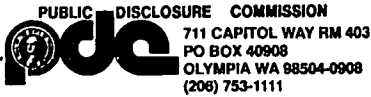
LOAN RECEIVED
 (Information would appear on separate Schedule L)

LOAN PAYMENTS

LOAN FORGIVEN

LOANS STILL OWED

LOANS		See instructions and examples on reverse		SCHEDULE TO C3 OR C4		L (11/93)	
Candidate or committee name Adrian Adams for State Representative							
1. LOAN RECEIVED. (Loans are considered contributions and are subject to any applicable limit.)							
Date loaned	Lender's name and address	Amount of loan	Annual interest rate	Repayment schedule	Date due		
2/12/9X	Tyler Adams (candidate's wife)	\$500	12% Same	\$100/month Same	Not fixed Same		
2/12/9X	Tyler Adams	500					
		Also include this amount on line 14, C-3 report		\$1,000			
Name and Address of Each Loan Endorser, Co signer							
Conrad Smith 8419 West View Court Anyplace, WA 90000		Amount Liabilities For	Aggregate Total	If total Guaranteed is \$100 or More, Show Endorser's Occupation and Name, City, & State of Employer			
		\$500	\$500	ABC Company, Madison, WI Sales Manager			
<input type="checkbox"/> Check here if continued on attached sheet.							
2. LOAN PAYMENTS. (Candidates may be repaid amount loaned or \$3,000 per election, which ever is less. See instruction manual for details.)							
Date paid	Lender's name and address	Principal paid	Interest paid	Total payment	Balance owed		
3/30/9X	Tyler Adams	\$100	\$10	\$110	\$900		
3/31/9X	Michael Murray	100	None	100	400		
		Total Principal Paid (Enter also on lines 9 and 14, C-4 report)		\$200			
				Total Payments (Enter as an expenditure on Schedule A)		\$210	
3. LOAN FORGIVEN.							
Date	Lender's name and address	Original amount	Principal repaid	Amount forgiven	Balance owed		
3/15/9X	Kelly Adams	\$250	None	\$150	\$100		
4. LOAN STILL OWED. (List each loan which has previously been reported and still has a balance due.)							
Date	Lender's name and address	Original amount	Principal repaid or forgiven	Amount owed			
2/12/9X	Tyler Adams	\$1,000	\$100	\$ 900			
1/22/9X	Michael Murray	500	100	400			
3/01/9X	Kelly Adams	250	150	100			
3/11/9X	K. M. Lawrence	1,000	0	1,000			
				Subtotal	\$2,400		
				New loans received during this reporting period	0		
				Total Loans Owed (Include in total on line 15, C-4 report)	\$2,400		
<input type="checkbox"/> Check here if continued on attached sheet.							
PDC form C-4, (11/93)							



ABBREVIATED REPORT RECEIPTS AND EXPENDITURES

ABB C4 (11/93)	PDC OFFICE USE
	P O S T R E C E I V E D

Candidate or Committee Name (Do not abbreviate. Include full name) _____

Mailing Address _____

City _____ Zip + 4 _____ Office Sought (Candidates) _____

PROPOSED

1. PERIOD COVERED BY REPORT: From: _____ To: _____ Final Report: Yes _____ No _____

a. Candidates: Start of campaign through the end of the month in which the election occurred.

b. Ballot Measure Committees: Start of campaign through the end of the month in which the election occurred.

c. Continuing Committees filing post-election report: January 1 through end of the month in which election occurred.

d. Continuing Committees filing annual report: Calendar year (January 1 through December 31).

2. RECEIPTS

a. Cash on hand from previous campaign or year (Include money in checking, savings and other accounts) _____

b. Cash contributions received this campaign or year (Include monetary contributions, loans, fund raising and cash contributions by a candidate) _____

c. Total cash receipts (Add lines 2a + 2b) _____

d. Other contributions, including in-kind (Include candidate's and committee workers' out of pocket expenditures, donated goods and services, filing fees paid by others and similar non-cash contributions) _____

e. Total contributions (Add lines 2c + 2d) _____

3. EXPENSES

a. Cash expenditures _____

b. Other expenditures. (Enter the amount shown on line 2d above here. Non-cash contributions are listed as both received and expended. Disregard any materials which may remain on hand.) _____

c. Total expenditures (Add lines 3a + 3b) _____

4. SURPLUS/DEFICIT

a. Cash on hand at end of reporting period (Subtract: line 3a from 2c) _____

b. Debts and obligations owed _____

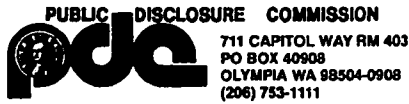
c. Surplus or deficit _____

CANDIDATES

	Won	Lost	Unopposed	Name not on ballot
Please complete: Primary election		<input type="checkbox"/>		
General election	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CERTIFICATION: I certify that this report is true and correct to the best of my knowledge.

Candidate's Signature _____	Date _____	Treasurer's Signature (if a political committee) _____	Date _____
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PDC FORM ABB C4 (11/93)	ABBREVIATED RECEIPTS & EXPENDITURES REPORT
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PROPOSED

Please consult PDC instruction manuals when completing this report.
 Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

WHO MUST FILE

Each candidate and political committee using Abbreviated Reporting.

FILING DATES

- 1) Special election candidates and political committees supporting or opposing special election candidates or ballot issues file on the 10th of the month following the election.
- 2) Candidates who lose in the primary and political committees supporting or opposing primary election ballot issues file on October 10.
- 3) Candidates who are in the general election and political committees making expenditures supporting or opposing general election candidates or ballot measures file on December 10.
- 4) Continuing political committees not taking part in elections during a year file annual reports on January 10 cover the preceding calendar year.
- 5) A final report is filed whenever a candidate's committee or a political committee ceases operation, disposes of any surplus campaign funds and has a zero account balance. Final reports may be filed at any time and may coincide with one of the due dates listed above.

All reports are considered filed as of the postmark date or the date hand-delivered to PDC.

WHERE TO FILE

Send original C-4 ABB report to PDC at the above address. Candidates send a duplicate copy to their County Auditor (County Elections Department). Political committees send a copy to County Auditor of the county in which their headquarters is located or, if no headquarters, the county in which their treasurer resides.

(Candidates for city offices, city ballot issue committees and other political committees who give to city candidates or ballot issue committees check with city clerk regarding any local filing requirement.)

WSR 97-03-120
PROPOSED RULES
INSURANCE COMMISSIONER'S OFFICE

[Filed January 21, 1997, 4:53 p.m.]

Continuance of WSR 97-03-023.

Preproposal statement of inquiry was filed as WSR 96-17-085.

Title of Rule: Rules of practice and procedure for contested matters heard before the commissioner.

Other Identifying Information: Insurance Commissioner Matter No. R 96-8.

Summary: Continuation of adoption date.

Submit Written Comments to: Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, Internet e-mail inscomr@aol.com, FAX (360) 586-3535.

Date of Intended Adoption: April 1, 1997.

January 21, 1997
 Deborah Senn
 Insurance Commissioner

WSR 97-03-123
PROPOSED RULES
LOTTERY COMMISSION

[Filed January 22, 1997, 8:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-12-095, 96-15-123, and 96-24-101.

Title of Rule: New sections WAC 315-11A-187 Instant Game Number 187 ("\$2 Instant Quinto"), 315-11A-188 Instant Game Number 188 ("Strike It Rich"), 315-11A-189 Instant Game Number 189 ("Lucky 7s"), 315-11A-190 Instant Game Number 190 ("Putt For Dough") and 315-11A-191 Instant Game Number 191 ("Cut the Deck"); and amendatory sections WAC 315-12-020 Definitions, 315-12-080 Requests for public records, 315-12-090 Copying, and 315-11A-184 Instant Game Number 184 ("\$2 Instant Monopoly@").

Purpose: To establish the game play rules and criteria for determining winners of Instant Game Nos. 187 ("\$2 Instant Quinto"), 188 ("Strike It Rich"), 189 ("Lucky 7s"), 190 ("Putt For Dough"), 191 ("Cut the Deck"); and to amend chapter 315-12 WAC and WAC 315-11A-184.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: See Purpose above.

Reasons Supporting Proposal: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Michael Aoki-Kramer, Rules Coordinator, Olympia, (360) 586-6583; Implementation and Enforcement: Merritt Long, Director, Olympia, (360) 753-3330.

Name of Proponent: Washington State Lottery Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 315-11A-187, 315-11A-188, 315-11A-189, 315-11A-190 and 315-11A-191, for each game, certain terms must be defined in order to provide consistency in the game play rules. The play criteria will explain how the game

functions to licensed retailers and players. Rigid validation requirements are set forth which will prevent the lottery or its retailers from paying out prize money on invalid tickets.

Proposal Changes the Following Existing Rules: WAC 315-12-020 Definitions and 315-12-080 Requests for public records, clarifies the definition of "listing" or "list" for public disclosure purposes.

WAC 315-12-090 Copying, changes the fee charged for providing copies of public records from 25 cents to 15 cents per page.

WAC 315-11A-184 Instant Game Number 184 ("\$2 Instant Monopoly@"), corrects a typographical error for a play symbol caption.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The lottery has considered whether these rules are subject to the Regulatory Fairness Act, chapter 19.85 RCW, and has determined that they are not for the following reasons: (1) The rules have no economic impact on business' cost of equipment, supplies, labor or administrative costs. The rules are designed to establish rules and procedures for the playing of instant lottery games; and (2) the rules will have a negligible impact, if any, on business because they are interpretive. They have been promulgated for the purpose of stating policy, procedure and practice and do not include requirements for forms, fees, appearances or other actions by business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Said section does not apply to these proposed rules because they are not proposed by one of the listed agencies. As the rules are merely interpretive, the lottery does not voluntarily apply this section.

Hearing Location: Washington State Lottery, 814 4th Avenue, Olympia, WA 98504, on March 7, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Michael Aoki-Kramer by February 25, 1997, (360) 586-6583.

Submit Written Comments to: Michael Aoki-Kramer, Lottery, FAX (360) 586-6586, by March 6, 1997.

Date of Intended Adoption: March 7, 1997.

January 17, 1997

Roger Wilson
 Deputy Director

NEW SECTION

WAC 315-11A-187 Instant Game Number 187 ("\$2 Instant Quinto"). (1) Definitions for Instant Game Number 187.

(a) Play symbols: The play symbols are listed below in (b) of this subsection. Ten of these play symbols shall appear in each of the four playfields on the front of the ticket. Each playfield shall be labeled "Play 1," "Play 2," "Play 3," or "Play 4." Five of the play spots in each of the playfields shall be labeled "Drawing Results," with the remaining five play spots in each of the playfields constituting the player's cards and labeled "Your Hand."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form, of the play symbol. One and

only one of these captions appears below each of the five play symbols labeled "Drawing Results" in each playfield. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 187, the captions which correspond with and verify the play symbols are as follows:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
2♥	TWOH
3♥	THRH
4♥	FORH
5♥	FIVH
6♥	SIXH
7♥	SVNH
8♥	EGTH
9♥	NINH
10♥	TENH
J♥	JCKH
Q♥	QUEH
K♥	KNGH
A♥	ACEH
2♣	TWOC
3♣	THRC
4♣	FORC
5♣	FIVC
6♣	SIXC
7♣	SVNC
8♣	EGTC
9♣	NINC
10♣	TENC
J♣	JCKC
Q♣	QUEC
K♣	KNGC
A♣	ACEC
2♦	TWOD
3♦	THRD
4♦	FORD
5♦	FIVD
6♦	SIXD
7♦	SVND
8♦	EGTD
9♦	NIND
10♦	TEND
J♦	JCKD
Q♦	QUED
K♦	KNGD
A♦	ACED
2♠	TWOS
3♠	THRS
4♠	FORS
5♠	FIVS
6♠	SIXS
7♠	SVNS
8♠	EGTS
9♠	NINS
10♠	TENS
J♠	JCKS
Q♠	QUES
K♠	KNGS
A♠	ACES

(c) Validation number: The unique twenty-five-digit number on the front of the ticket. The number is covered by latex.

(d) Pack-ticket number: The thirteen-digit number of the form 187000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 187 constitute the "pack number" which starts at 187000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 099 within each pack of tickets.

(e) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 187, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
TWO	\$ 2.00
FOR	\$ 4.00
SIX	\$ 6.00
EGT	\$ 8.00
TWF	\$ 25.00
FTY	\$ 50.00
SFV	\$ 75.00
OHN	\$ 100.00
TWH	\$ 200.00
TRN	\$ 300.00
FRH	\$ 400.00

(f) Pack: A set of one hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 187.

(a) The price of each instant game ticket shall be \$2.00.

(b) An instant prize winner is determined in the following manner:

(i) The bearer of a ticket that matches two, three, four or five "Your Hand" play symbols to the "Drawing Results" symbols in that same playfield shall win the prize listed in the legend (below). Each ticket shall bear a legend which lists the prize won for the number or symbols matched within each play.

Match two symbols	-	win \$	2
Match three symbols	-	win \$	25
Match four symbols	-	win \$	100
Match five symbols	-	win \$	2,500

(ii) The bearer of a ticket that matches two, three, four or five symbols in more than one playfield shall win the sum of the prizes shown in the legend (above) for each winning play.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket

PROPOSED

PROPOSED

validation requirements for Instant Game Number 187 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

- (i) Vary the length of Instant Game Number 187; and/or
- (ii) Vary the number of tickets sold in Instant Game Number 187 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 187.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 187 all of the following validation requirements apply:

- (i) Exactly ten play symbols must appear in each of the four playfields on the front of the ticket.
- (ii) Each of the five play symbols labeled "Drawing Results" in each playfield must have a play symbol caption below it and each must agree with its caption.
- (iii) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(iv) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(v) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.












(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11A-188 Instant Game Number 188 ("Strike It Rich"). (1) Definitions for Instant Game Number 188.

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the ten play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield.

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form, of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 188, the captions which correspond with and verify the play symbols are as follows:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
	EXXXX
	SHBAG
	BALLL
	SHOES
	TRPHY
	PINNN
	BOWL R
	PADDD
	BOTTL
	SHIRT
	HOTDG

(c) Validation number: The unique twenty-five-digit number on the front of the ticket. The number is covered by latex.

(d) Pack-ticket number: The thirteen-digit number of the form 188000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 188 constitute the "pack number" which starts at 188000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(e) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 188, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00
FIV	\$ 5.00
TEN	\$ 10.00
TWY	\$ 20.00
FTY	\$ 50.00
THF	\$ 250.00

(f) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 188.

- (a) The price of each instant game ticket shall be \$1.00.
- (b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

The bearer of a ticket having play symbols that correspond with the legend (below) shall win the prize listed. Each ticket shall bear a legend which lists each winning set of play symbols and its corresponding prize.

One	X play symbol - Win	\$ 1
Two	X play symbols - Win	\$ 2
Three	X play symbols - Win	\$ 5

Four	X play symbols - Win	\$ 10
Five	X play symbols - Win	\$ 20
Six	X play symbols - Win	\$ 50
Eight	X play symbols - Win	\$ 250
Ten	X play symbols - Win	\$ 5,000

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 188 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 188; and/or

(ii) Vary the number of tickets sold in Instant Game Number 188 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 188.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 188 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the ten play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(iv) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(v) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11A-189 Instant Game Number 189 ("Lucky 7s"). (1) Definitions for Instant Game Number 189.

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the six play spots under the latex covering on the front of the ticket. The latex covered area shall be known

as the playfield. One of the six play spots shall be labeled "winning number."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form, of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 189, the captions which correspond with and verify the play symbols are as follows:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
12	TLV
13	THN

(c) Prize symbols: The "prize symbols" are listed below in (d) of this subsection. One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbol labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 189, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 5.00	FIV DOL
\$ 6.00	SIX DOL
\$ 7.00	SVN DOL
\$ 10.00	TEN DOL
\$ 20.00	TWY DOL
\$ 100	ONEHUND
\$ 150	ONEHFIF
\$ 1,000	ONETHOU
\$ 3,000	THRTHOU

(e) Validation number: The unique twenty-five-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The thirteen-digit number of the form 189000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 189 constitute the "pack number" which starts at 189000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

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(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 189, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>	
ONE	\$ 1.00	
THR	\$ 3.00	(\$1, \$1 AND \$1; \$2 AND \$1)
FOR	\$ 4.00	(\$1, \$1, \$1 AND \$1; \$3 AND \$1)
SVN	\$ 7.00	(\$1, \$1, \$1, \$1 AND \$3; \$5 AND \$2)
FRN	\$ 14.00	(\$7 AND \$7; \$2, \$2, \$2, \$2 AND \$6)
TTN	\$ 21.00	(\$7, \$7 AND \$7; \$5, \$5, \$5, \$5 AND \$1)
SVY	\$ 70.00	(\$20, \$20, \$20 AND \$10)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 189.

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the five play symbols matches exactly the play symbol labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) In Instant Game Number 189, the "7" play symbol with the caption "SVN" shall always be a winning play symbol, and the bearer of a ticket which has a "7" play symbol with the caption "SVN" shall be entitled to the prize shown below the "7" play symbol.

(iii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 189 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 189; and/or

(ii) Vary the number of tickets sold in Instant Game Number 189 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 189.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 189 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the six play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11A-190 Instant Game Number 190 ("Putt For Dough"). (1) Definitions for Instant Game Number 190.

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the nine play spots in the "your score" column and in each of the nine play spots in the "their score" column under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. Each playfield shall have four games or rows.

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form, of the play symbol. One and only one of these captions appears below each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 190, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
1	ONE
2	TWO

3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
12	TLV
13	THN
14	FRN
15	FTN
16	SXT

<u>VERIFICATION CODE</u>	<u>PRIZE</u>	
TWO	\$ 2.00	(\$1 AND \$1; \$2)
THR	\$ 3.00	(\$1, \$1 AND \$1; \$2 AND \$1)
SIX	\$ 6.00	(\$1, \$1, \$1, \$1, \$1 AND \$1)
NIN	\$ 9.00	(\$1, \$1, \$1, \$1, \$1, \$1, \$1, \$1 AND \$1; \$4, \$3, \$1 AND \$1)
EGN	\$ 18.00	(\$2, \$2, \$2, \$2, \$2, \$2, \$2, \$2 AND \$2; \$5, \$4, \$2, \$2, \$1, \$1, \$1, \$1 AND \$1)
NTY	\$ 90.00	(\$10, \$10, \$10, \$10, \$10, \$10, \$10, \$10 AND \$10; \$45, \$9, \$9, \$9, \$9, \$7 AND \$2)
FRH	\$ 400.00	(\$50, \$50, \$50, \$50, \$50, \$50, \$50, \$25 AND \$25; \$100, \$100, \$100 AND \$100)

(c) Prize symbols: The "prize symbols" are listed below in (d) of this subsection. One of these prize symbols appears to the right of each pair of captioned play symbols.

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 190, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 5.00	FIV DOL
\$ 7.00	SVN DOL
\$ 9.00	NIN DOL
\$ 10.00	TEN DOL
\$ 25.00	TWF DOL
\$ 45.00	FORTYFV
\$ 50.00	\$FIFTY\$
\$ 100	ONEHUND
\$ 500	FIVHUND
\$ 2,000	TWOTHOU

(e) Validation number: The unique twenty-five-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The thirteen-digit number of the form 190000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 190 constitute the "pack number" which starts at 190000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 190, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 190.

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) The bearer of a ticket having a play symbol in the "your score" column that is a larger number than the play symbol in the "their score" column in the same game (row) shall win the prize shown in the prize column for that game (row).

(ii) The bearer of a ticket having winning play symbols in more than one game (row) shall win the sum of the prizes in each winning game (row). Play symbols in different games (rows) may not be combined to win a prize.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 190 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 190; and/or

(ii) Vary the number of tickets sold in Instant Game Number 190 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 190.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 190 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the nine spots in the "your score" column and in each of the

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nine play spots in the "their score" column in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Exactly one prize symbol for each of the nine games must appear under the latex covering in the prize column on the front of the ticket. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11A-191 Instant Game Number 191 ("Cut the Deck"). (1) Definitions for Instant Game Number 191.

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the four play spots in the "your card" column and in each of the four play spots in the "their card" column under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. Each playfield shall have four games or rows.

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form, of the play symbol. One and only one of these captions appears below each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 191, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN

8	EGT
9	NIN
10	TEN
J	JCK
Q	QUE
K	KNG
A	ACE

(c) Prize symbols: The "prize symbols" are listed below in (d) of this subsection. One of these prize symbols appears to the right of each pair of captioned play symbols.

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 191, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 5.00	FIV DOL
\$ 6.00	SIX DOL
\$ 8.00	EGT DOL
\$ 10.00	TEN DOL
\$ 20.00	TWY DOL
\$ 50.00	\$FIFTY\$
\$ 500	FIVHUND

(e) Validation number: The unique twenty-five-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The thirteen-digit number of the form 191000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 191 constitute the "pack number" which starts at 191000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 191, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1; \$2)
FOR	\$ 4.00 (\$1, \$1, \$1 AND \$1; \$2, \$1 AND \$1)
SIX	\$ 6.00 (\$2, \$2 AND \$2; \$3, \$1, \$1 AND \$1)
TLV	\$ 12.00 (\$5, \$4 AND \$3; \$6, \$4, \$1 AND \$1)

TTF	\$ 24.00	(\$10, \$8, \$4 AND \$2; \$20, \$2, \$1 AND \$1)
TWH	\$ 200.00	(\$50, \$50, \$50 AND \$50)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 191.

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) The bearer of a ticket having a play symbol in the "your card" column that is a larger number than the play symbol in the "their card" column in the same game (row) shall win the prize shown in the prize column for that game (row).

(ii) The bearer of a ticket having winning play symbols in more than one game (row) shall win the sum of the prizes in each winning game (row). Play symbols in different games (rows) may not be combined to win a prize.

(c) For purposes of this game, the "A" shall be the play symbol with the highest superiority, followed by "K," "Q," "J," "10," "9," "8," "7," "6," "5," "4," "3," and "2," in that order.

(d) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(e) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 191 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(f) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 191; and/or

(ii) Vary the number of tickets sold in Instant Game Number 191 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 191.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 191 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the four play spots in the "your card" column and in each of the four play spots in the "their card" column in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Exactly one prize symbol for each of the four games must appear under the latex covering in the prize column on the front of the ticket. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

AMENDATORY SECTION (Amending Order 23, filed 6/17/83)

WAC 315-12-020 Definitions. (1) Definitions set forth in chapter 315-02 WAC shall apply to this chapter.

(2) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristic.

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

(4) "Raw data" means facts, symbols, or observations which have not been processed, edited or interpreted, and are unorganized or unevaluated.

(5) "Information" means raw data that are organized, evaluated or interpreted to impart meaning to potential users and fulfill a recognized need.

(6) "Listing (~~((list))~~)" or "list" means (~~((a series of))~~) items of any kind including names, words or numbers no matter what the arrangement or purpose. When applied to the release of records (~~((information it))~~), "listing" or "list" means (~~((the names of two or more individuals))~~) items obtained from one or more ((~~than one~~)) source documents and contained in any form of writing or other media.

(7) "Tabulation" means the systematic arrangement of facts, statistics, and similar information, except the names of individuals, in column or table format.

(8) "Individual" means a natural person.

(9) "Commercial purpose" means the use of or the intent to use information contained in a listing to contact or in some way personally affect an individual identified on the list or for the purpose of facilitating the profit expectations of the person(s) who requested or obtained the list.

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AMENDATORY SECTION (Amending Order 23, filed 6/17/83)

WAC 315-12-080 Requests for public records. In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the director which shall be available at its administrative office. The form shall be presented to any member of the director's staff designated by the responsible public records officer to receive requests, at the administrative office of the director during customary office hours. The request shall include the following information:

- (a) The name and address of the person requesting the record.
- (b) The time of day and calendar date on which the request was made.
- (c) The nature of the request.
- (d) A reference to the requested record as it is described in the current record index.

Note: If the material is not identifiable by reference to the current index, an accurate description of the record is requested.

(e) The purpose for which a list of individuals, if so requested, will be used.

(f) The signature of the requestor.

(2) In all cases in which a member of the public makes a request, it shall be the obligation of the staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

(3) Any persons authorized by law to obtain a list (~~of names~~) of individuals from public records will be required to complete a statement agreeing not to release or use the information for commercial purposes. One or more requests from the same or associated persons for information regarding individuals shall be treated as a request for a list of individuals.

AMENDATORY SECTION (Amending Order 23, filed 6/17/83)

WAC 315-12-090 Copying. (1) There is no fee for the inspection of public records.

(2) The director will charge a fee of (~~twenty-five~~) fifteen cents per page for providing copies of public records and for use of the director's copy equipment. This charge is to reimburse the director for costs incident to such copying. The charge for providing other public records will be at actual cost as determined by the public records officer. Postal charges will be added when applicable. No copies of records will be provided to the requestor until all such charges have been paid.

(3) Nothing contained in this section shall preclude the director from agreeing to exchange or provide copies of manuals or other public records with other state or federal agencies, whenever doing so is in the best interest of the agency.

(4) The director or his or her designee is authorized to waive any of the foregoing copying costs.


AMENDATORY SECTION (Amending WSR 97-02-038, filed 12/26/96, effective 1/26/97)

WAC 315-11A-184 Instant Game Number 184 ("Instant Monopoly®"). (1) **Definitions for Instant Game Number 184.**

(a) Ticket and playfield: The perimeter of the ticket shall be printed to look like the perimeter of a "Monopoly®" game board. This area shall be covered with latex and shall be the playfield.

(b) Play symbols: The "play symbols" are listed below in (c) of this subsection. Eight of these play symbols shall appear under the latex covering on the front of the ticket; one of these play symbols shall also appear under the latex covered area labeled "Go."

(c) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form, of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 184, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
12	TLV
13	THN
14	FRN
15	FTN
16	SXT
17	SVT
18	(EGT) <u>EGN</u>
19	NIT
	HTL

(d) Prize symbols: The prize symbols are listed below in (e) of this subsection. One of these prize symbols appears adjacent to each of the play symbols, except that no prize symbol appears adjacent to the play symbol under the latex covered area labeled "Go."

(e) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 184, the prize symbol captions which correspond with and verify the prize symbols are:

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PRIZE SYMBOL	CAPTION
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 5.00	FIV DOL
\$ 6.00	SIX DOL
\$ 7.00	SVN DOL
\$ 8.00	EGT DOL
\$ 10.00	TEN DOL
\$ 25.00	TWF DOL
\$ 50.00	\$FIFTY\$
\$ 100	ONEHUND
\$ 2,000	TWOTHOU

(f) Validation number: The unique twenty-five-digit number on the front of the ticket. The number is covered by latex.

(g) Pack-ticket number: The thirteen-digit number of the form 184000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 184 constitute the "pack number" which starts at 184000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(h) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 184, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE	
TWO	\$ 2.00	(\$1 AND \$1)
THR	\$ 3.00	(\$1, \$1, AND \$1; \$2 AND \$1)
FIV	\$ 5.00	(\$1, \$1, \$1, \$1 AND \$1; \$2, \$1, \$1 AND \$1)
TEN	\$ 10.00	(\$2, \$2, \$1, \$1, \$1, \$1, \$1 AND \$1; \$4, \$3, \$2 AND \$1)
TWY	\$ 20.00	(\$7, \$6, \$2, \$1, \$1, \$1, \$1 AND \$1; \$8, \$8, \$1, \$1, \$1 AND \$1)
FTY	\$ 50.00	(\$10, \$10, \$5, \$5, \$5, \$5, \$5 AND \$5)
FRH	\$ 400.00	(\$100, \$100, \$50, \$50, \$25, \$25, \$25 AND \$25)

(i) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 184.

(a) The price of each instant game ticket shall be \$2.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the eight play symbols matches exactly the play symbol labeled "Go," the matching play symbol

shall be a winning play symbol, and the bearer of the ticket shall win the prize adjacent to the winning play symbol.

(ii) In Instant Game Number 184, the "⊕" play symbol with the caption "HTL" shall always be a winning play symbol, and the bearer of a ticket which has a "⊕" play symbol with the caption "HTL" shall be entitled to the prize shown adjacent to the "⊕" play symbol.

(iii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes adjacent to each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 184 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 184; and/or

(ii) Vary the number of tickets sold in Instant Game Number 184 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 184.

(a) In addition to meeting all other requirements in these rules, to be a valid instant game ticket for Instant Game Number 184 all of the following validation requirements apply:

(i) Exactly one play symbol must appear below each of the eight properties and under the latex area labeled "Go" in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the play symbol caption under the area labeled "Go," shall have a prize symbol adjacent to it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(c) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(d) of this section and each

PROPOSED

of the prize symbol captions must be exactly one of those described in subsection (1)(e) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

WSR 97-03-126
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed January 22, 1997, 9:52 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Amending WAC 246-232-060 Termination of licenses and 246-235-075 Financial assurance and recordkeeping for decommissioning, related to radioactive materials licensees.

Purpose: The Nuclear Regulatory Commission has adopted several rules related to radioactive materials licensees and decommissioning licensed sites. The proposal incorporates these changes into rule.

Statutory Authority for Adoption: RCW 70.98.050 and 70.98.080.

Summary: Proposed changes will update a radioactive materials licensee's required records, timeliness, and funding mechanisms to bring state rules into conformity with federal regulations issued by the Nuclear Regulatory Commission.

Reasons Supporting Proposal: The department must incorporate the Nuclear Regulatory Commission's rules into Washington Administrative Code to maintain our agreement state status.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Terry Frazee, Tumwater, (360) 753-3461.

Name of Proponent: Washington State Department of Health, governmental.

Rule is necessary because of federal law, 58 FR 39628, 59 FR 36026, and 60 FR 38235.

Explanation of Rule, its Purpose, and Anticipated Effects: There are several federal rule changes relating to decommissioning of facilities licensed to possess large quantities of radioactive materials the department proposes be incorporated into Washington Administrative Code. The federal rules (1) require certain licensees to prepare and maintain additional documentation identifying all areas where radioactive materials or equipment were stored or used, where unusual occurrences or spills happened or where waste was buried; (2) establish specific time periods for decommissioning unused portions of operating facilities and for decommissioning the entire site upon termination of operations; and (3) require financial assurance to be in place during facility operation and to be updated when the licensee decides to cease operation and begin decommissioning. These proposed rule changes will affect approximately thirty licensees.

Proposal Changes the Following Existing Rules: WAC 246-232-060 is amended to add time frames and notification requirements when licensed activities cease and decommissioning must begin; adds requirement for keeping decommissioning financial assurance in amount appropriate for the

task; adds requirement to submit decommissioning plan to the department if decommissioning activities could increase health and safety impacts to workers or public including activities that could significantly increase releases to the environment; adds time limit for completion of decommissioning; adds requirement for final certification and survey of decommissioned facility; and changes "byproduct" to "radioactive" when referring to radioactive materials. WAC 246-235-075 is amended to allow financial assurance to be obtained after the license is issued but before radioactive material is received; adds requirement to keep a list of areas designated as restricted areas, areas where burials have occurred, and areas where decontamination would be necessary to allow unrestricted release.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule changes are for conformance with United States Nuclear Regulatory Commission regulations and are mandatory under the agreement state status with the federal government. No material changes from federal regulations are proposed. Therefore, no small business economic impact statement is required under chapter 19.85 RCW.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The rule adopts federal regulations without material change and is therefore, exempt from the significant legislative rule analysis required under RCW 34.05.328 (section 201, chapter 403, Laws of 1995).

Hearing Location: Department of Health, Building 5 Airdustrial Center, 7171 Cleanwater Lane, Tumwater, WA, on February 25, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Terry Frazee by February 18, 1997, TDD (800) 833-6388.

Submit Written Comments to: Terry Frazee, P.O. Box 47827, Olympia, WA 98504, by February 25, 1997.

Date of Intended Adoption: March 4, 1997.

January 22, 1997

Bruce Miyahara

Secretary

AMENDATORY SECTION (Amending Order 184, filed 7/24/91, effective 8/24/91)

WAC 246-232-060 Termination of licenses and decommissioning of sites and separate buildings or outdoor areas. (1) Each specific licensee shall immediately notify the department in writing when the licensee decides to permanently discontinue all activities involving materials authorized under the license and request termination of the license. This notification and request for termination of the license must include the reports and information specified in subsection (3) (c) and (d) of this section. The licensee is subject to the provisions of subsections (3) and (4) of this section, as applicable.

(2) No less than thirty days before the expiration date specified in a specific license, the licensee shall either:

(a) Submit an application for license renewal under WAC 246-235-050; or

(b) Notify the department in writing if the licensee decides not to renew the license.

(3) If a licensee does not submit an application for license renewal under WAC 246-235-050, the licensee shall on or before the expiration date specified in the license:

(a) Terminate use of ~~((byproduct))~~ radioactive material;
 (b) Properly dispose of ~~((byproduct))~~ radioactive material;

(c) Submit a completed departmental form "Certificate of disposition of radioactive material" or equivalent; and

(d) Submit a radiation survey report to confirm the absence of radioactive materials or establish the levels of radioactive contamination, unless the department determines a radiation survey report is not necessary.

(i) If no radioactive contamination attributable to activities conducted under the license is detected, the licensee shall submit a certification that no detectable radioactive contamination was found. If the information submitted under this paragraph and subsection (3) (c) and (d) of this section is adequate, the department will notify the licensee in writing that the license is terminated.

(ii) If detectable levels of radioactive contamination attributable to activities conducted under the license are found, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual radioactive material present as contamination until the department notifies the licensee in writing that the license is terminated. During this time, the licensee is subject to the provisions of subsection (4) of this section. In addition to the information submitted under subsection (3)(c) and (d) of this section, the licensee shall submit a plan for decontamination, if necessary.

(4) Each licensee who possesses residual ~~((byproduct))~~ radioactive material under subsection (3)(d)(ii) of this section, following the expiration of the facility and/or equipment date specified in the license, shall:

(a) Be limited to actions, involving radioactive material related to decontamination and preparation for release for unrestricted use; and

(b) Continue to control entry to restricted areas until they are suitable for release for unrestricted use and the department notifies the licensee in writing that the license is terminated. The guidance contained in WAC 246-232-140, Schedule D, shall be used in making this determination.

(5) Each general licensee licensed under the provisions of WAC 246-233-020(8), shall immediately notify the department in writing when the licensee decides to discontinue all activities involving radioactive materials authorized under the general license. Such notification shall include a description of how the generally licensed material was disposed and the results of facility surveys, if applicable, to confirm the absence of radioactive materials.

(6) Within sixty days of the occurrence of any of the following, each licensee shall provide notification to the department in writing of such occurrence, and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity so that the building or outdoor area is suitable for release in accordance with department requirements, or submit within twelve months of notification a decommissioning plan, if required by subsection (10)(a) of this section, and begin decommissioning upon approval of that plan if:

(a) The license has expired or has been revoked by the department; or

(b) The licensee has decided to permanently cease principal activities, as defined in this section, at the entire site or in any separate building or outdoor area that contains

residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with department requirements; or

(c) No principal activities under the license have been conducted for a period of twenty-four months; or

(d) No principal activities have been conducted for a period of twenty-four months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with department requirements.

(7) As used in this section, principal activities means activities authorized by the license which are essential to achieving the purpose(s) for which the license was issued or amended. Storage during which no licensed material is accessed for use or disposal and activities incidental to decommissioning or decommissioning are not principal activities.

(8) Coincident with the notification required by subsection (6) of this section, the licensee shall maintain in effect all decommissioning financial assurances established by the licensee pursuant to WAC 246-235-075 or as required by this section. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to subsection (6) of this section. Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the department.

(9) The department may grant a request to extend the time periods established in subsection (6) of this section if the department determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest. The request must be submitted no later than thirty days before notification pursuant to subsection (6) of this section. The schedule for decommissioning set forth in subsection (6) of this section may not commence until the department has made a determination on the request.

(10)(a) A decommissioning plan must be submitted if required by license condition or if the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the department and these procedures could increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(i) Procedures would involve techniques not applied routinely during cleanup or maintenance operations;

(ii) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(iii) Procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(iv) Procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

(b) The department may approve an alternate schedule for submittal of a decommissioning plan required pursuant to subsection (6) of this section if the department determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no

undue risk from radiation to the public health and safety and is otherwise in the public interest.

(c) Procedures such as those listed in (a) of this subsection with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(d) The proposed decommissioning plan for the site or separate building or outdoor area must include:

(i) A description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

(ii) A description of planned decommissioning activities;

(iii) A description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

(iv) A description of the planned final radiation survey;

(v) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and a plan for assuring the availability of adequate funds for completion of decommissioning;

(vi) A description of the physical security plan and material control and accounting plan provisions in place during decommissioning;

(vii) For decommissioning plans calling for completion of decommissioning later than twenty-four months after plan approval, the plan shall include a justification for the delay based on the criteria in subsection (12) of this section.

(e) The proposed decommissioning plan will be approved by the department if the information therein demonstrates that the decommissioning will be completed as soon as practicable and that the health and safety of workers and the public will be adequately protected.

(11)(a) Except as provided in subsection (12) of this section, licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than twenty-four months following the initiation of decommissioning.

(b) Except as provided in subsection (12) of this section, when decommissioning involves the entire site, the licensee shall request license termination as soon as practicable but no later than twenty-four months following the initiation of decommissioning.

(12) The department may approve a request for an alternative schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the department determines that the alternative is warranted by consideration of the following:

(a) Whether it is technically feasible to complete decommissioning within the allotted twenty-four-month period;

(b) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted twenty-four-month period;

(c) Whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(d) Whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(e) Other site-specific factors which the department may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies,

lawsuits, ground water treatment activities, monitored natural ground water restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(13) As the final step in decommissioning, the licensee shall:

(a) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed certificate of disposition of radioactive material or equivalent information; and

(b) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey unless the licensee demonstrates that the premises are suitable for release in some other manner. The licensee shall, as appropriate:

(i) Report levels of gamma radiation in units of millisieverts (microrentgen) per hour at one meter from surfaces, and report levels of radioactivity, including alpha and beta, in units of megabecquerels (disintegrations per minute or microcuries) per one hundred square centimeters—removable and fixed—for surfaces, megabecquerels (microcuries) per milliliter for water, and becquerels (picocuries) per gram for solids such as soils or concrete; and

(ii) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(14) Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the department determines that:

(a) Radioactive material has been properly disposed;

(b) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(c)(i) A radiation survey has been performed which demonstrates that the premises are suitable for release in accordance with department requirements; or

(ii) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with department requirements.

(15) Specific licenses for uranium and thorium milling are exempt from subsections (6)(d), (9) and (10) of this section with respect to reclamation of tailings impoundments and/or waste disposal areas.

AMENDATORY SECTION (Amending Order 245, filed 2/21/92, effective 3/23/92)

WAC 246-235-075 Financial assurance and record-keeping for decommissioning. (1) Each applicant for one of the following licenses shall submit a decommissioning funding plan as described in this section:

(a) A specific license authorizing receipt of radioactive waste for the purpose of volume reduction, repackaging or interim storage.

(b) Receipt of contaminated articles, scrap material, equipment, or clothing to be decontaminated at the licensee's facility.

(c) A specific license authorizing the possession and use of radioactive material of half-life greater than one hundred twenty days and in quantities for unsealed material exceeding 10^3 times and for sealed forms exceeding 10^{10} times the applicable quantities set forth in WAC 246-221-300 Appendix B (for a combination of isotopes the unity rule applies).

A decommissioning funding plan will be required if R is greater than 1, where R is defined as the sum of the ratios of the quantity for sealed and unsealed forms of each isotope compared to the applicable value derived from WAC 246-221-300).

(d) A specific license authorizing possession and use of source material in readily dispersible form and in quantities greater than 10 millicuries.

(2) Each decommissioning funding plan shall contain:

(a) A cost estimate for decommissioning facilities impacted by the activities authorized in the specific license.

(b) A description of the method of assuring funds for decommissioning.

(c) A schedule for adjusting cost estimates and associated funding levels periodically over the life of the facility or facilities.

(d) A description of methods and general procedures for performing facility decontamination, maintaining security, and performing a final radiation survey.

(e) A commitment to clean up accidental spills promptly and to begin decommissioning of the facility or facilities within twelve months of ceasing operation involving radioactive material.

(3) Each cost estimate for decommissioning shall include:

(a) A description of the facility and areas within the facility likely to require decommissioning as a result of routine operation.

(b) Anticipated labor, equipment and material costs.

(c) Anticipated waste volume.

(d) Anticipated packaging, transportation and waste disposal costs.

(e) An assessment of costs associated with an accident involving licensed material.

(4) Financial assurance for decommissioning shall be provided by one or more of the following methods:

(a) Prepayment. Prepayment is the deposit of sufficient funds to pay decommissioning costs. Funds shall be deposited prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

(b) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid should the licensee default. A surety method may be in the form of a surety bond, letter of credit, or line of credit. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

(i) The surety method or insurance shall be open-ended or, if written for a specified term, such as five years, shall be renewed automatically unless ninety days or more prior to the renewal date, the issuer notifies the department, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance shall also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the department within thirty days after receipt of notification of cancellation.

(ii) The surety method or insurance shall be payable to a trust established for decommissioning costs. The trustee and trust shall be acceptable to the department. Acceptable trustees include an appropriate state or federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(iii) The surety method or insurance must remain in effect until the department has terminated the license.

(c) An external sinking fund in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund. An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control. The total amount of funds in the external sinking fund shall be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities. The surety or insurance provisions shall be as stated in subsection (4)(b) of this section.

(d) In the case of state or local government licensees, a statement of intent containing a cost estimate for decommissioning and indicating that funds for decommissioning will be obtained when necessary.

(e) Other methods of financial assurance as approved by the department. The department may approve other financial mechanisms submitted by the applicant or licensee provided the alternate method meets, at a minimum, the requirements of 10 C.F.R. 30.35 and associated U.S. Nuclear Regulatory Commission guidance.

(5)(a) The department shall review each decommissioning funding plan prior to license issuance and prior to license renewal.

(b) The applicant or licensee shall incorporate department comments into its cost estimate and shall revise its financial surety accordingly.

(c) Applicants shall obtain the appropriate financial assurance as approved by the department prior to receipt of licensed material. The department may issue a new license if the applicant agrees to comply with the decommissioning funding plan as approved. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of this section shall be submitted to the department before receipt of licensed material.

(d) Holders of licenses issued on or before the effective date of this rule shall submit a decommissioning funding plan to the department by April 1, 1993. Licensees shall implement the financial assurance requirements within thirty days of receiving department approval of the decommissioning funding plan. Licensees shall submit copies of the financial surety within thirty days of securing the surety and annually thereafter.

(6) Each person licensed under this chapter shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the license is terminated by the department. If records of relevant information are kept for other purposes, reference to these records and their locations may be used. Information

the department considers important to decommissioning consists of:

(a) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records shall include any known information on identification of involved nuclides, quantities, forms, and concentrations.

(b) As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used and/or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.

(c) Except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after any leak) or depleted uranium used only for shielding or as penetrators in unused munitions, or radioactive materials having only half-lives of less than sixty-five days, a list contained in a single document and updated every two years, of the following:

(i) All areas designated and formerly designated as restricted areas as defined under WAC 246-220-010;

(ii) All areas outside of restricted areas that require documentation under (a) of this subsection;

(iii) All areas outside of restricted areas where current and previous wastes have been buried as documented under WAC 246-221-230 (8)(a); and

(iv) All areas outside of restricted areas which contain material such that, if the license expired, the licensee would be required to either decontaminate the area to unrestricted release levels or apply for approval for disposal under WAC 246-221-180. Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.

WSR 97-03-128

PROPOSED RULES

TACOMA COMMUNITY COLLEGE

[Filed January 22, 1997, 10:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-21-068.

Title of Rule: Personnel rules for the classified staff service of Tacoma Community College.

Purpose: Abolish chapter 132V-12 WAC in its entirety.

Statutory Authority for Adoption: RCW 28B.50.-140(13).

Statute Being Implemented: Chapter 132V-12 WAC is being abolished.

Summary: Chapter 132V-12 WAC was adopted when Tacoma Community College was established. Rules have been replaced by Titles 251 and 359 WAC.

Reasons Supporting Proposal: Rules are obsolete and have been replaced by Titles 251 and 359 WAC.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jan Miller, 6501 South 19th Street, Tacoma, WA 98466, (206) 566-5054.

Name of Proponent: Tacoma Community College, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Rules are obsolete and have been superseded by Title 251 WAC, Higher Education Personnel Board and Title 359 WAC, Personnel Resources Board.

Proposal Changes the Following Existing Rules: Abolishes chapter 132V-12 WAC.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not relevant.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Tacoma Community College, 6501 South 19th Street, Building 7, Tacoma, WA 98466, on March 6, 1997, at 4:00 p.m.

Assistance for Persons with Disabilities: Contact Irene Hardy by March 4, 1997, TDD (206) 5130 [566-5130], or (206) 566-5101.

Submit Written Comments to: Jan Miller, FAX (206) 566-5380, by March 4, 1997.

Date of Intended Adoption: March 7, 1997.

January 21, 1997
Jan Miller, Director
Human Resources

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 132V-12-003	Purpose.
WAC 132V-12-006	Positions covered by the rules.
WAC 132V-12-009	Adoption of rules.
WAC 132V-12-012	Amendment of rules.
WAC 132V-12-015	Definitions.
WAC 132V-12-018	Organization.
WAC 132V-12-021	Compensation.
WAC 132V-12-024	Election of officers.
WAC 132V-12-027	Meetings.
WAC 132V-12-030	Powers and duties.
WAC 132V-12-033	Appointment.
WAC 132V-12-036	Powers and duties.
WAC 132V-12-039	Content.
WAC 132V-12-042	Amendment.
WAC 132V-12-045	Allocation.
WAC 132V-12-048	Interpretation of specifications.
WAC 132V-12-051	Use in allocation.
WAC 132V-12-054	Use in examination.
WAC 132V-12-057	Statements of general qualifications.
WAC 132V-12-060	Authority.
WAC 132V-12-063	Use of class titles.

WAC 132V-12-066	General policies.	WAC 132V-12-267	Availability of eligibles.
WAC 132V-12-069	Content.	WAC 132V-12-270	Request for employees.
WAC 132V-12-072	Amendment.	WAC 132V-12-273	Method of certification.
WAC 132V-12-075	Payroll certification.	WAC 132V-12-276	Ranked lists.
WAC 132V-12-078	Hours of work.	WAC 132V-12-279	Related lists.
WAC 132V-12-084	Rest periods.	WAC 132V-12-281	Selection.
WAC 132V-12-087	Holidays.	WAC 132V-12-284	Probationary appointments.
WAC 132V-12-096	Annual leave.	WAC 132V-12-287	Provisional appointments.
WAC 132V-12-120	Sick leave.	WAC 132V-12-290	Transfer.
WAC 132V-12-144	Military training leave with pay.	WAC 132V-12-293	Demotion.
WAC 132V-12-147	Military leave without pay.	WAC 132V-12-296	Purpose.
WAC 132V-12-150	Leave for civil duty.	WAC 132V-12-299	Duration.
WAC 132V-12-153	Leave of absence without pay.	WAC 132V-12-302	Dismissal during probationary period.
WAC 132V-12-165	Absence without authorized leave.	WAC 132V-12-305	Demotion during probationary period.
WAC 132V-12-168	Selection by examination.	WAC 132V-12-308	Separation.
WAC 132V-12-171	Content of announcements.	WAC 132V-12-311	Resignation.
WAC 132V-12-174	Distribution of announcements.	WAC 132V-12-314	Reduction in force—Layoff.
WAC 132V-12-177	Open competitive examinations.	WAC 132V-12-317	Dismissal.
WAC 132V-12-180	Promotional examinations.	WAC 132V-12-320	Abandonment of position.
WAC 132V-12-183	Forms of application.	WAC 132V-12-323	Disciplinary action.
WAC 132V-12-186	Freedom from bias.	WAC 132V-12-326	Suspension.
WAC 132V-12-189	Admission to examination.	WAC 132V-12-329	Demotion.
WAC 132V-12-192	Disqualification of applicants.	WAC 132V-12-332	Who may appeal.
WAC 132V-12-195	Original examinations.	WAC 132V-12-335	Procedures for hearing appeals.
WAC 132V-12-198	Promotional examinations.	WAC 132V-12-338	Agreements between agencies and employee organizations.
WAC 132V-12-201	Noncompetitive examinations.	WAC 132V-12-341	Notice of intent by bargaining unit.
WAC 132V-12-204	Open-continuous examinations.	WAC 132V-12-344	Determination of bargaining unit.
WAC 132V-12-207	Conduct of examinations.	WAC 132V-12-347	Bargaining factors.
WAC 132V-12-210	Anonymity of applicants.	WAC 132V-12-350	Certification by director—Notice of petition.
WAC 132V-12-213	Rating of examinations.	WAC 132V-12-353	Election of representative organization—Notice.
WAC 132V-12-216	Establishment and maintenance.	WAC 132V-12-356	Election rules—Ballots.
WAC 132V-12-219	Organizational units.	WAC 132V-12-359	Majority of votes required.
WAC 132V-12-222	Merit lists.	WAC 132V-12-362	Representation upon certification.
WAC 132V-12-225	Layoff lists.	WAC 132V-12-365	Decertification.
WAC 132V-12-228	Unranked lists.	WAC 132V-12-368	Personnel matters.
WAC 132V-12-231	Duration of eligible lists.	WAC 132V-12-371	Grievance procedure.
WAC 132V-12-234	Registers—Generally.	WAC 132V-12-374	Payroll deduction.
WAC 132V-12-237	Registers—Departmental reduction in force—Duration.	WAC 132V-12-377	One year duration.
WAC 132V-12-240	Registers—Classified service-wide reduction in force—Duration.	WAC 132V-12-380	Filing—Conflict with Civil Service Act.
WAC 132V-12-243	Registers—Intradepartmental promotion—Duration.	WAC 132V-12-383	Conferences on disputes.
WAC 132V-12-246	Registers—Interdepartmental promotion—Duration.	WAC 132V-12-386	Hearing on disputes.
WAC 132V-12-249	Registers—Departmental unranked reinstatement—Duration.	WAC 132V-12-389	Service ratings.
WAC 132V-12-252	Registers—Classified service-wide unranked reinstatement—Duration.	WAC 132V-12-392	Education and training.
WAC 132V-12-255	Registers—Unranked transfer—Duration.	WAC 132V-12-398	Classes during working hours—Compensation—Authorization.
WAC 132V-12-258	Registers—Open-competitive—Duration.	WAC 132V-12-401	Special training programs.
WAC 132V-12-261	Removal of names from eligible lists.	WAC 132V-12-404	Political activity.
WAC 132V-12-264	Comparable lists.	WAC 132V-12-407	Outside employment.
		WAC 132V-12-410	False statements—Fraud.
		WAC 132V-12-413	Bribery.
		WAC 132V-12-416	Interference by officials.
		WAC 132V-12-419	Penalties.

WAC 132V-12-422	Discrimination.
WAC 132V-12-425	Personnel records.
WAC 132V-12-428	Roster.
WAC 132V-12-431	Reports to the personnel director.
WAC 132V-12-434	Public records.

WSR 97-03-129
PROPOSED RULES
DEPARTMENT OF ECOLOGY

[Order 96-12—Filed January 22, 1997, 10:53 a.m.]

Continuance of WSR 96-19-034.

Preproposal statement of inquiry was filed as WSR 95-22-068.

Title of Rule: Chapter 173-22 WAC, Adoption of designations of shorelands and wetlands associated with shorelines of the state.

Purpose: Continuation of adoption date to February 5, 1997.

Date of Intended Adoption: February 5, 1997.

January 22, 1997
Tom Fitzsimmons
Director

WSR 97-03-131
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed January 22, 1997, 11:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-06-034 on March 1, 1996; and WSR 96-06-078 on March 6, 1996.

Title of Rule: Agriculture—Clear rule writing and pesticides, chapters 296-306 and 296-306A WAC.

Purpose: Note: The majority of the amendments being proposed in this filing were previously proposed and scheduled for public hearing on December 27, 1996. Due to weather conditions, the December 27, 1996, hearing was cancelled. This proposal reschedules the hearing and includes additional housekeeping corrections to chapter 296-306A WAC not previously proposed.

Chapter 296-306 WAC, Safety standards for agriculture, state-initiated amendments to chapter 296-306 WAC are made to repeal WAC 296-306-060 Personal protective equipment, 296-306-330 Decontamination, 296-306-400 Posting requirements, 296-306-40007 Emergency medical care information, and 296-306-40009 Emergency assistance. This action is being taken to correct an error in a previous rule proposal and adoption.

Recently, the Department of Labor and Industries and the Department of Agriculture worked together to jointly adopt the federal Environmental Protection Agency worker protection standard to fulfill the requirements of SHB 2703. This adoption occurred September 30, 1996, with an effective date of November 1, 1996. In that adoption, the new pesticides sections adopted were included in the new agriculture standard, chapter 296-306A WAC. It was the

department's intention to repeal the old pesticide sections in the old chapter, chapter 296-306 WAC, at the same time. However, due to a filing oversight, these sections were not repealed as intended. An emergency adoption on November 1, 1996, repealed the old pesticide sections so two sets of pesticide rules are not in effect at the same time.

Chapter 296-306A WAC, Safety standards for agriculture, state-initiated proposed amendments are made to correct inadvertent housekeeping errors in the October 31, 1996, adoption of the new agriculture standard which became effective on December 1, 1996. The sole purpose of the new agriculture standard's proposal and adoption was to produce a clearly written agriculture standard that was easy to use that did not change existing requirements. After adoption, the department discovered unintended errors in the adopted standard and is proposing these amendments to correct those errors.

WAC 296-306A-08018 What employee training requirements apply to ROPS used on agricultural tractors? Proposed amendments are made to:

- Insert Exhibit A, Employee Operating Instructions, referred to in subsection (1).

WAC 296-306A-16003 How must camp shelters be constructed? Proposed amendments are made to:

- Insert subsection (11) in between the two sentences of subsection (10).
- Renumber subsection (12) to subsection (11).

WAC 296-306A-16013 What lighting must an employer provide in camp buildings? Proposed amendments are made to:

- Insert the phrase "Where electric service is available," at the beginning of the first sentence in the section. The proposed corrected sentence reads, "Where electric service is available, each habitable room in a camp must have at least one ceiling-type fixture and at least one separate floor-type or wall-type convenience outlet."

WAC 296-306A-32001 What does this section cover? Proposed amendments are made to:

- Insert the word "unexpected" before the words "start up." The proposed corrected sentence reads, "WAC 296-306A-320 covers the servicing and maintenance of machines and equipment in which the unexpected start up of the machine or equipment or release of stored energy could cause injury to employees."

Statutory Authority for Adoption: Chapter 49.17 RCW. Statute Being Implemented: RCW 49.17.040, [49.17].050, [49.17].060.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, 7273 Linderson Way, Tumwater, WA, (360) 902-5530; Implementation and Enforcement: Frank Leuck, 7273 Linderson Way, Tumwater, WA, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Chapter 296-306 WAC,

the department has determined a small business economic impact statement is not necessary to meet the requirements of the Regulatory Fairness Act, chapter 19.85 RCW, because the proposed amendments do not place more than minor impact on business.

Chapter 296-306A WAC, the department has determined a small business economic impact statement is not necessary to meet the requirements of the Regulatory Fairness Act, chapter 19.85 RCW, because there are no probable costs associated with the amendments proposed.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Chapter 296-306 WAC, significant rule-making criteria does not apply. The proposed rule proposes no significant modifications to the standard. Chapter 296-306A WAC, significant rule-making criteria does not apply to these rule amendments because they meet the exempt criteria outlined in RCW 34.05.328 (5)(b).

Hearing Location: Department of Labor and Industries Building, Auditorium, 7273 Linderson Way, Tumwater, WA, on February 26, 1997, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Linda Dausener by February 14, 1997, (360) 902-5516.

Submit Written Comments to: Tracy Spencer, Standards Manager, Division of Consultation and Compliance, P.O. Box 44620, Olympia, WA 98507-4620, by March 5, 1997.

In addition to written comments, the department will accept comments submitted to FAX (360) 902-5529. Comments submitted by FAX must be ten pages or less.

Date of Intended Adoption: March 31, 1997.

January 22, 1997

Gary Moore
Director

AMENDATORY SECTION (Amending WSR 96-22-048, filed 10/31/96, effective 12/1/96)

WAC 296-306A-16003 How must camp shelters be constructed? (1) You must ensure that every shelter in the camp is constructed to provide protection against the elements.

(2) Each room used for sleeping purposes must have at least 50 square feet of floor space for each occupant. The room must have at least a 7-foot ceiling.

(3) You must provide beds, cots, or bunks, and suitable storage facilities such as wall lockers for clothing and personal articles in every sleeping room.

(a) Beds must be at least 36 inches apart, both laterally and end to end, and the frame must keep mattresses at least 12 inches off the floor.

(b) Double-deck bunks must be spaced at least 48 inches apart, both laterally and end to end.

(c) The minimum clear space between lower and upper bunks must be at least 27 inches.

(d) Triple-deck bunks are prohibited.

(4) The floors of each shelter must be constructed of wood, asphalt, or concrete. Wooden floors must be smooth and tight. The floors must be kept in good repair.

(5) All wooden floors must be elevated at least 1 foot above ground level at all points to prevent dampness and to permit free air circulation.

(6) You may "bank" around outside walls with earth or other suitable material to guard against extreme low temperatures.

(7) All living quarters must have windows covering a total area equal to at least one-tenth of the floor area. You must ensure that at least one-half of each window can be opened for ventilation.

(8) All exterior openings must be screened with 16-mesh material. All screen doors must have self-closing devices.

(9) You must ensure that each dwelling unit has at least 70 square feet of floor space for the first occupant and at least 50 square feet of floor space for each additional occupant. In a family unit, the husband and wife must have a separate sleeping area whenever living with one or more children over six years old.

(10) In camps with common cooking facilities, you must provide stoves in an enclosed and screened shelter. You must provide sanitary facilities for storing and preparing food. You must provide one stove for every 10 people or one stove for every two families.

(11) ~~(You must provide sanitary facilities for storing and preparing food.~~

~~(12))~~ If a camp is used during cold weather, you must provide adequate heating equipment.

Note: All heating, cooking, and water heating equipment must be installed according to state and local ordinances, codes, and regulations governing such installations.

AMENDATORY SECTION (Amending WSR 96-22-048, filed 10/31/96, effective 12/1/96)

WAC 296-306A-16013 What lighting must an employer provide in camp buildings? Where electric service is available, each habitable room in a camp must have at least one ceiling-type light fixture and at least one separate floor-type or wall-type convenience outlet. Laundry and toilet rooms and rooms where people congregate must have at least one ceiling-type or wall-type fixture. Light levels in toilet and storage rooms must be at least 20 foot-candles 30 inches from the floor. Other rooms, including kitchens and living quarters, must be at least 30 foot-candles 30 inches from the floor.

AMENDATORY SECTION (Amending WSR 96-22-048, filed 10/31/96, effective 12/1/96)

WAC 296-306A-08018 What employee training requirements apply to ROPS used on agricultural tractors? (1) You must ensure that every employee who operates an agricultural tractor is informed of the operating practices listed below and of any other practices dictated by the work environment. You must provide the information at the time of initial assignment and at least annually thereafter.

EXHIBIT A

EMPLOYEE OPERATING INSTRUCTIONS

1. Securely fasten your seat belt if the tractor has a ROPS.
2. Where possible, avoid operating the tractor near ditches, embankments and holes.
3. Reduce speed when turning, crossing slopes and on rough, slick or muddy surfaces.
4. Stay off slopes too steep for safe operation.

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 [Filed January 22, 1997, 11:27 a.m.]

5. Watch where you are going, especially at row ends, on roads and around trees.
6. Passengers, other than persons required for instruction or machine operation, shall not be permitted to ride on equipment unless a passenger seat or other protective device is provided.
7. Operate the tractor smoothly—no jerky turns, starts, or stops.
8. Hitch only to the drawbar and hitch points recommended by tractor manufacturers.
9. When tractor is stopped, set brakes securely and use park lock if available.

(2) You must ensure that every employee who operates an agriculture tractor is trained specifically in the operation of the tractor to be used. The training must include an orientation of the operator to the topographical features of the land where the tractor will be operated. Training must emphasize safe operating practices to avoid rollover.

(3) The tractor training program must be described in the written accident prevention program required by WAC 296-306A-030.

AMENDATORY SECTION (Amending WSR 96-22-048, filed 10/31/96, effective 12/1/96)

WAC 296-306A-32001 What does this section cover?

(1) WAC 296-306A-320 covers the servicing and maintenance of machines and equipment in which the unexpected start up of the machine or equipment or release of stored energy could cause injury to employees. This standard establishes minimum performance requirements for the control of such hazardous energy.

(2) Normal production operations are not covered by this standard. Servicing and/or maintenance that takes place during normal production operations is covered by this standard only if:

(a) An employee is required to remove or bypass a guard or other safety device; or

(b) An employee is required to place a body part into a point of operation or where an associated danger zone exists during a machine operating cycle.

Exception: Minor servicing activities, that take place during normal production operations, are not covered by this standard if they are routine, repetitive, and integral to the use of the equipment for production, provided that the work is performed using alternative measures that provide effective protection.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-306-060	Personal protective equipment.
WAC 296-306-330	Decontamination.
WAC 296-306-400	Posting requirements.
WAC 296-306-40007	Emergency medical care information.
WAC 296-306-40009	Emergency assistance.

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-24[-104].

Title of Rule: Specialty compliance fee increases for elevators material lifts, contractor registration and renewal, and factory assembled structures.

Purpose: State-initiated proposed amendments to chapters 296-86, 296-150C, 296-150F, 296-150M, 296-150R, and 296-200 WAC are made to increase the fees in these chapters by 4.45%. The 4.45% figure was obtained from the Office of Financial Management and is the maximum allowable fiscal growth rate factor for fiscal year 1997. All fee increases have been rounded down to the nearest quarter of a dollar. It has been several years since specialty compliance has increased fees, therefore, the purpose of these proposed fee increases is to help offset increased operating costs in the elevator, factory assembled structures, and contractor registration programs. Fees in the following sections have been increased:

Chapter 296-86 WAC, Regulations and fees for freight and passenger elevators, manlifts, dumbwaiters, escalators, moving walks, automobile parking elevators, personnel elevators, and other lifting devices: WAC 296-86-020 Construction and alteration fee, 296-86-030 Installation fee for personnel elevators and material hoists, 296-86-050 Fee for checking plans for new installations, 296-86-060 Annual operating permit fees, 296-86-070 Supplemental inspections, 296-86-075 Reinspection fees, and 296-86-080 Fee for inspection of regular elevators being used as temporary personnel elevators.

Chapter 296-150C WAC, Commercial coaches: WAC 296-150C-3000 Commercial coach fees.

Chapter 296-150F WAC, Factory-built housing and commercial structures: WAC 296-150F-3000 Factory-built housing and commercial structure fees.

Chapter 296-150M WAC, Manufactured homes: WAC 296-150M-3000 Table of manufactured home fees.

Chapter 296-150R WAC, Recreational vehicles and park trailers: WAC 296-150R-3000 Table of recreational vehicle and park trailer fees for insignia approval.

Chapter 296-200 WAC, Contractor certificate of registration renewals—Security—Insurance: WAC 296-200-900 Fees.

Note: Amendments are also being proposed to increase electrical and plumbing fees by 4.45%. These proposed fee increases will be available for comment at the same public hearing as the fee increases indicated above. However, due to other proposed changes in electrical and plumbing rules, the electrical and plumbing proposals are being filed separately.

In addition to the proposed fee increases, other state-initiated proposed amendments are made to the following chapters for the reasons indicated.

WAC 296-86-020 Construction and alteration fee, proposed amendments are made to exclude material lift installation, alteration and relocation fees from this section

and include them in a new section, WAC 296-86-090 Material lift installation, alteration and relocation fees.

WAC 296-86-060 Annual operating permit fees, proposed amendments are made to include the annual operating permit fee for material lifts in this section.

WAC 296-86-090 Material lift installation, alteration and relocation fees, proposed amendments are made:

- To create a new section for material lift installation, alteration and relocation fees.
- To increase material lift installation, alteration and relocation fees by 4.45% down to the nearest quarter.

WAC 296-93-300 Submission of plans for new installations, proposed amendments are made:

- To retitle the section to "When should plans for installation, alteration and relocation be submitted?"
- To rewrite the section in a clear rule writing style and therefore comply with the Administrative Procedure Act (see RCW 34.05.220(5)).
- To replace the plan review fee in this section with a reference to WAC 296-86-050, which indicates the fee amount.

WAC 296-93-320 Construction, alteration, and relocation fees, proposed amendments are made to repeal this section and move material lift construction, alteration and relocation fees to WAC 296-86-090.

WAC 296-93-330 Annual operating permit fee, proposed amendments are made:

- To retitle the section to "What is the annual operating permit fee?"
- To rewrite the section in a clear rule writing style and therefore comply with the Administrative Procedure Act (see RCW 34.05.220(5)).
- To replace the annual operating permit fee in this section with a reference to WAC 296-86-060, which indicates the fee amount.
- To delete the sentence "No operating permit will be issued until this annual fee is paid." because it is found in WAC 296-86-060.

WAC 296-150M-3000 Table of manufactured home fees, proposed amendments are made to retitle the section to "Manufactured home fees" so it will be consistent with other factory assembled structures fee section titles.

WAC 296-150R-3000 Table of recreational vehicle and park trailer fees for insignia approval, proposed amendments are made to retitle the section to "Recreational vehicles and park trailer fees" so it will be consistent with other factory assembled structures fee section titles.

WAC 296-200-025 Initial application for registration and renewal of registration, proposed amendments are made to replace the registration fee in subsection (1)(e) with a reference to WAC 296-200-900 which indicates the fee amount.

WAC 296-200-050 Change in business structure, name, or business, proposed amendments are made to replace the registration fee in subsection (1) with a reference to WAC 296-200-900 which indicates the fee amount.

WAC 296-200-900 Fees, proposed amendments are made:

- To retitle the section to "What fees does the department charge contractors for issuance, renewal and reinstatement of certificates of registration?"

- To rewrite the section in a clear rule writing style and therefore comply with the Administrative Procedure Act (see RCW 34.05.220(5)).

- To specify a reinstatement fee which is authorized by RCW 18.27.070.

Statutory Authority for Adoption: RCW 70.87.030, 18.27.070, 18.27.075, 43.22.350, 43.22.355, 43.22.434, and 43.22.480(2).

Statute Being Implemented: Chapters 70.87, 18.27, and 43.22 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Pete Schmidt, 7273 Linderson Way, Tumwater, WA, (360) 902-5571; Implementation and Enforcement: Frank Leuck, 7273 Linderson Way, Tumwater, WA, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has considered whether these proposed rules are subject to the Regulatory Fairness Act and has determined that they do not require a small business economic impact statement because the proposed rules will not place a more than minor impact on business.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. The proposed rules are considered "significant legislative rules" because the proposed fee increases, although relatively small, will have a financial impact upon stakeholders.

Hearing Location: Department of Labor and Industries Building, Auditorium, 7273 Linderson Way, Tumwater, WA, on February 25, 1997, at 1:00 p.m.; and at the Spokane County Public Works Building, County Commissioners Assembly Room (lower level), 1026 West Broadway, Spokane, WA, on February 27, 1997, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact George Huffman by February 10, 1997, (360) 902-6411.

Submit Written Comments to: Department of Labor and Industries, Attention: Pete Schmidt, Program Manager for Specialty Compliance, P.O. Box 44655, Olympia, WA 98504-4655, by no later than 5:00 p.m. March 6, 1997. In addition to written comments, the department will accept comments submitted to FAX (360) 902-5292. Comments submitted by FAX must be ten pages or less.

Date of Intended Adoption: May 20, 1997.

January 21, 1997

Gary Moore
Director

AMENDATORY SECTION (Amending Order 86-5, filed 1/10/86)

WAC 296-86-020 Construction and alteration fee. The construction and alteration fee schedule (except for material lifts) shall be:

PROPOSED

TOTAL COST	FEE
\$250.00 to and including \$1,000	\$ ((27.50)) <u>28.50</u>
\$1,001 to and including \$15,000	
For first \$1,001	((39.50)) <u>40.00</u>
For each additional \$1,000 or fraction	((7.70)) <u>8.00</u>
\$15,001 to and including \$100,000	
For first \$15,001	((146.30)) <u>152.75</u>
For each additional \$1,000 or fraction	<u>5.50</u>
Over \$100,001	
For first \$100,001	((613.80)) <u>641.00</u>
For each additional \$1,000 or fraction	((4.40)) <u>4.50</u>

AMENDATORY SECTION (Amending WSR 92-24-065, filed 12/1/92, effective 1/1/93)

WAC 296-86-030 Installation fee for personnel elevators and material hoists. The fee for the installation of each personnel elevator and material hoist shall be ~~((90.00))~~ \$94.00.

AMENDATORY SECTION (Amending Order 70-5, filed 6/2/70)

WAC 296-86-050 Fee for checking plans for new installations. The fee for checking plans shall be ~~((20.00))~~ \$20.75 for each installation.

AMENDATORY SECTION (Amending WSR 95-04-005, filed 1/18/95, effective 3/1/95)

WAC 296-86-060 Annual operating permit fees. Fees for annual operation shall be paid in accordance with the following schedule and no operating permit shall be issued for the operation of a conveyance until such fees have been received.

CONVEYANCE	ANNUAL FEE
Each hydraulic elevator	((70.00)) <u>\$ 73.00</u>
Each cable elevator	((90.00)) <u>\$94.00</u> plus ((7.00)) <u>\$7.25</u> for each hoistway opening in excess of two.
Each cable elevator traveling more than 25 ft.	((10.00)) <u>\$10.25</u> for each 25 ft. of travel without openings.
Each sidewalk freight elevator	((70.00)) <u>\$73.00</u>
Each hand power freight elevator	((45.00)) <u>\$47.00</u>
Each hand power manlift	((45.00)) <u>\$47.00</u>
Each incline elevator in other than a private residence	((90.00)) <u>\$94.00</u>
Each belt manlift	((70.00)) <u>\$73.00</u>
Each boat launching elevator	((70.00)) <u>\$73.00</u>
Each auto parking elevator	((70.00)) <u>\$73.00</u>
Each escalator	((70.00)) <u>\$73.00</u>
Each moving walk	((70.00)) <u>\$73.00</u>
Each dumbwaiter in other than a private residence	((45.00)) <u>\$47.00</u>
Each people mover	((60.00)) <u>\$62.50</u>
Each stair lift in other than a private residence	((45.00)) <u>\$47.00</u>
Each wheel chair lift in other than a private residence	((45.00)) <u>\$47.00</u>
Each personnel elevator	((70.00)) <u>\$73.00</u>
Each material hoist	((70.00)) <u>\$73.00</u>

Each casket lift	((70.00)) <u>\$73.00</u>
Each material lift	<u>\$62.50</u>
Each inclined stairway chair lift in private residence	((45.00)) <u>\$15.50</u>
Each inclined wheelchair lift in private residence	((20.00)) <u>\$20.75</u>
Each vertical wheelchair lift in private residence	((25.00)) <u>\$26.00</u>
Each inclined elevator at a private residence	((70.00)) <u>\$73.00</u>
Each dumbwaiter in private residence	((20.00)) <u>\$20.75</u>
Each private residence elevator	((45.00)) <u>\$47.00</u>
Each private residence elevator installed with variance in other than a private residence	((70.00)) <u>\$73.00</u>

AMENDATORY SECTION (Amending Order 86-5, filed 1/10/86)

WAC 296-86-070 Supplemental inspections. Any person, firm, corporation or governmental agency may secure supplemental inspections of conveyances by paying to the department a fee of ~~((258.00))~~ \$269.25 per day plus the standard per diem and mileage allowed by the department to its inspectors.

AMENDATORY SECTION (Amending Order 86-5, filed 1/10/86)

WAC 296-86-075 Reinspection fees. No fee shall be charged for the yearly inspection or for the initial inspection after installation or alteration. If, however, the conveyance does not meet the requirements of the department, and if another inspection is required to confirm compliance by the person having control over the conveyance with the regulations of the department, then an inspection fee of ~~((70.00))~~ \$73.00 per conveyance to be inspected shall be charged for the reinspection, and if there is still failure to comply with the rules of the department, a fee of ~~((90.00))~~ \$94.00 shall be charged for every conveyance requiring a further reinspection. These fees are in addition to the fees charged under WAC 296-86-020 and must be paid before issuance of an operating permit. The department may waive the reinspection fee where, through no fault of the requesting person or agency, or of the person or agency responsible for payment of the reinspection fee, reinspection is not possible; or for other reasons that in justice or equity obviate the necessity of payment of the reinspection fee.

AMENDATORY SECTION (Amending Order 82-18, filed 5/20/82)

WAC 296-86-080 Fee for inspection of regular elevators being used as temporary personnel elevators. The fee for the inspection and testing of regular elevators for use as temporary personnel elevators shall be ~~((60.00))~~ \$62.50.

NEW SECTION

WAC 296-86-090 Material lift installation, alteration and relocation fees. The fees for installing, altering, or relocating a material lift are:

TOTAL COST	FEE
\$250.00 to and including \$1,000	\$ 26.00
\$1,001 to and including \$15,000	
For first \$1,001	\$ 36.50
For each additional \$1,000 or fraction	\$ 7.25

\$15,001 to and including \$100,000	
For first \$15,001	\$138.75
For each additional \$1,000 or fraction	\$ 5.00
Over \$100,001	
For first \$100,001	\$582.75
For each additional \$1,000 or fraction	\$ 4.00

AMENDATORY SECTION (Amending Order 84-7, filed 4/27/84)

~~WAC 296-93-300 ((Submission of plans for new installations.)) When should plans for installations, alterations and relocations be submitted? ((Plans shall be submitted in duplicate for approval to the conveyance section of the department before construction. The fee for checking plans is twenty dollars for each installation.)) All plans must be submitted, in duplicate, to the department for approval before construction begins. The department's fee for checking plans is shown in WAC 296-86-050.~~

AMENDATORY SECTION (Amending Order 84-7, filed 4/27/84)

~~WAC 296-93-330 What is the annual operating permit fee((-))? ((The fee for an annual operating permit is sixty dollars for each material lift. No operating permit shall be issued for the operation of a material lift until the department has received the fee.)) For each material lift in operation, an annual operating permit is required. The dollar amount of the fee is shown in WAC 296-86-060.~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-93-320 Construction, alteration, and relocation fees.

AMENDATORY SECTION (Amending Order 83-21, filed 8/2/83)

WAC 296-200-025 Initial application for registration and renewal of registration. (1) A contractor may register if it:

- Completes an application for registration;
- Provides the information required by RCW 18.27.030;
- Obtains a surety bond, assigns a savings account to the department, or deposits cash or other security with the section. If a contractor obtains a bond, it must submit the original bond to the section (see RCW 18.27.040);
- Obtains public liability and property damage insurance, and submits a copy of the insurance certificate to the section (see RCW 18.27.050); and
- ~~((Pays a fee of \$40.00.)) Pays the application/renewal fee shown in WAC 296-200-900.~~

(2) The section shall send a renewal notice to a contractor's last recorded address at least 45 days before the contractor's registration expires. The contractor may renew its registration if it submits the renewal card and provides the materials required in paragraphs (1)(b), (c), (d), and (e).

(3) The contractor must submit all of the materials to the section in one package. Each of the materials must

name the contractor exactly as it is named on the application for registration or the renewal card, as appropriate. If the contractor is renewing its registration, each of the materials must include the contractor's registration number. If any of the materials are missing, do not properly name the contractor, or do not include the registration number, the section shall refuse to register or renew the registration of the contractor.

(4) The contractor may request, in a letter filed with the application or renewal materials, that the registration period end on a particular day. The resulting registration period may not be longer than one year.

(5) When the section receives the required materials, it shall register or renew the registration of the contractor.

AMENDATORY SECTION (Amending Order 83-21, filed 8/2/83)

WAC 296-200-050 Change in business structure, name, or address. (1) If a contractor changes its business structure (for example, if it changes from a partnership to a corporation, or if the partners in a partnership change), the contractor must apply for a new registration in the manner required by WAC 296-200-025. The new registration must be accompanied by ~~((a \$40.00))~~ the registration fee shown in WAC 296-200-900. If a contractor does not reregister after a change in its business structure, its registration may be invalid. See RCW 18.27.040.

(2) If a registered contractor changes its name or address it must notify the section of the change. The contractor must include ~~((a \$40.00))~~ the registration fee (shown in WAC 296-200-900) with the notification of a change in name.

AMENDATORY SECTION (Amending Order 83-21, filed 8/2/83)

WAC 296-200-900 ((Fees.)) What fees does the department charge contractors for issuance, renewal and reinstatement of certificates of registration? (1) The department ~~((shall charge a \$40.00 fee for each registration and renewal of registration. For purposes of this rule, a contractor renews its registration after its registration expires, or after the registration has been suspended because the contractor's bond or insurance has been cancelled. The department shall charge \$10.00 for providing a duplicate certificate of registration.~~

~~((2) The department will charge \$2.00 per copy for documents from a contractor's file. The department shall not charge more than a total of \$24.00 for copies from one contractor's file)) charges the following fees:~~

~~((a) \$41.75 for each issuance, renewal or reregistration of a certificate of registration.~~

~~((b) \$50.00 for the reinstatement of a certificate of registration.~~

~~((c) \$10.25 for providing a duplicate certificate of registration.~~

~~((d) \$2.00 per copy for documents copied from a contractor's file. The maximum copy charge for copies from one contractor's file will be \$25.00.~~

~~((2) For the purposes of this chapter:~~

~~((a) A contractor renews its registration after it expires.~~

(b) A contractor reinstates its registration after it has been suspended because its bond or insurance has been cancelled.

(c) A contractor reregisters when it changes its business structure.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150C-3000 Commercial coach fees.

PROPOSED

INITIAL FILING FEE	\$ 25.00
DESIGN PLAN FEES	
INITIAL FEE-MASTER DESIGN	\$170.00
INITIAL FEE-ONE YEAR DESIGN	70.00
RENEWAL FEE	30.00
RESUBMIT FEE	50.00
ADDENDUM	50.00
PLANS APPROVED BY PROFESSIONALS	35.00
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION*	\$ 50.00
TRAVEL (PER HOUR)*	50.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES	
AUDIT (PER HOUR)*	\$50.00
TRAVEL (PER HOUR)*	50.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES	
FIRST SECTION	\$ 15.00
EACH ADDITIONAL SECTION	10.00
ALTERATION	25.00
REISSUED-LOST/DAMAGED	10.00
FIELD/TECHNICAL SERVICE FEE (PER HOUR)	\$50.00

* Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments
 ** Per state guidelines.
 *** Actual charges incurred.

PROPOSED

INITIAL FILING FEE	\$ 26.00
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DESIGN PLAN FEES	
INITIAL FEE-MASTER DESIGN	\$177.50
INITIAL FEE-ONE YEAR DESIGN	73.00
RENEWAL FEE	31.25
RESUBMIT FEE	52.00
ADDENDUM	52.00
PLANS APPROVED BY PROFESSIONALS	36.50

DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION*	\$ 52.00
TRAVEL (PER HOUR)*	52.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	

DEPARTMENT AUDIT FEES	
AUDIT (PER HOUR)*	\$52.00
TRAVEL (PER HOUR)*	52.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	

INSIGNIA FEES	
FIRST SECTION	\$ 15.50
EACH ADDITIONAL SECTION	10.25
ALTERATION	26.00
REISSUED-LOST/DAMAGED	10.25

FIELD TECHNICAL SERVICE FEE (PER HOUR)	\$52.00
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* Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments

** Per state guidelines.

***Actual charges incurred.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150F-3000 Factory-built housing and commercial structure fees.

INITIAL FILING FEE	\$ 35.00
DESIGN PLAN FEES	
INITIAL FEE-MASTER DESIGN (CODE CYCLE)	\$170.00
INITIAL FEE-ONE YEAR DESIGN	100.00
RENEWAL FEE	35.00
RESUBMIT FEE	50.00
ADDENDUM	50.00
PLANS APPROVED BY PROFESSIONALS	35.00
DEPARTMENT INSPECTION FEES	
INSPECTION (PER HOUR)*	\$ 50.00
TRAVEL (PER HOUR)*	50.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
NLEA CHARGE	21.00
DEPARTMENT AUDIT FEES	
AUDIT (PER HOUR)*	\$50.00
TRAVEL (PER HOUR)*	50.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES	
FIRST SECTION	\$ 140.00
EACH ADDITIONAL SECTION	14.00
REISSUED-LOST/DAMAGED	35.00
TEMPORARY INSIGNIA FEES	
FIRST SECTION	\$ 140.00
EACH ADDITIONAL SECTION	14.00
REPLACEMENT FOR TEMPORARY INSIGNIA	35.00
FIELD TECHNICAL SERVICE FEE (PER HOUR)	\$50.00

* Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments
 ** Per state guidelines.
 *** Actual charges incurred.

PROPOSED

PROPOSED

INITIAL FILING FEE	\$ 36.50
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DESIGN PLAN FEES	
INITIAL FEE-MASTER DESIGN (CODE CYCLE)	\$177.50
INITIAL FEE-ONE YEAR DESIGN	104.25
RENEWAL FEE	36.50
RESUBMIT FEE	52.00
ADDENDUM	52.00
PLANS APPROVED BY PROFESSIONALS	36.50

DEPARTMENT INSPECTION FEES	
INSPECTION (PER HOUR)*	\$ 52.00
TRAVEL (PER HOUR)*	52.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
NLEA CHARGE	21.75

DEPARTMENT AUDIT FEES	
AUDIT (PER HOUR)*	\$52.00
TRAVEL (PER HOUR)*	52.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	

INSIGNIA FEES	
FIRST SECTION	\$ 146.00
EACH ADDITIONAL SECTION	14.50
REISSUED-LOST/DAMAGED	36.50

TEMPORARY INSIGNIA FEES	
FIRST SECTION	\$ 146.00
EACH ADDITIONAL SECTION	14.50
REPLACEMENT FOR TEMPORARY INSIGNIA	36.50

FIELD TECHNICAL SERVICE FEE (PER HOUR)	\$52.00
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* Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments
 ** Per state guidelines.
 ***Actual charges incurred.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150M-3000 ((Table of)) Manufactured home fees.

PROPOSED

INITIAL FILING FEE	\$25.00
DESIGN PLAN	
STRUCTURAL ALTERATION-MASTER DESIGN (CODE CYCLE)	\$100.00
STRUCTURAL ALTERATION-ONE YEAR DESIGN	70.00
RENEWAL FEE	30.00
RESUBMIT FEE	50.00
ADDENDUM	50.00
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (PER HOUR)*	\$50.00
INSIGNIA FEES	
ALTERATION	\$25.00
REISSUED-LOST/DAMAGED	15.00
FIELD TECHNICAL SERVICE FEES(PER HOUR)*	\$50.00
IPIA	
DEPARTMENT AUDIT FEES	
PER SECTION(ONE TIME ONLY)	\$23.00
INCREASED FREQUENCY VISITS(PER HOUR)*	50.00
REINSPECTION(PER HOUR)*	50.00

NOTE: Local jurisdictions may have other fees that apply.

Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments.

PROPOSED

INITIAL FILING FEE	\$26.00
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DESIGN PLAN	
STRUCTURAL ALTERATION-MASTER DESIGN (CODE CYCLE)	\$104.25
STRUCTURAL ALTERATION-ONE YEAR DESIGN	73.00
RENEWAL FEE	31.25
RESUBMIT FEE	52.00
ADDENDUM	52.00

DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (PER HOUR)*	\$52.00

INSIGNIA FEES	
ALTERATION	\$26.00
REISSUED-LOST/DAMAGED	15.50

FIELD TECHNICAL SERVICE FEES(PER HOUR)*	\$52.00
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IPIA	
DEPARTMENT AUDIT FEES	
PER SECTION(ONE TIME ONLY)	\$24.00
INCREASED FREQUENCY VISITS(PER HOUR)*	52.00
REINSPECTION(PER HOUR)*	52.00

NOTE: Local jurisdictions may have other fees that apply.

* Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150R-3000 ((Table of)) Recreational vehicle and park trailer fees ((for insignia approval)).

PROPOSED

STATE PLAN		SELF CERTIFICATION	
INITIAL FILING FEE	\$25.00	INITIAL FILING FEE	\$25.00

DESIGN PLAN		DESIGN PLAN	
NEW PLAN REVIEW FEE	\$70.00	NEW PLAN REVIEW FEE (ONE TIME FEE)	\$70.00
RESUBMIT FEE	50.00	RESUBMIT FEE	50.00
ADDENDUM	50.00	ADDENDUM	50.00

STATE PLAN/MANUAL FEES		SELF CERTIFICATION/MANUAL FEES	
INITIAL APPROVAL	\$10.00	INITIAL APPROVAL	\$10.00
RESUBMITTAL	50.00	RESUBMITTAL	50.00
ADDENDUM	50.00	ADDENDUM	50.00

DEPARTMENT AUDIT FEES		DEPARTMENT AUDIT FEES	
AUDIT (PER HOUR)*	\$50.00	AUDIT (PER HOUR)*	\$50.00
TRAVEL (PER HOUR)*	50.00	TRAVEL (PER HOUR)*	50.00
PER DIEM**		PER DIEM**	
HOTEL***		HOTEL***	
MILEAGE**		MILEAGE**	
RENTAL CAR***		RENTAL CAR***	
PARKING***		PARKING***	
AIRFARE***		AIRFARE***	

DEPARTMENT INSPECTION FEES		DEPARTMENT INSPECTION FEES	
INSPECTION (PER HOUR)*	\$50.00	INSPECTION (PER HOUR)*	\$50.00
TRAVEL (PER HOUR)*	50.00	TRAVEL (PER HOUR)*	50.00
PER DIEM**		PER DIEM**	
HOTEL***		HOTEL***	
MILEAGE**		MILEAGE**	
RENTAL CAR***		RENTAL CAR***	
PARKING***		PARKING***	
AIRFARE***		AIRFARE***	

INSIGNIA FEES		INSIGNIA FEES	
STATE CERTIFIED	\$10.00	SELF CERTIFIED	\$10.00
ALTERATION	25.00	ALTERATION	25.00
REISSUED-LOST/DAMAGED	10.00	REISSUED-LOST/DAMAGED	10.00

FIELD TECHNICAL SERVICE FEE (PER HR.)	\$50.00
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* Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments
 ** Per state guidelines.
 *** Actual charges incurred.

PROPOSED

STATE PLAN		SELF CERTIFICATION	
INITIAL FILING FEE	\$26.00	INITIAL FILING FEE	\$26.00

DESIGN PLAN		DESIGN PLAN	
NEW PLAN REVIEW FEE	\$73.00	NEW PLAN REVIEW FEE (ONE TIME FEE)	\$73.00
RESUBMIT FEE	52.00	RESUBMIT FEE	52.00
ADDENDUM	52.00	ADDENDUM	52.00

STATE PLAN/MANUAL FEES		SELF CERTIFICATION/MANUAL FEES	
INITIAL APPROVAL	\$10.25	INITIAL APPROVAL	\$10.25
RESUBMITTAL	52.00	RESUBMITTAL	52.00
ADDENDUM	52.00	ADDENDUM	52.00

DEPARTMENT AUDIT FEES		DEPARTMENT AUDIT FEES	
AUDIT (PER HOUR)*	\$52.00	AUDIT (PER HOUR)*	\$52.00
TRAVEL (PER HOUR)*	52.00	TRAVEL (PER HOUR)*	52.00
PER DIEM**		PER DIEM**	
HOTEL***		HOTEL***	
MILEAGE**		MILEAGE**	
RENTAL CAR***		RENTAL CAR***	
PARKING***		PARKING***	
AIRFARE***		AIRFARE***	

DEPARTMENT INSPECTION FEES		DEPARTMENT INSPECTION FEES	
INSPECTION (PER HOUR)*	\$52.00	INSPECTION (PER HOUR)*	\$52.00
TRAVEL (PER HOUR)*	52.00	TRAVEL (PER HOUR)*	52.00
PER DIEM**		PER DIEM**	
HOTEL***		HOTEL***	
MILEAGE**		MILEAGE**	
RENTAL CAR***		RENTAL CAR***	
PARKING***		PARKING***	
AIRFARE***		AIRFARE***	

INSIGNIA FEES		INSIGNIA FEES	
STATE CERTIFIED	\$10.00	SELF CERTIFIED	\$10.00
ALTERATION	26.00	ALTERATION	26.00
REISSUED-LOST/DAMAGED	10.00	REISSUED-LOST/DAMAGED	10.00

FIELD TECHNICAL SERVICE FEE (PER HR.)	\$52.00
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* Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments
 ** Per state guidelines.
 *** Actual charges incurred.

WSR 97-03-133
PROPOSED RULES
EXECUTIVE ETHICS BOARD
 [Filed January 22, 1997, 11:35 a.m.]

Original Notice.
 Preproposal statement of inquiry was filed as WSR 96-23-061.
 Title of Rule: Penalty rules.

Purpose: To set out criteria that the board will consider when imposing sanctions for violations of chapter 42.52 RCW.

Statutory Authority for Adoption: RCW 42.52.360 (2)(g).

Statute Being Implemented: Chapter 42.52 RCW.
 Summary: Establishes rules regarding the imposition of penalties or sanctions for violations of chapter 42.52 RCW by state officials and employees of the executive branch of government.

Reasons Supporting Proposal: The proposed rules set out criteria that will be used by the executive ethics board to determine the appropriate penalties or sanctions for violations of chapter 42.52 RCW.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Barbara Cook, Secretary, P.O. Box 40100, Olympia, WA, (360) 664-0871.

Name of Proponent: Executive Ethics Board, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of the rule is to set out the criteria that the board will consider when imposing sanctions for violation of chapter 42.52 RCW. Chapter 42.52 RCW permits the board to impose such sanctions as reprimands, civil (monetary) penalties and payment of damages and costs. Civil penalties may not exceed \$5,000, or three times the economic value of anything sought/received.

In setting the amount of the monetary penalty the board shall consider the nature of the violation and the extent/magnitude of the violation. The board will consider the violators scope of authority/responsibility and intention. Mitigating factors will be considered.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules set out the procedure for filing and determining a complaint that officers and employees of the executive branch of state government have violated chapter 42.52 RCW. The rules do not regulate private business. Therefore, the rules will have no economic impact on small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Pursuant to RCW 34.05.328(5), the Executive Ethics Board is not an agency subject to the provisions of RCW 34.05.328 (1)-(4). In addition, under RCW 34.05.328 (5)(b)(ii), these rules relate to internal governmental operations that are not subject to violation by a nongovernmental party.

Hearing Location: Washington State Training and Conference Center, 19010 1st Avenue South, Room 216, Seattle, WA 98418, on March 14, 1997, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Teri Metcalf by February 28, 1997, TDD (360) 586-3751.

Submit Written Comments to: Executive Ethics Board, P.O. Box 40100, Olympia, WA 98504-0100, FAX (360) 664-0229, by February 28, 1997.

Date of Intended Adoption: At the meeting following the hearing, March 14, 1997.

January 22, 1997

Barbara Cook
Secretary to the Board

**CHAPTER 292-120 WAC
EXECUTIVE ETHICS BOARD
PENALTY RULES**

NEW SECTION

WAC 292-120-010 Purpose. The purpose of this rule is to set out the criteria that the board may consider when imposing sanctions for a violation of chapter 42.52 RCW and the rules adopted under it.

NEW SECTION

WAC 292-120-020 Board may impose sanctions. If the board finds a violation of chapter 42.52 RCW or rules adopted under it, the board may impose one or more of the following sanctions:

(1) Reprimand, either by letter of instruction or formal reprimand;

(2) Recommend to the appropriate authorities suspension, removal from the position, or prosecution or other appropriate remedy;

(3) A civil penalty of up to five thousand dollars per violation or three times the economic value of any thing sought or received in violation of chapter 42.52 RCW or rules adopted under it, whichever is greater. Payment of the civil penalty shall be reduced by the amount of costs paid pursuant subsection 5;

(4) Payment of damages sustained by the state that were caused by the violation and were not recovered by the state auditor;

(5) Costs, including reasonable investigative costs, that do not exceed the amount of any civil penalty;

(6) Recommend to the governor and the appropriate agency that they request the attorney general bring an action to cancel or rescind action taken by the violator, upon a board finding that:

(a) The violation has substantially influenced the state action; and

(b) Interests of the state require cancellation or rescission.

NEW SECTION

WAC 292-120-030 Criteria for determining sanctions. In determining the appropriate sanction, including the amount of any civil penalty, the board may consider the nature of the violation and the extent or magnitude or severity of the violation, including:

(1) The monetary cost of the violation including:

(a) The cost of the violation to the state;

(b) The value of anything received or sought in the violation;

(c) The amount of any damages incurred by the state as a result of the violation;

(d) The costs incurred in enforcement, including reasonable investigative costs;

(2) The nature of the violation including whether the violation:

(a) Was continuing in nature;

(b) Was motivated by financial gain;

(c) Involved criminal conduct;

(d) Impaired a function of the agency;

(e) Tended to significantly reduce public respect for or confidence in state government or state government officers or employees;

- (f) Involved personal gain or special privilege to the violator;
- (3) Aggravating circumstances including whether the violator:
 - (a) Intentionally committed the violation with knowledge that the conduct constituted a violation;
 - (b) Attempted to conceal the violation prior to the filing of the complaint;
 - (c) Was untruthful or uncooperative in dealing with the board or the board's staff;
 - (d) Had significant official, management, or supervisory responsibility;
 - (e) Had committed prior violations found by the board;
 - (f) Incurred no other sanctions as a result of the violation;
- (4) Mitigating factors including:
 - (a) Prior corrective action taken against the violator;
 - (b) Prior recovery of damages to the state;
 - (c) The unethical conduct was approved or required by the violator's supervisor or agency;
 - (d) The violation was unintentional;
 - (e) Other mitigating factors deemed relevant by the board.
- (5) For purposes of this section, each act which violates one or more provisions of chapter 42.52 RCW, or rules adopted under it, may constitute a separate violation.

NEW SECTION

WAC 292-120-040 Payment of civil penalty.

Payment of any monetary penalty assessed by the board must be made within 30 days of the date of the board's order.



WSR 97-02-035
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed December 24, 1996, 2:15 p.m.]

Purpose: To clarify (1) procedures for applications for certification, (2) certification, and (3) program standards.

Citation of Existing Rules Affected by this Order: Amending WAC 388-60-005, 388-60-120, 388-60-130, 388-60-140, 388-60-150, and 388-60-160.

Statutory Authority for Adoption: RCW 26.50.150.

Adopted under notice filed as WSR 96-14-101 on July 2, 1996.

Changes Other than Editing from Proposed to Adopted Version: In order to respond to testimony we are clarifying WAC 388-60-140(1) and 388-60-140 (1)(b)(i), adding new WAC 388-60-250 to clarify notification of results of an investigation, withdrawing proposed WAC 388-60-140 (6)(c)(r-u), (7)(b)(i-ii), (9)(d)(viii) and (ix).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; **Federal Rules or Standards:** New 0, amended 0, repealed 0; or **Recently Enacted State Statutes:** New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 8, amended 6, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 8, amended 6, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; **Pilot Rule Making:** New 0, amended 0, repealed 0; or **Other Alternative Rule Making:** New 8, amended 6, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

December 23, 1996

Merry A. Kogut, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3539, filed 4/28/93, effective 5/29/93)

WAC 388-60-005 Scope. ~~((The scope of))~~ This chapter ~~((is to establish))~~ establishes domestic violence perpetrator treatment program standards. As authorized under ESHB 1884, April 1991 and RCW 26.50.150, programs providing treatment to perpetrators only of domestic violence shall meet this chapter's domestic violence perpetrator treatment program standards that:

(1) Accept perpetrators of domestic violence into treatment to satisfy court orders; or

(2) Represent the programs as ones that treat domestic violence perpetrators.

AMENDATORY SECTION (Amending Order 3539, filed 4/28/93, effective 5/29/93)

WAC 388-60-120 Treatment focus. (1) The domestic violence perpetrator treatment program shall focus treatment primarily on ending the physical, sexual, and

psychological violence, holding the perpetrator accountable for:

- (a) Such perpetrator's violence; and
- (b) Changing such perpetrator's behavior.

(2) The program shall base the perpetrator's treatment on strategies and philosophies which do not blame the victim. The program shall include education about individual, cultural, and family dynamics of domestic violence.

AMENDATORY SECTION (Amending Order 3539, filed 4/28/93, effective 5/29/93)

WAC 388-60-130 Treatment modality. (1) The domestic violence perpetrator treatment program((s)) shall require participants to participate in single gender weekly group treatment sessions unless there is a documented, clinical reason for another ~~((modality))~~ intervention. Such clinical reasons include psychosis or other conditions which make the individual not amenable to treatment. Other therapies may be concomitant with the weekly group treatment sessions described under this chapter, but ~~((may))~~ the program shall ensure other therapies do not substitute for the domestic violence perpetrator program treatment sessions. The department shall define other examples of therapies as:

- (a) Individual therapy;
- (b) Marital therapy;
- (c) Family therapy;
- (d) Substance abuse evaluations or therapy;
- (e) Medication reviews; or
- (f) Psychiatric interviews.

(2) The program shall ensure the foremost goal of a perpetrator's treatment is to increase the victim's safety by changing the perpetrator's abusive behavior.

(a) Concomitant marital or family therapy may not be consistent with the goal of victim safety((-)); and

(b) In such cases, the program ((should)) shall not pursue these therapies concomitantly with domestic violence perpetrator treatment.

AMENDATORY SECTION (Amending Order 3539, filed 4/28/93, effective 5/29/93)

WAC 388-60-140 Program policies and procedures. The program complying with the Washington standards for a domestic violence perpetrator program((s)) shall adopt and implement treatment program policies and procedures which address, at a minimum, the following issues:

(1) Victim safety. The program shall:

(a) Have policies and procedures which adequately assess the safety of the victim of the perpetrator.

(b) Take the following steps to protect the safety of the victim:

(i) Notify the victim of the applicant's acceptance or rejection for treatment services;

(ii) Encourage victims to make plans to protect themselves and their children; ~~((and))~~

(iii) Inform victims of the availability of outreach, advocacy, emergency services, and safety planning offered by a domestic violence victim program((s));

(iv) Give victim brief description of treatment program;

(v) Inform victim of the limitations of treatment; and

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(vi) Under no circumstances invite or require victims of group participants to attend perpetrator program counseling and education groups.

(2) Nondiscrimination. The program((s)) shall not discriminate against any applicant based on:

- (a) Race;
- (b) Age;
- (c) Gender;
- (d) Disability;
- (e) Religion;
- (f) Marital status;
- (g) Political affiliation;
- (h) Educational attainment;
- (i) Socio-economic class;
- (j) Ethnicity;
- (k) National origin; or
- (l) Sexual orientation.

When feasible, ~~((the))~~ a domestic violence perpetrator treatment program((s)) shall provide culturally sensitive services. The program((s)) shall review program curricula, publications, and audio-visual materials to ensure adherence to these standards of cultural sensitivity and nondiscrimination.

(3) Screening authority and responsibilities. The domestic violence perpetrator treatment program((s)) shall operate within the following scope of authority and responsibility:

(a) Authority to accept or reject all referrals;

(b) Develop and utilize criteria for acceptance or rejection for treatment services; and

(c) Accept responsibility to and ~~((shall))~~ have authority to impose any conditions on participation in treatment services that the program deems appropriate.

(4) Rights of a participant((s)).

(a) The domestic violence perpetrator treatment program((s)) shall acknowledge the:

(i) Obligation to provide a participant the highest level of quality service ~~((to participants))~~; and

(ii) Rights of a participant((s)) to be treated with respect and dignity.

(b) Program staff, board, and volunteers shall:

(i) Not engage in, condone, or tolerate acts of sexual harassment or exploitation of an employee((s)), a student intern((s)), a program participant((s)), or a battered victim((s)) of participant((s)); and

(ii) Establish a climate in which all relationships with colleagues and participants are based on respect for one another.

(5) Confidentiality.

(a) Right to confidentiality. A domestic violence perpetrator treatment program((s)) shall adhere to the standards of confidentiality promulgated in chapter 18.19 RCW for registered counselors. The program shall ensure communications between the participant and the program ~~((shall be))~~ are confidential unless specifically exempted from confidentiality by:

(i) The participant's release of information; or ((by))

(ii) Law.

(b) Waiver of confidentiality—mandatory releases. To facilitate communication necessary for periodic safety checks and case monitoring, the program shall require the perpetrator to sign the following releases:

(i) A release for the program to:

(A) Inform the victim and the victim's community advocates and legal advocates that the perpetrator is in treatment with the program; and

(B) Provide information for safety purposes to the victim and the victim's community ~~((s))~~ advocates and legal advocates.

(ii) A release to prior and current treatment agencies to provide perpetrator information ~~((on the perpetrator))~~ to the program; and

(iii) A release for the program to provide perpetrator information ~~((on the perpetrator))~~ to relevant legal entities, including:

- (A) Lawyers;
- (B) Courts;
- (C) Parole;
- (D) Probation;
- (E) Child protective services; ~~((and))~~
- (F) Child welfare services; and
- (G) Court-appointed guardians ad litem.

(iv) A release for the program to notify any person whose safety appears to be at risk for the participant's potential for violence and lethality, including, but not limited to:

- (A) The victim;
- (B) Any children;
- (C) Significant others;
- (D) Victims' advocates; or
- (E) Police.

(c) Optional releases. A domestic violence perpetrator treatment program((s)) may require a participant to sign a release permitting the program to provide the victim with periodic reports regarding the participant's participation. A program ~~((s are not required to)) may obtain this release or ~~((to)) may provide this information to a victim((s)).~~~~

(d) Victim confidentiality. The program shall treat information ~~((provided by))~~ the victim provides to the program as confidential unless the victim provides explicit written permission for the disclosure of the information. If a new offense has occurred, the program shall request the victim ~~((will be asked))~~ to contact the:

- (i) Appropriate law enforcement agency; and ((the))
- (ii) Local domestic violence victim's program.

(e) Confidentiality in group activities. The program counseling and educational groups shall be:

(i) Confidential, except as provided under subsection (5)(b) of this section; and

(ii) Closed to those other than participants, program staff, and ~~((for))~~ volunteer group leaders, and others specifically invited by the group leaders. Others specifically invited by group leaders ~~((may))~~ include:

(A) Professionals and those offering interpretation services for the deaf and/or hearing impaired or language translation/interpretation; and

(B) Others bringing specific information critical to the group.

(f) The domestic violence perpetrator treatment program shall obtain a written agreement for confidentiality with all participants and invited guests. The program shall ensure the confidentiality agreement ~~((shall))~~ prohibits disclosure of identities of participants or participant-specific information,

except ~~((as))~~ when a specific participant~~((s))~~ provides a written permission for disclosure.

(g) The program shall only audio or video tape group sessions when all participants grant a written consent. The program shall ensure the consent form ~~((shall))~~ details the specific uses for the tape to which the participant consents. The program shall obtain an additional consent statement~~((s))~~ from each participant to permit use of the tape for other than the purposes specified in the original consent.

(6) Intake~~((f))~~ and assessment. The domestic violence perpetrator treatment program shall conduct an individual, complete, clinical intake~~((f))~~ and assessment interview of a perpetrator and compile a written document, including, at a minimum:

- (a) Current and past violence history;
- (b) A complete diagnostic evaluation;
- (c) A substance abuse assessment;
- (d) History of threats of homicide or suicide;
- (e) History of ideation of homicide or suicide;
- (f) A lethality risk assessment;
- (g) Possession of, access to, or a history of use of weapons;
- (h) Degree of obsessiveness and dependency on the perpetrator's victim;
- (i) History of episodes of rage;
- (j) History of depression and other mental health problems;
- (k) History of having sexually abused the battered victim and others;
- (l) History of the perpetrator's domestic violence victimization and/or sexual abuse victimization;
- (m) Access to the battered victim;
- (n) Criminal history;
- (o) Assessment of cultural issues;
- (p) Assessment of learning disabilities, literacy, and special language needs; and
- (q) Review of other diagnostic evaluations of the perpetrator.

(7) Treatment plan.

(a) The program shall base a participant's treatment on the clinical intake/assessment. The program shall develop a treatment plan that adequately and appropriately addresses the needs of the individual participant.

(b) The program shall:

- (i) Evaluate whether a participant should be required to engage in drug and alcohol, mental health, or other treatment services while the person is a participant in the program;
- (ii) Develop a treatment plan accordingly; ~~((and))~~
- (iii) Make appropriate referrals outside the agency. If treatment by other providers is contra-indicated, ~~((then))~~ the program shall determine prioritization of treatment; and
- (iv) Determine the sequence of adjunct services if concurrent treatment is not clinically appropriate.

(c) The domestic violence perpetrator treatment program~~((s))~~ shall consider issues relating to ~~((the))~~ a participant's prior victimization ~~((#))~~ when designing the participant's treatment plan.

(i) The program~~((s))~~ shall consider the appropriateness of domestic violence victim services for a participant~~((s))~~ who presents an extensive ~~((histories))~~ history of prior victimization.

(ii) In light of consistent research findings that a victim~~((s))~~ of domestic violence ~~((are))~~ is female in ninety-five percent of domestic violence incidents, the program shall give special consideration to a female participant~~((s))~~ with regard to prior domestic violence victimization.

(8) Contract with a program participant~~((s))~~. The program shall require a participant to enter into a formal contract for services. The program~~((s))~~ shall ensure the contract ~~((shall))~~ includes, at a minimum, the following elements:

(a) Statement of program treatment philosophy consistent with these program standards, including:

- (i) No victim blaming;
 - (ii) Stop all forms of battering;
 - (iii) Holding the abuser accountable; and
 - (iv) Primary concern for the safety of victims.
- (b) An Agreement to cooperate with program rules;
- (c) An agreement to:
- (A) Stop violent and threatening behaviors;
 - (B) Be nonabusive and noncontrolling in relationships;
 - (C) Develop and adhere to a responsibility plan;
 - (D) Comply with all court orders;
 - (E) Cooperate with the rules for group participation; and
 - (F) Execute all necessary documents for release of information to battered victims, law enforcement, the courts, probation, and others as appropriate and as described under subsection (5)(b) and (c) of this section.

(d) Attendance policies and consequences of inadequate attendance;

(e) The expectation of active participation, including sharing personal experiences, values, and attitudes, and completing group activities and assignments;

(f) Other program expectations, such as written exams, concurrent treatment requirements, ~~((rules regarding))~~ possession of weapons as described under chapters 275-55 and 275-59 WAC, and any other conditions on participation in the program;

(g) Criteria for administrative and contractual discharge and completion of treatment;

(h) The right to confidentiality within the specified limits, and the requirement that a participant~~((s))~~ safeguards the confidentiality of other group members;

(i) Duty of the program to warn and protect victims, law enforcement, and third parties related to any risk of serious harm posed by the participant;

(j) Requirement that the participant:

- (i) Provide documents related to prior violence~~((r))~~ and prior or concurrent treatment services; or
- (ii) Execute appropriate releases to authorize document provision by others with whom the participant has had privileged communication.

(k) Fees~~((f))~~ and methods of treatment provider payment; and

(l) Drug and alcohol policy, including the requirement that the client attend sessions free of drugs ~~((or))~~ and alcohol.

(9) Program educational curriculum requirements. The domestic violence perpetrator treatment program shall identify and utilize an educational curriculum for each program participant~~((s))~~. The program shall address at ~~((least the following topics and issues))~~ a minimum:

(a) Belief systems which legitimize and sustain violence against women, and/or use of violence or threat of violence to establish power and control over a partner;

(b) Definitions of abuse, battering, and domestic violence as described in the program standards within this chapter;

(c) Accountability of a batterer((s)) for ~~((their))~~ the batterer's actions and the need to avoid victim-blaming;

(d) Forms of abuse including:

(i) Physical;

(ii) Emotional and sexual abuse;

(iii) Economic manipulation or domination;

(iv) Property destruction;

(v) Stalking;

(vi) Terroristic threat; and

(vii) Acts jeopardizing the well-being and safety of battered partners, children, pets, other family members, and friends.

(e) Washington state law and practice regarding domestic violence, as described under chapters 10.31, 10.99, and 26.50 RCW;

(f) Opportunities for each participant to identify all of ~~((their))~~ the participant's abusive conduct, the pattern of that conduct, and cultural supports which legitimize or excuse that conduct;

(g) Techniques for achieving nonabusive or noncontrolling conduct;

(h) Opportunities to examine values or beliefs which facilitate abuse;

(i) Adverse legal and social consequences for a batterer((s));

(j) Impact of abuse and battering ~~((of))~~ on children and incompatibility of domestic violence and abuse with responsible parenting;

(k) Necessity of meeting financial and legal obligations to family members; and

(l) Opportunity and assistance for a participant to develop a responsibility plan to ensure accountability for the participant's commitment to divest all abusive power and control over the victim.

(10) Minimum treatment period. The domestic violence perpetrator treatment program shall:

(a) Define the minimum treatment period as the period of time required for the participant to complete the criteria for completion of treatment defined by the program. The program may not define satisfactory completion of treatment solely as a certain period of time or a certain number of sessions; and

(b) At a minimum, equate the treatment period to twelve or more months of accountability to the program. The program's twelve-month minimum treatment period shall include attendance at a minimum of:

(i) Twenty-six weekly single gender group sessions to the completion of treatment criteria as described under subsection (11) of this section; and

(ii) Continue with monthly face-to-face contact with the treatment provider until the twelve-month period is complete.

(11) Satisfactory completion of treatment. The program shall establish written criteria for satisfactory completion of treatment. At a minimum, the program shall include the following criteria for completion of a participant's treatment:

(a) Completion of the minimum treatment period requirements;

(b) Attendance at weekly group sessions and all other required treatment periods;

(c) Cooperation with group rules throughout treatment services;

(d) Cessation of violence and threats of violence while a participant in the program;

(e) Cessation of other abusive and controlling conduct while a participant in the program;

(f) Adherence to the participant's responsibility plan;

(g) Compliance with court orders; and

(h) Compliance with other conditions and provisions of the contract for treatment services, such as compliance with ~~((substance abuse))~~ chemical dependency treatment requirement.

(12) Notification of completion of treatment. The program shall:

(a) Notify the court of completion of treatment by any court-mandated participant;

(b) When feasible, notify the victim of completion of treatment by the participant; and

(c) Specify only that the participant has been given a contractual discharge which is based on adequate compliance with the contract and any court order.

(13) Re-offense and noncompliance. The program shall establish and implement written policies regarding consequences for re-offense and noncompliance with program policies.

(14) Termination without completion of treatment.

(a) The program shall develop guidelines for discharge so that:

(i) Discharge decisions are uniform and predictable; and

(ii) Discrimination does not occur against any participant, except as the program is not able to provide adequate treatment services based on the stage of its current development, personnel, or resources, based on:

(A) Race((:));

(B) Age;

(C) Gender;

(D) Disability;

(E) Religion;

(F) Martial status;

(G) Political affiliation;

(H) Educational attainment;

(I) Socio-economic class;

(J) Ethnicity;

(K) National origin; or

(L) Sexual orientation.

(b) The program shall document, in writing, noncompliance with:

(i) The program participant contract~~((-with))~~;

(ii) A court order((:));

(iii) A probation agreement((:)); or

(iv) Group rules.

(c) The program shall determine if termination of a participant's treatment without completion shall be made when the following circumstances occur:

(i) Continued abuse, particularly physical violence;

(ii) Failure to maintain regular attendance;

(iii) Failure to make appropriate use of the treatment program;

(iv) Failure to comply with other treatment conditions or provisions which are part of the participant's contract, such as involvement in a recovery program for ~~((drugs and alcohol))~~ chemical dependency, failure to continue involvement with mental health treatment; and

(v) Failure to pay fees;

(vi) Violation of any of the group rules; and

(vii) Violation of any provisions of a court order.

(d) The program shall use consistent procedures to notify the court of termination without completion of court-mandated clients.

(e) The program shall establish and maintain procedures for notification of victims of termination without completion of treatment.

AMENDATORY SECTION (Amending Order 3539, filed 4/28/93, effective 5/29/93)

WAC 388-60-150 Treatment staff qualifications. (1) Paid and volunteer treatment staff.

(a) All paid and volunteer staff with direct treatment contact with participants shall be:

(i) Registered as counselors or certified as mental health professionals as required under chapter 18.19 RCW; and

(ii) Free of criminal convictions involving moral turpitude.

(b) Each paid or volunteer staff person, including a person~~(s)~~ providing supervision, shall have participated in:

(i) A minimum of thirty hours of training in domestic violence from an established domestic violence victim program; and

(ii) A minimum of thirty hours of training from an:

(A) ~~((A))~~ Established domestic violence perpetrator treatment services program complying with these program standards; or

(B) Out-of-state domestic violence perpetrator treatment program which ~~((would meet these))~~ meets department standards of this chapter and chapter 26.50 RCW.

(c) ~~((During the two year period beginning on the date of adoption of these standards, a program which has not yet completed administrative procedures for certification but which meets those requirements shall be deemed an "established domestic violence perpetrator treatment program complying with these program standards."))~~

~~((d))~~ Each paid or volunteer staff person providing direct treatment to a participant~~(s)~~ shall have completed a minimum of two hundred fifty hours of a combination of supervised direct treatment contact with perpetrators and domestic violence victim advocacy services. Of the required two hundred fifty hours, a paid or volunteer staff person shall complete a minimum of one hundred twenty-five hours in supervised direct treatment contact with perpetrators.

~~((e))~~ ~~((d))~~ Each paid or volunteer staff person providing direct treatment to a participant~~(s)~~ shall hold at least a bachelor's degree, or year-for-year experience equivalent to a bachelor's degree.

(2) Trainees. The program shall consider as a trainee a paid or volunteer staff person who has not completed a minimum of two hundred fifty hours of a combination of supervised direct treatment contact with perpetrators and domestic violence victim advocacy services. A trainee may serve as a co-facilitator of groups, but a trainee may not

have sole responsibility for facilitation of groups, except in programs in which a qualified supervisor is present on-site, as defined under subsection (3) of this section.

(3) Staff providing supervision of treatment staff.

(a) Each program shall have at least one person providing supervision to paid and volunteer treatment staff who meets all of the following requirements:

(i) Has a minimum of three years of experience working with both perpetrators and victims of domestic violence;

(ii) Has had a minimum of one year of experience in group facilitation;

(iii) Has completed a minimum of five hundred hours of supervised direct treatment contact with perpetrators and domestic violence victim advocacy services. Of the five hundred hours, the person providing supervision shall complete a minimum of two hundred fifty hours in supervised direct treatment contact with perpetrators; and

(iv) Holds at least a master's degree or year-for-year experience equivalent to a master's degree.

(b) Either on-site or off-site supervision may be provided by a person meeting the qualifications required under subsection (3)(a) of this section. The programs shall establish and implement policies, procedures, and supervision schedules ensuring adequate supervision for all treatment staff.

AMENDATORY SECTION (Amending Order 3539, filed 4/28/93, effective 5/29/93)

WAC 388-60-160 Orientation and continuing professional education requirements. (1) The program shall provide orientation for new paid and volunteer staff to acquaint the staff with the program's philosophy, organization, curriculum, policies, procedures, and goals.

(2) The program shall provide paid and volunteer staff with ongoing training and supervision by a trainer with expertise in domestic violence victim services and/or from a state-certified perpetrator treatment program.

(3) A paid or volunteer staff:

(a) ~~((Member))~~ Having direct treatment contact with participants shall complete a minimum of twenty hours of continuing professional education ~~((within))~~ for each ~~((calendar))~~ year following certification with no more than one half ~~((ten))~~ of those hours being satisfied "in-house";

(b) ~~((Member's))~~ Education shall include four or more hours of training per year on issues of sexism, racism, and homophobia, and their relationship to domestic violence;

(c) ~~((Member's))~~ Training in domestic violence, alcohol/drug abuse, mental health, or other issues relating to the treatment of domestic violence perpetrators shall qualify that member's training as continuing professional education; ~~((and))~~

(d) ~~((Member))~~ May obtain continuing professional education through classes, seminars, workshops, video or audio tapes, or other self-study programs when approved, in writing, by the staff supervisor. The staff shall devote not more than five hours to video, audio tapes, or self-study program as part of an overall twenty hours continuing education requirement; and

(e) The staff shall document all continuing education hours on approved forms accompanied with completion

certificates, course/workshop outline, and supervisor signature and submit upon application for re-certification.

NEW SECTION

WAC 388-60-190 Program certification process. (1) The domestic violence perpetrator program providing treatment to a perpetrator of domestic violence shall request certification by completing an application available by mail from the Domestic Violence Perpetrator Treatment Program Certification, Department of Social and Health Services (DSHS), Children's Administration, P.O. Box 45710, Olympia, Washington 98504-5710.

(2) The person or entity responsible for the program operation shall submit to this department a completed application and the application fee prior to certification.

(3) The department shall publish a current application fee for a domestic violence perpetrator treatment program and shall update the fee annually in July. The application fee will be stated in the application packet.

(4) The department shall ensure the application includes a written certification by the domestic violence perpetrator program director that the program complies with the program standards contained in this chapter.

(5) The program shall complete criminal history background checks on all perpetrator treatment program staff and include the background check results with the certification application. The program shall also include with the application, a statement indicating for each paid and volunteer staff person, whether they have been a party to any civil proceedings involving domestic violence.

(6) The department shall review certification applications within thirty days after receipt of the application to determine whether the domestic violence perpetrator program complies with the program standards contained in this chapter and shall:

(a) Notify the applicant whether the program complies with the program standards. If a program meets compliance standards the department shall issue the program a certificate of compliance;

(b) Provide programs that have not met compliance standards with a copy of the program standards and a written notice containing:

(i) The reasons for the determination of noncompliance; and

(ii) The program standards relied upon for making the determination.

(7) An applicant denied certification by the department shall have a right to a fair hearing as provided under chapter 388-08 WAC.

(8) The department shall maintain an updated record of all certified domestic violence perpetrator programs and programs that:

- (a) Are certified;
- (b) Are in the process of applying for certification;
- (c) Have been denied certification;
- (d) Have been notified that the department is revoking or suspending certification;
- (e) Have had certification revoked; and
- (f) Are being investigated.

NEW SECTION

WAC 388-60-200 Certification maintenance. (1) Each program certified under this chapter shall apply for continued certification every two years. A treatment provider's continued certification and renewal shall be contingent upon:

(a) A completed application form submitted to DSHS/DCFS at least forty-five days before the expiration date of the previous certification period which shall include:

(i) An update of all program and staff changes including criminal history background check results, and a statement regarding civil proceedings as described in WAC 388-60-190(5);

(ii) An update of continuing staff professional education hours;

(iii) Payment of the application fee; and

(iv) Completed information request forms from the local multidisciplinary domestic violence intervention committee (DVIC) or task force and an established local domestic violence victim service provider as defined in chapter 70.123 RCW.

(b) A determination by the department, based on the completed application, that the program continues to meet the standards and qualifications as outlined in this chapter;

(c) A determination by the department that any complaint investigations if any, from the previous certification period have been satisfactorily resolved.

(2) The department shall provide applicants for certification renewal that do not comply with the program standards with a written notice containing:

(a) The reasons for the determination of noncompliance; and

(b) The program standards relied upon for making the determination.

(3) A program applicant denied recertification by the department shall have a right to an administrative hearing as provided under chapter 388-08 WAC.

NEW SECTION

WAC 388-60-210 Advisory committee. The department shall establish and appoint a volunteer group to serve as the Washington domestic violence perpetrator treatment program standards advisory committee.

(1) The advisory committee shall include the following members:

(a) Four persons representing the perspective of victims of domestic violence to be chosen with input from the Washington state coalition against domestic violence;

(b) Four persons representing the perspective of state-certified domestic violence perpetrator treatment program providers to be chosen with input from a statewide coalition of domestic violence perpetrator treatment programs;

(c) Four persons representing the perspective of adult misdemeanor probation and Washington state courts of limited jurisdiction to be chosen with input from the misdemeanor corrections association and municipal court judges association;

(d) One person representing the department of corrections; and

(e) One person representing the office of the administrator for the courts.

(2) Advisory committee members shall be appointed for two-year terms. Committee members may be replaced if they have missed two consecutive meetings.

(3) If funds are available, the department shall reimburse advisory committee members for travel and meal expenses related to service on the committee. Advisory committee members shall not receive any other compensation for services on the committee.

(4) The role of the advisory committee shall be to:

- (a) Advise the department about any recommended changes to the program standards;
- (b) Provide technical assistance to DSHS on program standards, implementation, certification and recertification criteria.

NEW SECTION

WAC 388-60-220 Complaint. (1) Pursuant to RCW 26.50.150, complaints about domestic violence perpetrator treatment programs certified under this chapter shall be made to the department;

(2) Any person may submit a written complaint to the department regarding the following concerns about a certified program:

- (a) Conduct which places victims at risk; or
- (b) Failure to comply with program and/or treatment standards as specified in chapter 388-60 WAC.

(3) The department shall notify the program in writing within fourteen days after receipt, that a valid complaint has been received and investigation has been initiated.

NEW SECTION

WAC 388-60-230 Investigation. (1) The department will initiate an investigation within fourteen days if:

- (a) A complaint subject to the criteria in WAC 388-60-220(2) has been received by the department; or
- (b) The department has reason to believe, without a written complaint, that a program has engaged in conduct specified in WAC 388-60-220(2).

(2) The investigation may include contact with the complainant, other persons involved in the complaint and the program.

(3) The department will begin an investigation within fourteen days of the receipt of an eligible complaint.

(4) The department shall complete its investigation within forty-five days of initiating an investigation unless circumstances warrant a longer period of time.

NEW SECTION

WAC 388-60-240 Results of investigation. (1) The department shall prepare written results of the complaint investigation.

(2) If the department determines that the program engaged in conduct specified in WAC 388-60-220(2), the written results shall include a determination as to the status of the program's certification:

- (a) Revocation of certification. Specific grounds for revocation shall be set forth in the written results, including the provisions of this chapter upon which revocation is based. Where program certification is revoked, the results shall state the effective date of revocation.

(b) Suspension of certification. Specific grounds for suspension of certification shall be set forth within the written results, including the provisions of this chapter upon which suspension is based. Where program certification is suspended, the results shall state the effective date of suspension and shall include specific remedial steps which must be satisfied prior to the department lifting the suspension and reinstating certification.

(c) Written warning. Specific grounds for a program warning shall be set forth within the written results, including the provision of this chapter upon which the warning is based. Where a program is given a written warning, the results shall include specific remedial steps which must be taken to the satisfaction of the department and the date by which the specific steps must be remedied. Where a program refuses or fails to remedy the problems specified in the written warning, the department may revoke or suspend program certification as specified above.

(3) Where the department revokes or suspends program certification, or issues a written warning to a program pursuant to WAC 388-60-240, the program shall be notified in writing of its right to request an administrative hearing as provided under chapter 388-08 WAC.

NEW SECTION

WAC 388-60-250 Notification of results. (1) Written results shall be prepared by the department and sent to the program by certified mail, return receipt requested, within twenty (20) days after completion of the investigation. A copy of the written results shall also be mailed to the complainant.

(2) Where a program's certification is revoked or suspended, the program shall be directed to take immediate steps to notify and refer current clients to other certified domestic violence perpetrator treatment programs, prior to the effective date of revocation or suspension.

(3) Where a program's certification is revoked or suspended, the program shall be directed to:

- (a) Cease accepting perpetrators of domestic violence into its treatment program;
- (b) Notify victims, partners, and any relevant agencies of the client referral; and

(c) Notify in writing the presiding judge and chief probation officer of each judicial district from which the program receives court referrals, of the certification revocation or suspension.

(4) Where a program holds a license or certification from the state of Washington for the provision of other treatment modalities, the department may notify the appropriate licensing or certifying authority that the domestic violence perpetrator treatment program certification is revoked or suspended.

NEW SECTION

WAC 388-60-260 Appeal. A domestic violence perpetrator treatment program aggrieved by a decision of the department regarding certification has a right to an adjudicative proceeding. The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW) and chapter 388-08 WAC.

WSR 97-03-016
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS
 [Filed January 6, 1997, 4:50 p.m.]

Date of Adoption: January 6, 1997.

Purpose: The rules codify the department's interpretation of the term "earnable compensation" for TRS Plan I, Plan II and Plan III as found in RCW 41.32.010(10).

Citation of Existing Rules Affected by this Order:
 Repealing WAC 415-112-410, 415-112-411, and 415-112-414.

Statutory Authority for Adoption: RCW 41.50.050.

Adopted under notice filed as WSR 96-18-073 on September 3, 1996.

Changes Other than Editing from Proposed to Adopted Version: WAC 415-112-4605 was amended to include a reference to personal leave in addition to sick leave and annual leave; and WAC 415-112-477 was amended to make it clear that any payment upon reinstatement or in lieu of reinstatement would be prorated out over the entire period that the employee was absent from work.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 24, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 24, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.
 January 6, 1997
 Sheryl Wilson
 Director

NEW SECTION

WAC 415-112-445 Reportable compensation table.

The following table is provided as a quick reference guide to help you characterize payments under Plan I, Plan II and Plan III. Be sure to turn to the referenced rule to ensure that you have correctly identified the payment in question. The department determines basic salary based upon the nature of the payment, not the name applied to it, see WAC 415-112-450.

NEW SECTION

WAC 415-112-0160 Reportable compensation—
Definition. "Reportable compensation" means earnable compensation as that term is defined in RCW 41.32.010(10).

NEW SECTION

WAC 415-112-444 Purpose and scope of earnable compensation rules. WAC 415-112-445 through 415-112-491 codify the department's existing interpretation of statutes and existing administrative practice regarding classification of payments as earnable compensation in TRS Plan I, TRS Plan II and TRS Plan III. The department has applied and will apply these rules to determine the proper characterization of payments occurring prior to the effective dates of these sections.

Type of Payment	TRS I Reportable Compensation?	TRS II/III Reportable Compensation?
Annual Leave Cash Outs	Yes - WAC 415-112-4605	No - WAC 415-112-4605
Base Contract	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Car Allowances	No - WAC 415-112-41301 ¹	No - WAC 415-112-41301
Cafeteria Plans	Yes - WAC 415-112-4604	Yes - WAC 415-112-4604
Deferred Wages	Yes - WAC 415-112-4609	Yes - WAC 415-112-4609
Disability Payments	No - WAC 415-112-482	No - WAC 415-112-482
Employer Provided Vehicle	No - WAC 415-112-413 ²	No - WAC 415-112-413
Evening/Summer School	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Extracurricular Contracts	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Employer taxes/contributions	No - WAC 415-112-4609	No - WAC 415-112-4609
Fringe Benefits	No - WAC 415-112-480	No - WAC 415-112-480
Illegal Payments	No - WAC 415-112-485	No - WAC 415-112-485
Legislative Leave	Yes - WAC 415-112-471	Yes - WAC 415-112-471
Longevity/Education Attainment Pay	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Nonmoney Maintenance	Yes - WAC 415-112-412 ³	No - WAC 415-112-412
Optional Payments	No - WAC 415-112-487	No - WAC 415-112-487
Payments in Lieu of Excluded Items	No - WAC 415-112-470	No - WAC 415-112-470
Performance Bonuses	Yes - WAC 415-112-4603	Yes - WAC 415-112-4603
Retroactive Salary Increase	Yes - WAC 415-112-4607	Yes - WAC 415-112-4607

¹A portion of the value of an employer car allowance may be reportable in Plan I only, see WAC 415-112-41301

²A portion of the value of an employer provided vehicle may be reportable in Plan I only, see WAC 415-112-413.

³A portion of the value of nonmoney maintenance provided may be reportable in Plan I only, see WAC 415-112-412.

Type of Payment	TRS I Reportable Compensation?	TRS II/III Reportable Compensation?
Reimbursements	No - WAC 415-112-489	No - WAC 415-112-489
Reinstatement Payments	Yes - WAC 415-112-477	Yes - WAC 415-112-477
Retirement or Termination Bonuses	No - WAC 415-112-490	No - WAC 415-112-490
Severance Pay - Earned Over Time	Yes - WAC 415-112-4608	No - WAC 415-112-4608
Severance Pay - Not Earned Over Time	No - WAC 415-112-491	No - WAC 415-112-491
Sick Leave Cash Outs	No - WAC 415-112-4605	No - WAC 415-112-4605
Supplemental Contracts	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601 ⁴
Time Off with Pay	Yes - WAC 415-112-473 WAC 415-112-4605	Yes - WAC 415-112-473 WAC 415-112-4605
Union Leave ⁵	Yes - WAC 415-112-475	Yes - WAC 415-112-475
Worker's Compensation	No - WAC 415-112-483	No - WAC 415-112-483

⁴ Reportable only if member is employed in an eligible position.

⁵ Only specific types of union leave are reportable, see WAC 415-112-475.

NEW SECTION

WAC 415-112-450 What compensation can be reported? In order for payments to be subject to retirement system contributions and included in the calculation of a member's retirement benefit, those payments must meet the definition of earnable compensation in RCW 41.32.010(10).

(1) **Payments for services rendered.** To determine whether a payment meets this definition and can be reported, ask the following questions:

(a) Was the payment earned as a salary or wage for services rendered during a fiscal year? If the answer is no, the payment is not reportable. If the answer is yes, ask question (b).

(b) Was the payment paid by an employer to an employee? If the answer is no, the payment is not reportable. If the answer is yes, you may report the payment.

(2) **Payments included that are not for services rendered.** The legislature has included certain specific payments within the definition of earnable compensation

even though those payments are not for services rendered by the employee to the employer. (See WAC 415-112-472 through 415-112-477.)

(3) **Reportable compensation is earned when the service is rendered, rather than when payment is made.**

Example: If a member works during June but does not receive payment for the work until July, the earnable compensation was earned during June and must be reported to the department as June earnings.

(4) **Salary characterizations are based upon the nature of the payment.** A payment is reportable compensation if it meets the criteria of subsection (1) or (2) of this section. The name given to the payment or the document authorizing it is not controlling in determining whether the payment is reportable compensation. The department determines whether a payment is reportable compensation by considering:

(a) What the payment is for; and

PERMANENT

(b) Whether the reason for the payment brings it within the statutory definition of earnable compensation.

Example: A payment conditioned upon retirement is not reportable compensation. Attaching the label "longevity" to the payment does not change the fact that the payment is conditioned on retirement. Such a payment is not for services rendered and will not be counted as reportable compensation despite being identified by the employer as a longevity payment.

(5) **Differences in reportable compensation between plans.** WAC 415-112-450 through 415-112-491 define reportable compensation for each of the three TRS plans.

(a) "Earnable compensation" is defined in very similar terms for both TRS Plan I and TRS Plan II. The characterization of payments as reportable compensation or not reportable compensation in WAC 415-112-450 through 415-112-491 is the same for both TRS Plan I and TRS Plan II except as specifically noted.

(b) "Earnable compensation" is defined identically for TRS Plan II and TRS Plan III. The characterization of payments as reportable compensation or not reportable compensation in WAC 415-112-450 through 415-112-491 is the same for both TRS Plan II and TRS Plan III.

NEW SECTION

WAC 415-112-460 Payments for services rendered. WAC 415-112-4601 through 415-112-4609 discuss types of payments for services rendered. Each of the payment types are reportable compensation for TRS Plan I. Certain types of payments for services rendered are excepted from reportable compensation for TRS Plan II and Plan III, see WAC 415-112-4605.

NEW SECTION

WAC 415-112-4601 Contract salary payments. (1) **Base contract.** The base contract establishes the payment for teaching or administrative services provided during each day of the district's school year. For classroom teachers, the base contract authorizes the salary for providing basic education services per RCW 28A.405.200. For administrators and principals, other items may be included. Because services are rendered in exchange for this payment, it is reportable compensation. This does not mean that a payment is reportable compensation solely because it is authorized in an employee's base contract. Rather than relying on the name of a payment or the document where it is authorized, you must evaluate whether services were rendered in exchange for the payment.

(2) **Evening or summer school contracts.** Evening or summer school payments are for additional time worked. These payments are often authorized in a supplemental contract. These payments are for services rendered and are reportable compensation.

(3) **Supplemental or TRI contracts under RCW 28A.400.200.** A school district may compensate an employee for additional time, responsibility or incentives with a supplemental contract.

(a) If the payment is for additional time, then it is for services rendered and qualifies as reportable compensation.

(b) If the payment is for additional responsibility (i.e., additional service which does not specifically require more time) within the regularly scheduled working day, then it is also for services rendered and is reportable. Examples of additional responsibility include payments linked to extra enrollment or additional duties outside the scope of the base contract.

(c) If the payment is made as an incentive, then it is also for services rendered and is reportable compensation. Incentive payments include payments for meeting performance goals specified by the employer.

(4) **Longevity or educational attainment.** Salaries for all teachers and most administrators are determined by looking at the individual's teaching experience and educational attainment.

(a) A member who receives a salary increase based upon longevity or educational attainment receives a higher salary without working more hours. The higher salary indicates a higher level of service due to greater experience or more education. The payment is therefore a payment for additional service and is reportable compensation.

(b) Simply attaching the label "longevity" to a payment does not guarantee that it will be reportable compensation. If a payment described as a longevity payment is actually based upon some other criteria, such as retirement or notification of intent to retire, the payment may not be reportable.

NEW SECTION

WAC 415-112-4603 Performance bonuses. Bonuses that are based upon meeting certain performance goals or having to work under unusual conditions, such as over enrollment, are earned for services rendered and are reportable compensation.

NEW SECTION

WAC 415-112-4604 Cafeteria plans. Compensation received in any form under the provisions of a "cafeteria plan," "flexible benefits plan," or similar arrangement pursuant to section 125 of the United States Internal Revenue Code is reportable compensation if the employee has an absolute right to receive cash or deferred cash payments in lieu of the fringe benefits offered. In such an instance, the fringe benefits are being provided in lieu of cash and are considered reportable compensation, just as the cash would be. If there is no cash option, the value of the fringe benefit is not a salary or wage and is not reportable compensation, see WAC 415-112-480.

NEW SECTION

WAC 415-112-4605 Leave payments earned over time. (1) **Sick, annual, and personal leave usage.** Sick leave, annual leave, and personal leave is accumulated over time and paid to a person during a period of excused absence. Leave accrues at a prescribed rate, usually a certain number of hours per month. The employee earns a leave day by rendering service during the month the leave was accumulated. When the employee uses his or her accrued leave by taking a scheduled work day off with pay, the payment is deferred compensation for services previously

rendered. The payment is a salary or wage earned for services rendered and is reportable.

(2) **Annual leave cash outs.** Annual leave and personal leave cash outs, like payments for leave usage, are deferred compensation earned for services previously rendered.

(a) Plan I. Annual leave and personal leave cash outs are reportable for TRS Plan I.

(b) Plan II and Plan III. Although the payments are for services rendered, annual leave and personal leave cash outs are excluded from the definition of reportable compensation in TRS Plan II and TRS Plan III, see RCW 41.32.010(10)(b).

(3) **Sick leave cash outs.** Sick leave cash outs are deferred compensation for services previously rendered. However, these payments are statutorily excluded from reportable compensation for all TRS Plans. See RCW 41.32.010(10), 41.04.340, 28A.400.210 and 28A.310.490.

NEW SECTION

WAC 415-112-4607 Retroactive salary increases. A retroactive salary payment to an employee who worked during the covered period is a payment of additional salary for services already rendered.

Note: A retroactive salary increase is not the same as a retroactive payment upon reinstatement or in place of reinstatement of a terminated or suspended employee. For treatment of back payments for periods where services were not rendered, see WAC 415-112-477.

(1) To qualify as reportable compensation under this section, the payment must be a bona fide retroactive salary increase. To ensure that is the case, the retroactive payment must be made pursuant to:

(a) An order or conciliation agreement of a court or administrative agency charged with enforcing federal, state, or local statutes, ordinances, or regulations protecting employment rights;

(b) A bona fide settlement of such a claim before a court or administrative agency; or

(c) A collective bargaining agreement.

(2) The payments will be deemed earned in the period in which the work was done.

NEW SECTION

WAC 415-112-4608 Severance pay earned over time.

(1) **Plan I.** Severance pay must be earned over time in the same manner as annual leave or sick leave in order to be deferred compensation for services previously rendered and to be reportable in Plan I. Severance pay is earned over time if the employment contract(s) entered into at the beginning of the period of employment specify that a certain amount of severance pay will be earned in the coming year in consideration for services rendered.

Example: Mr. Jones is a school administrator. Since the beginning of his term of employment with the district, his contract has specified that he will earn one week of severance pay for every year of his employment. The earned severance pay will be paid at the time of his separation. His

severance pay is reportable compensation. When Mr. Jones retires, the two weeks severance pay that he earned during his two highest paid years (i.e., one week per year for two years) will be included in his retirement calculation.

(2) **Plans II and III.** All forms of severance pay are excluded from earnable compensation for Plans II and III by RCW 41.32.010(10).

(3) Severance pay that is not earned over time is not earned for services rendered and is not reportable in Plan I, II, or III, see WAC 415-112-491.

NEW SECTION

WAC 415-112-4609 Payments earned by, but not made to a member. (1) **Retirement contributions.** Payments deducted from employee compensation for employee retirement contributions are reportable. Employer contributions are a fringe benefit and are not reportable, see WAC 415-112-480.

(2) **Tax withholding.** Payments withheld to satisfy federal tax obligations qualify as reportable compensation.

(3) **Voluntary deductions.** Payments deducted voluntarily, such as 403(b) plan contributions or other authorized deductions, are reportable.

NEW SECTION

WAC 415-112-470 Payments not for services rendered. In general, payments cannot be reported to the retirement system unless they are for services rendered. However, the legislature has identified some types of compensation (in RCW 41.32.010 and 41.32.267) which are reportable even though they are not for services rendered.

(1) WAC 415-112-472 through 415-112-477 discuss all payments that are not for services rendered that nonetheless qualify as reportable compensation.

(2) WAC 415-112-480 through 415-112-491 discuss some payments that are not for services rendered and so do not qualify as reportable compensation. A payment not for services rendered other than those identified in WAC 415-112-472 through 415-112-477 is not reportable compensation even if it is not listed in WAC 415-112-480 through 415-112-491.

(3) A payment made in lieu of a payment that is not for services rendered (such as a payment made in lieu of a car allowance) will be treated in the same way that the original payment was treated. Such a payment is not for services rendered and is not reportable.

NEW SECTION

WAC 415-112-471 Legislative leave. If an employee takes a leave without pay to serve in the legislature, the member is entitled to service and reportable compensation credit for the period.

(1) **Plan I.** The salary the employee would have earned is reportable compensation if the employee serves at least five years in the legislature. Employer contributions are not required on this imputed payment. Employee contributions are required.

(2) **Plan II and Plan III.** The employee may choose between:

- (a) The reportable compensation he or she would have earned had the member not served in the legislature; or
- (b) The actual reportable compensation received for teaching plus the legislative reportable compensation.

If the employee selects option (a), he or she is responsible for paying the additional employer and employee contributions to the extent the reportable compensation reported is higher than it would have been under (b) of this subsection.

NEW SECTION

WAC 415-112-473 Paid leave not earned over time. If paid leave is not based upon earned leave accumulated over time, the payment is not a deferred payment for services previously rendered. Further, the member on leave is not currently rendering services in exchange for the payment. However, RCW 41.32.267, 41.32.810 and 41.32.865 identify payments received from the employer while on paid leave as reportable for TRS. Contributions are due on these payments to the extent they meet the following conditions:

- (1) The payment is equal to the salary for the position that the person is on leave from;
- (2) The payment is actually from the employer. Payments from an employer that are conditioned upon reimbursement from a third party are payments from the third party. Because the payments are not from the employer, they are not reportable compensation. The only exception is union leave paid by the employer subject to reimbursement from the union under the conditions specified in RCW 41.32.267 (Plan I), 41.32.810 (Plan II), 41.32.865 (Plan III), and WAC 415-112-475.

NEW SECTION

WAC 415-112-475 Union leave. If a member takes an authorized leave of absence to serve as an elected official of a labor organization and the employer pays the member on leave subject to reimbursement from the union, the person's pay qualifies as reportable compensation provided that all the conditions of RCW 41.32.267 (Plan I), RCW 41.32.810 (Plan II), or RCW 41.32.865 (Plan III), as appropriate, are met.

NEW SECTION

WAC 415-112-477 Reinstatement or payment instead of reinstatement. If an employer makes payments to an employee for periods where the employee was not employed and those payments are made upon reinstatement of the employee or instead of reinstatement, the payments are not earned for services rendered. However, RCW 41.40.010(10) specifically designates such payments as reportable compensation. The payments are only reportable to the extent that they are equivalent to the salary the employee would have earned had he or she been working. Any such payment will be prorated over the entire period that the employee was suspended, terminated, or otherwise absent from work.

NEW SECTION

WAC 415-112-480 Fringe benefits. Payments made by an employer to a third party to provide benefits for an employee are not part of the employee's salary or wage. Those payments are not reportable compensation. Examples of these types of payments are insurance premiums (other than those made under bona fide cafeteria plans, see WAC 415-112-4604) and employer retirement contributions.

NEW SECTION

WAC 415-112-482 Disability insurance. Disability insurance payments are paid to persons for periods when they are unable to work. Because no services are rendered in exchange for these payments, they are not reportable compensation. This is true whether the payments come directly from the employer or from an insurance company.

NEW SECTION

WAC 415-112-483 Workers' compensation. Workers' compensation is paid to persons for periods when they are unable to work. Workers' compensation payments, like disability insurance, are not payments for services rendered and are not reportable compensation.

Example: Some employees on unpaid disability leave submit their workers' compensation payments to their employer who then issues the employee a check for the same amount through the payroll system. This exchange of payments does not change the character of the workers' compensation payment. Whether the payments come from the department of labor and industries, a self-insured employer, or have the appearance of coming from the employer, workers' compensation payments are not payments for services rendered and do not qualify as reportable compensation.

NEW SECTION

WAC 415-112-485 Illegal payments. Payments made by an employer in excess of the employer's legal authority are not reportable.

Example: School districts are prohibited from increasing an employee's salary to include a payment in lieu of a fringe benefit per RCW 28A.400.220. If a district increased a person's salary instead of providing a district car, the payment would be illegal and could not be reported.

NEW SECTION

WAC 415-112-487 Optional payments. If an employee can receive an additional payment only on the condition of taking an action other than providing service to the employer, the payment is not for services rendered and is not reportable compensation.

Example: An employer offers to make a contribution to a deferred compensation plan on behalf of an employee only if the employee agrees to have a portion of his or her salary deferred. Be-

cause the employee does not have a right to receive the contribution based solely on the rendering of service, the payment is not reportable compensation.

NEW SECTION

WAC 415-112-489 Reimbursements for expenses. Reimbursements are not earned for services rendered and thus are not reportable compensation. Typical reimbursement payments include mileage reimbursements for use of a private car on employer business, see WAC 415-112-41301, or meal and lodging reimbursements for business trips.

NEW SECTION

WAC 415-112-490 Retirement bonus or incentive. A payment made to an employee as a bonus or incentive when retiring or terminating is not a payment for services rendered. Rather, the payment is made in exchange for an employee's promise or notification of intent to retire or terminate. A retirement or termination bonus or incentive is not reportable compensation.

Example: A collective bargaining agreement authorizes a school district to pay employees a higher salary during the last two years of employment if the employee gives written notice of his or her intent to retire. Because the payment is in exchange for the agreement to retire and not for services, the payment is not reportable compensation.

NEW SECTION

WAC 415-112-491 Severance pay not earned over time—Contract buy out. Severance pay that is not earned over time is not earned for services rendered and is not reportable. An example of severance pay not earned over time is a payment negotiated as part of termination agreement.

Example: At the time of an administrator's termination, the school district agrees to pay him a lump sum payment equal to two months salary. The school district identifies this payment as "severance pay." Because the payment was not earned for services rendered, it is not reportable compensation and will not be included in his retirement calculation.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|-----------------|---|
| WAC 415-112-410 | Earnable compensation for Plan I TRS members. |
| WAC 415-112-411 | Earnable compensation for Plan II TRS members. |
| WAC 415-112-414 | Back pay award or settlement—Definition—Allocated by the department for retirement system purposes. |

WSR 97-03-017 PERMANENT RULES BUILDING CODE COUNCIL

[Filed January 7, 1997, 8:40 a.m., effective July 1, 1997]

Date of Adoption: December 4, 1996.

Purpose: To exempt unstaffed equipment shelters used solely for personal wireless service facilities from the building envelope insulation requirements of the Washington State Energy Code (chapter 51-11 WAC) in response to ESHB 2828.

Citation of Existing Rules Affected by this Order: Amending chapter 51-11 WAC, Washington State Energy Code, Sections 1210 and 1301.

Statutory Authority for Adoption: RCW 19.27.074, 19.27A.020, and 19.27A.025.

Adopted under notice filed as WSR 96-21-105 on October 21, 1996.

Changes Other than Editing from Proposed to Adopted Version: A correction was made in Exception 3 of Section 1301 to update an occupancy classification that was changed in the Uniform Building Code in 1994 but not reflected in this code.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 2, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: July 1, 1997.

December 4, 1996
James R. Beaver
Chair

AMENDATORY SECTION (Amending WSR 93-21-052, filed 10/18/93, effective 4/1/94)

WAC 51-11-1210 Application of terms. For the purposes of this Code, certain abbreviations, terms, phrases, words and their derivatives, shall be as set forth in this chapter. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. In the event there is a question about the definition of a term, the definitions for terms in the Codes enumerated in RCW 19.27.031 and the edition of Webster's dictionary referenced therein shall be considered as the sources for providing ordinarily accepted meanings.

AAMA: American Architectural Manufacturers Association.

ADDITION: See the Washington State Building Code.

ADVANCED FRAMED CEILING: Advanced framing assumes full and even depth of insulation extending to the

outside edge of exterior walls. (See **Standard Framing and Section 2007.2** of this Code.)

ADVANCED FRAMED WALLS: Studs framed on twenty-four inch centers with double top plate and single bottom plate. Corners use two studs or other means of fully insulating corners, and one stud is used to support each header. Headers consist of double 2X material with R-10 insulation between the header and exterior sheathing. Interior partition wall/exterior wall intersections are fully insulated in the exterior wall. (See **Standard Framing and Section 2005.2** of this Code.)

AFUE - ANNUAL FUEL UTILIZATION EFFICIENCY: Unlike steady state conditions, this rating is based on average usage including on and off cycling as set out in the standardized Department of Energy Test Procedures.

AIR CONDITIONING, COMFORT: The process of treating air to control simultaneously its temperature, humidity, cleanliness and distribution to meet requirements of the conditioned space.

ARI: Air Conditioning and Refrigeration Institute.

ASHRAE: American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc.

ASTM: American Society for Testing and Materials.

AUTOMATIC: Self-acting, operating by its own mechanism when actuated by some impersonal influence, as for example, a change in current strength, pressure, temperature or mechanical configuration. (See **Manual**.)

BELOW GRADE WALLS: Walls or the portion of walls which are entirely below the finished grade or which extend two feet or less above the finish grade.

BOILER CAPACITY: The rate of heat output in Btu/h measured at the boiler outlet, at the design inlet and outlet conditions and rated fuel/energy input.

BUILDING ENVELOPE: The elements of a building which enclose conditioned spaces through which thermal energy may be transferred to or from the exterior, or to or from unconditioned spaces, or to or from semi-heated spaces, or to or from spaces exempted by the provisions of Section 1301.

BUILDING, EXISTING: See the Washington State Building Code.

BUILDING OFFICIAL: The official authorized to act in behalf of a jurisdiction code enforcement agency or its authorized representative.

BUILDING PROJECT: A building or group of buildings, including on-site energy conversion or electric-generating facilities, which utilize a single submittal for a construction permit or are within the boundary of a contiguous area under one ownership.

CONDITIONED FLOOR AREA: (See **Gross Conditioned Floor Area**.)

CONDITIONED SPACE: A cooled space, heated space (fully heated), heated space (semi-heated), or indirectly conditioned space.

COOLED SPACE: An enclosed space within a building that is cooled by a cooling system whose sensible capacity

- a. exceeds 5 Btu/(h•ft²), or
- b. is capable of maintaining space dry bulb temperature of 90 degrees F or less at design cooling conditions.

COP - COEFFICIENT OF PERFORMANCE: The ratio of the rate of net heat output (heating mode) or heat removal (cooling mode) to the rate of total on-site energy input to the heat pump, expressed in consistent units and under designated rating conditions. (See **Net Heat Output, Net Heat Removal, Total On-Site Energy Input**.)

DAYLIGHTED ZONE:

- a. Under overhead glazing: The area under overhead glazing whose horizontal dimension, in each direction, is equal to the overhead glazing dimension in that direction plus either the floor to ceiling height or the dimension to a ceiling height opaque partition, or one-half the distance to adjacent overhead or vertical glazing, whichever is least.
- b. At vertical glazing: The area adjacent to vertical glazing which receives daylighting from the glazing. For purposes of this definition and unless more detailed daylighting analysis is provided, the daylighting zone depth is assumed to extend into the space a distance of 15 feet or to the nearest ceiling height opaque partition, whichever is less. The daylighting zone width is assumed to be the width of the window plus either two feet on each side (the distance to an opaque partition) or one-half the distance to adjacent overhead or vertical glazing, whichever is least.

DAYLIGHT SENSING CONTROL (DS): A device that automatically regulates the power input to electric lighting near the glazing to maintain the desired workplace illumination, thus taking advantage of direct or indirect sunlight.

DEADBAND: The temperature range in which no heating or cooling is used.

DESIGN COOLING CONDITIONS: The cooling outdoor design temperature from the 0.5 percent column for summer from the Puget Sound Chapter of ASHRAE publication "Recommended Outdoor Design Temperatures, Washington State, ASHRAE."

DESIGN HEATING CONDITIONS: The heating outdoor design temperature from the 0.6 percent column for winter from the Puget Sound Chapter of ASHRAE publication "Recommended Outdoor Design Temperatures, Washington State, ASHRAE."

DOOR AREA: Total area of door measured using the rough opening and including the door and frame.

DOOR: All operable opening areas, which are not glazing, in the building envelope including swinging and roll-up doors, fire doors, smoke vents and access hatches.

DWELLING UNIT: See the Washington State Building Code.

EER - ENERGY EFFICIENCY RATIO: The ratio of net equipment cooling capacity in Btu/h to total rate of electric input in watts under designated operating conditions.

ECONOMIZER, AIR: A ducting arrangement and automatic control system that allows a cooling supply fan system to supply outside air to reduce or eliminate the need for mechanical refrigeration during mild or cold weather.

ECONOMIZER, WATER: A system by which the supply air of a cooling system is cooled directly, indirectly, or both, by evaporation of water or by other appropriate fluid in order to reduce or eliminate the need for mechanical refrigeration.

EFFICIENCY, HVAC SYSTEM: The ratio of useful energy (at the point of use) to the energy input for a designated time period, expressed in percent.

EMISSIVITY: The ability to absorb infrared radiation. A low emissivity implies a higher reflectance of infrared radiation.

ENERGY: The capacity for doing work; taking a number of forms which may be transformed from one into another, such as thermal (heat), mechanical (work), electrical and chemical; in customary units, measured in kilowatt-hours (Kwh) or British thermal units (Btu). (See **New energy**.)

ENERGY, RECOVERED: (See **Recovered energy**.)

EXTERIOR ENVELOPE: (See **Building envelope**.)

FACADE AREA: Vertical projected area including nonhorizontal roof area, overhangs, cornices, etc. measured in elevation in a vertical plane parallel to the plane of the building face.

FLOOR OVER UNCONDITIONED SPACE: A floor which separates a conditioned space from an unconditioned space which is buffered from exterior ambient conditions including vented crawl spaces and unconditioned basements or other similar spaces, or exposed to exterior ambient conditions including open parking garages and enclosed garages which are mechanically ventilated.

F-FACTOR: The perimeter heat loss factor expressed in Btu/h•ft °F.

F-VALUE: (See **F-Factor**.)

GLAZING: All areas, including the frames, in the shell of a conditioned space that let in natural light including windows, clerestories, skylights, sliding or swinging glass doors and glass block walls.

GLAZING AREA: Total area of the glazing measured using the rough opening, and including the glazing, sash, and frame. For doors where the daylight opening area is less than fifty percent of the door area, the glazing area is the daylight opening area. For all other doors, the glazing area is the door area.

GROSS CONDITIONED FLOOR AREA: The horizontal projection of that portion of interior space which is contained within exterior walls and which is conditioned directly or indirectly by an energy-using system, and which has an average height of five feet or greater, measured from the exterior faces.

GROSS EXTERIOR WALL AREA: The normal projection of the building envelope wall area bounding interior space which is conditioned by an energy-using system; includes opaque wall, vertical glazing and door areas. The gross area of walls consists of all opaque wall areas, including foundation walls, between floor spandrels, peripheral edges of floors, vertical glazing areas, and door areas, where such surfaces are exposed to exterior ambient conditions and enclose a conditioned space including interstitial areas between two such spaces. (See **Below Grade Wall**.)

GROSS FLOOR AREA: The sum of the areas of the several floors of the building, including basements, cellars, mezzanine and intermediate floored tiers and penthouses of headroom height, measured from the exterior faces of exterior walls or from the center line of walls separating buildings, but excluding: Covered walkways, open roofed-over areas, porches and similar spaces, pipe trenches, exterior terraces or steps, chimneys, roof overhangs and similar features.

GROSS ROOF/CEILING AREA: A roof/ceiling assembly shall be considered as all components of the roof/ceiling envelope through which heat flows, thus creating a building transmission heat loss or gain, where such assembly is exposed to exterior ambient conditions and encloses a conditioned space. The assembly does not include those components that are separated from a heated and/or cooled space by a vented airspace. The gross area of a roof/ceiling assembly consists of the total interior surface of such assembly, including overhead glazing.

GUEST ROOM: See the Washington State Building Code.

HEAT: The form of energy that is transferred by virtue of a temperature difference.

HEAT STORAGE CAPACITY: The physical property of materials (mass) located inside the building envelope to absorb, store, and release heat.

HEATED SPACE (FULLY HEATED): An enclosed space within a building, including adjacent connected spaces separated by an un-insulated component (e.g., basements, utility rooms, garages, corridors), which is heated by a heating system whose output capacity is

- a. capable of maintaining a space dry-bulb temperature of 45 degrees F or greater at design heating conditions; or
- b. 8 Btu/(h•ft²) or greater in Climate Zone 1 and 12 Btu/(h•ft²) or greater in Climate Zone 2.

HEATED SPACE (SEMI-HEATED): An enclosed space within a building, including adjacent connected spaces separated by an un-insulated component (e.g., basements, utility rooms, garages, corridors), which is heated by a heating system

- a. whose output capacity is 3 Btu/(h•ft²) or greater in Climate Zone 1 and 5 Btu/(h•ft²) or greater in Climate Zone 2; and
- b. is not a Heated Space (Fully Heated).

HSPF - HEATING SEASON PERFORMANCE FACTOR: The total heating output (in Btu) of a heat pump during its normal annual usage period for heating divided by the total (watt hour) electric power input during the same

period, as determined by test procedures consistent with the U.S. Department of Energy "Test Procedure for Central Air Conditioners, Including Heat Pumps" published in RS-30. When specified in Btu per watt hour an HSPF of 6.826 is equivalent to a COP of 2.0.

HUMIDISTAT: A regulatory device, actuated by changes in humidity, used for automatic control of relative humidity.

HVAC: Heating, ventilating and air conditioning.

HVAC SYSTEM COMPONENTS: HVAC system components provide, in one or more factory-assembled packages, means for chilling and/or heating water with controlled temperature for delivery to terminal units serving the conditioned spaces of the buildings. Types of HVAC system components include, but are not limited to, water chiller packages, reciprocating condensing units and water source (hydronic) heat pumps. (See **HVAC system equipment.**)

HVAC SYSTEM EFFICIENCY: (See **Efficiency, HVAC system.**)

HVAC SYSTEM EQUIPMENT: HVAC system equipment provides, in one (single package) or more (split system) factory-assembled packages, means for air circulation, air cleaning, air cooling with controlled temperature and dehumidification; and optionally, either alone or in combination with a heating plant, the functions of heating and humidifying. The cooling function may be either electrically or heat operated and the refrigerant condenser may be air, water or evaporatively cooled. Where the equipment is provided in more than one package, the separate packages shall be designed by the manufacturer to be used together. The equipment may provide the heating function as a heat pump or by the use of electric elements. (The word "equipment" used without modifying adjective may, in accordance with common industry usage, apply either to HVAC system equipment or HVAC system components.)

INDIRECTLY CONDITIONED SPACE: An enclosed space within a building that is not a heated or cooled space, whose area weighted heat transfer coefficient to heated or cooled spaces exceeds that to the outdoors or to unconditioned spaces; or through which air from heated or cooled spaces is transferred at a rate exceeding three air changes per hour. Enclosed corridors between conditioned spaces shall be considered as indirectly conditioned space. (See **Heated Space, Cooled Space and Unconditioned Space.**)

INFILTRATION: The uncontrolled inward air leakage through cracks and interstices in any building element and around windows and doors of a building caused by the pressure effects of wind and/or the effect of differences in the indoor and outdoor air density.

INSULATION Baffle: A rigid material, resistant to wind driven moisture, the purpose of which is to allow air to flow freely into the attic or crawl space and to prevent insulation from blocking the ventilation of these spaces, or the loss of insulation. Example materials for this purpose are sheet metal, or wax impregnated cardboard.

INSULATION POSITION:

- a. **Exterior Insulation Position:** A wall having all or nearly all of its mass exposed to the room air with the insulation on the exterior of the mass.
- b. **Integral Insulation Position:** A wall having mass exposed to both room and outside air, with substantially equal amounts of mass on the inside and outside of the insulation layer.
- c. **Interior Insulation Position:** A wall not meeting either of the above definitions; particularly a wall having most of its mass external to the insulation layer.

IPLV - INTEGRATED PART-LOAD VALUE: A single number figure of merit based on part-load EER or COP expressing part-load efficiency for air-conditioning and heat pump equipment on the basis of weighted operation at various load capacities for the equipment as specified in the Air Conditioning and Refrigeration Institute (ARI) and Cooling Tower Institute (CTI) procedures.

LUMINAIRE: A complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the electric power supply.

MANUAL: Capable of being operated by personal intervention. (See **Automatic.**)

MICROCELL: A wireless communication facility consisting of an antenna that is either: (a) Four (4) feet in height and with an area of not more than five hundred eighty (580) square inches; or (b) if a tubular antenna, no more than four (4) inches in diameter and no more than six (6) feet in length; and the associated equipment cabinet that is six (6) feet or less in height and no more than forty-eight (48) square feet in floor area.

NFPA: National Fire Protection Association.

NFRC: National Fenestration Rating Council.

NET HEAT OUTPUT: The change in the total heat content of the air entering and leaving the equipment (not including supplementary heat and heat from boilers).

NET HEAT REMOVAL: The total difference in heat content of the air entering and leaving the equipment (without heat) or the difference in total heat content of the water or refrigerant entering and leaving the component.

NEW ENERGY: Energy, other than recovered energy, utilized for the purpose of heating or cooling. (See **Energy.**)

NOMINAL R-VALUE: The thermal resistance of insulation as specified by the manufacturer according to recognized trade and engineering standards.

NONRENEWABLE ENERGY SOURCES: All energy sources that are not renewable energy sources including natural gas, oil, coal, wood, liquified petroleum gas, steam, and any utility-supplied electricity.

NONRESIDENTIAL: All buildings and spaces in the Uniform Building Code (UBC) occupancies other than Group R.

OCCUPANCY: See the Washington State Uniform Building Code.

OCCUPANCY SENSOR: A device that detects occupants within an area, causing any combination of lighting, equipment or appliances to be turned on or shut off.

OPAQUE ENVELOPE AREAS: All exposed areas of a building envelope which enclose conditioned space, except openings for doors, glazing and building service systems.

OPEN BLOWN: Loose fill insulation pneumatically installed in an unconfined attic space.

OUTDOOR AIR (OUTSIDE AIR): Air taken from the outdoors and, therefore, not previously circulated through a building.

OVERHEAD GLAZING: A glazing surface that has a slope of less than sixty degrees from the horizontal plane.

PACKAGED TERMINAL AIR CONDITIONER: A factory-selected combination of heating and cooling components, assemblies or sections intended to serve a room or zone. (For the complete technical definition, see Standard RS-10.)

PERMEANCE (PERM): The ability of a material of specified thickness to transmit moisture in terms of amount of moisture transmitted per unit time for a specified area and differential pressure (grains per hour•ft²•inches of HG). Permeance may be measured using ASTM E-96-72 or other approved dry cup method as specified in RS-1.

PERSONAL WIRELESS SERVICE FACILITY: A Wireless Communication Facility (WCF), including a microcell, which is a facility for the transmission and/or reception of radio frequency signals and which may include antennas, equipment shelter or cabinet, transmission cables, a support structure to achieve the necessary elevation, and reception and/or transmission devices or antennas.

POOL COVER: A vapor-retardant cover which lies on or at the surface of the pool.

POWER: In connection with machines, the time rate of doing work. In connection with the transmission of energy of all types, the rate at which energy is transmitted; in customary units, it is measured in watts (W) or British Thermal Units per hour (Btu/h).

PROCESS ENERGY: Energy consumed in support of a manufacturing, industrial, or commercial process other than the maintenance of building comfort or amenities for building occupants.

RADIANT FLOOR: A floor assembly, on grade or below, containing heated pipes, ducts, or electric heating cables that constitute a floor or portion thereof for complete or partial heating of the structure.

READILY ACCESSIBLE: See the Washington State Mechanical Code.

RECOOLING: The removal of heat by sensible cooling of the supply air (directly or indirectly) that has been previously heated above the temperature to which the air is to be supplied to the conditioned space for proper control of the temperature of that space.

RECOVERED ENERGY: Energy utilized which would otherwise be wasted (i.e., not contribute to a desired end use) from an energy utilization system.

REHEAT: The application of sensible heat to supply air that has been previously cooled below the temperature of the conditioned space by either mechanical refrigeration or the introduction of outdoor air to provide cooling.

RENEWABLE ENERGY SOURCES: Renewable energy sources (excluding minerals) derived from: (1) incoming solar radiation, including but not limited to, natural daylighting and photosynthetic processes; (2) energy sources resulting from wind, waves and tides, lake or pond thermal differences; and (3) energy derived from the internal heat of the earth, including nocturnal thermal exchanges.

RESET: Adjustment of the set point of a control instrument to a higher or lower value automatically or manually to conserve energy.

ROOF/CEILING ASSEMBLY: (See **Gross Roof/Ceiling Area.**)

SEER - SEASONAL ENERGY EFFICIENCY RATIO: The total cooling output of an air conditioner during its normal annual usage period, in Btu's, divided by the total electric energy input in watt-hours, during the same period, as determined by 10 CFR, Part 430.

SEMI-HEATED SPACE: Sub-category of **Heated Space.** (See **Heated Space.**)

SEQUENCE: A consecutive series of operations.

SERVICE SYSTEMS: All energy-using systems in a building that are operated to provide services for the occupants or processes housed therein, including HVAC, service water heating, illumination, transportation, cooking or food preparation, laundering or similar functions.

SERVICE WATER HEATING: Supply of hot water for domestic or commercial purposes other than comfort heating.

SHADED: Glazed area which is externally protected from direct solar radiation by use of devices permanently affixed to the structure or by an adjacent building, topographical feature, or vegetation.

SHADING COEFFICIENT: The ratio of solar heat gain occurring through non-opaque portions of the glazing, with or without integral shading devices, to the solar heat gain occurring through an equivalent area of unshaded, 1/8-inch thick, clear, double-strength glass.

Note: Heat gains to be compared under the same conditions. See Chapter 26 of Standard RS-27, listed in Chapter 17 of this Code.

SHALL: Denotes a mandatory Code requirement.

SKYLIGHT: (See **Overhead Glazing.**)

SLAB-BELOW-GRADE: Any portion of a slab floor in contact with the ground which is more than twenty-four inches below the final elevation of the nearest exterior grade.

SLAB-ON-GRADE, EXTERIOR: Any portion of a slab floor in contact with the ground which is less than or equal

to twenty-four inches below the final elevation of the nearest exterior grade.

SOLAR ENERGY SOURCE: Source of natural daylighting and of thermal, chemical or electrical energy derived directly from conversion of incident solar radiation.

SOLAR HEAT GAIN COEFFICIENT (SHGC): The ratio of the solar heat gain entering the space through the glazing product to the incident solar radiation. Solar heat gain includes directly transmitted solar heat and absorbed solar radiation which is then reradiated, conducted, or convected into the space.

SPLIT SYSTEM: Any heat pump or air conditioning unit which is provided in more than one assembly requiring refrigeration piping installed in the field.

STANDARD FRAMING: All framing practices not defined as "intermediate" or "advanced" shall be considered standard. (See **Advanced framed ceiling**, **Advanced framed walls**, **Intermediate framed wall**.)

SUBSTANTIAL CONTACT: A condition where adjacent building materials are placed in a manner that proximal surfaces are contiguous, being installed and supported as to eliminate voids between materials, without compressing or degrading the thermal performance of either product.

SYSTEM: A combination of central or terminal equipment or components and/or controls, accessories, interconnecting means, and terminal devices by which energy is transformed so as to perform a specific function, such as HVAC, service water heating or illumination.

TAPERING: Installation of a reduced level of ceiling insulation at the eaves, due to reduced clearance.

THERMAL BY-PASS: An area where the envelope surrounding the conditioned space is breached, or where an ineffective application compromises the performance of a thermal or infiltration barrier, increasing the structure's energy consumption by exposing finished surfaces to ambient conditions and additional heat transfer.

THERMAL CONDUCTANCE (C): Time rate of heat flow through a body (frequently per unit area) from one of its bounding surfaces to the other for a unit temperature difference between the two surfaces, under steady conditions ($\text{Btu}/\text{h}\cdot\text{ft}^2\cdot\text{°F}$).

THERMAL RESISTANCE (R): The reciprocal of thermal conductance ($\text{h}\cdot\text{ft}^2\cdot\text{°F}/\text{Btu}$).

THERMAL TRANSMITTANCE (U): The coefficient of heat transmission (air to air). It is the time rate of heat flow per unit area and unit temperature difference between the warm side and cold side air films ($\text{Btu}/\text{h}\cdot\text{ft}^2\cdot\text{°F}$).

THERMAL TRANSMITTANCE, OVERALL (U_o): The overall (average) heat transmission of a gross area of the exterior building envelope ($\text{Btu}/\text{h}\cdot\text{ft}^2\cdot\text{°F}$). The U_o -factor applies to the combined effect of the time rate of heat flows through the various parallel paths, such as glazing, doors and opaque construction areas, comprising the gross area of one or more exterior building components, such as walls, floors or roof/ceiling.

THERMOSTAT: An automatic control device actuated by temperature and designed to be responsive to temperature.

TOTAL ON-SITE ENERGY INPUT: The combination of all the energy inputs to all elements and accessories as included in the equipment components, including but not limited to, compressor(s), compressor sump heater(s), circulating pump(s), purge devices, fan(s), and the HVAC system component control circuit.

TRANSMISSION COEFFICIENT: The ratio of the solar heat gain through a glazing system to that of an unshaded single pane of double strength window glass under the same set of conditions.

U-FACTOR: (See **Thermal Transmittance**.)

U-VALUE: (See **U-Factor**.)

UNCONDITIONED SPACE: Space within a building that is not a conditioned space. (See **Conditioned Space**).

UNIFORM BUILDING CODE: The Washington State Uniform Building Code as modified by the Washington State Building Code Council.

UNIFORM MECHANICAL CODE: The Washington State Uniform Mechanical Code as modified by the Washington State Building Code Council.

UNIFORM PLUMBING CODE (UPC): The Washington State Uniform Plumbing Code as modified by the Washington State Building Code Council.

UNITARY COOLING AND HEATING EQUIPMENT: One or more factory-made assemblies which include an evaporator or cooling coil, a compressor and condenser combination, and may include a heating function as well. Where such equipment is provided in more than one assembly, the separate assemblies shall be designed to be used together.

UNITARY HEAT PUMP: One or more factory-made assemblies which include an indoor conditioning coil, compressor(s) and outdoor coil or refrigerant-to-water heat exchanger, including means to provide both heating and cooling functions. When such equipment is provided in more than one assembly, the separate assemblies shall be designed to be used together.

VAPOR RETARDER: A layer of low moisture transmissivity material (not more than 1.0 perm dry cup) placed over the warm side (in winter) of insulation, over the exterior of below grade walls, and under floors as ground cover to limit the transport of water and water vapor through exterior walls, ceilings, and floors. Vapor retarding paint, listed for this application, also meets this definition.

VAULTED CEILINGS: All ceilings where enclosed joist or rafter space is formed by ceilings applied directly to the underside of roof joists or rafters.

VENTILATION: The process of supplying or removing air by natural or mechanical means to or from any space. Such air may or may not have been conditioned.

VENTILATION AIR: That portion of supply air which comes from outside (outdoors) plus any recirculated air that

has been treated to maintain the desired quality of air within a designated space.

VERTICAL GLAZING: A glazing surface that has a slope of sixty degrees or greater from the horizontal plane.

WALLS (EXTERIOR): Any member or group of members which defines the exterior boundaries or courts of a building and which have a slope of sixty degrees or greater with the horizontal plane, and separates conditioned from unconditioned space. Band joists between floors are to be considered a part of exterior walls.

ZONE: A space or group of spaces within a building with heating and/or cooling requirements sufficiently similar so that comfort conditions can be maintained throughout by a single controlling device. Each dwelling unit in residential buildings shall be considered a single zone.

AMENDATORY SECTION (Amending WSR 93-21-052, filed 10/18/93, effective 4/1/94)

WAC 51-11-1301 Scope. Conditioned buildings or portions thereof shall be constructed to provide the required thermal performance of the various components according to the requirements of this chapter. Unless otherwise approved by the building official, all spaces shall be assumed to be at least semi-heated.

EXCEPTION:

1. Greenhouses isolated from any conditioned space and not intended for occupancy.
2. As approved by the building official, spaces not assumed to be at least semi-heated.
3. Unconditioned Group ((M)) U occupancy accessory to Group R occupancy.
4. Unstaffed equipment shelters or cabinets used solely for personal wireless service facilities.

WSR 97-03-021

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 96-05—Filed January 7, 1997, 10:02 a.m.]

Date of Adoption: January 7, 1997.

Purpose: To reduce the number of acres of grass seed field burning in Washington.

Citation of Existing Rules Affected by this Order: Amending agricultural burning, chapter 173-430 WAC.

Statutory Authority for Adoption: RCW 70.94.656(4).

Adopted under notice filed as WSR 96-16-014.

Changes Other than Editing from Proposed to Adopted Version: The minor changes include:

(1) The exemption (WAC 173-430-040 [(4)](e)), deleting the word "unusual" from unusual or extraordinary circumstances and providing examples of extraordinary circumstances.

(2) Trading system (WAC 173-430-040 [(4)](f)), clarifying language describing more accurately under what circumstances a trading program may be dissolved.

The concise explanatory statement describes all changes made from the proposed rule to the adopted version.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or

Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 7, 1997

Mary Riveland

Director

AMENDATORY SECTION (Amending Order 94-17, filed 1/17/95, effective 2/17/95)

WAC 173-430-040 Agricultural burning requirements. (1) Agricultural burning is allowed when it is reasonably necessary to carry out the enterprise. A farmer can show it is reasonably necessary when it meets the criteria of the best management practices and no practical alternative is reasonably available.

(2) All agricultural burning requires a permit.

(a) To qualify for an agricultural burning permit the farmer must be an agricultural operation or government entity with specific agricultural burning needs, such as irrigation districts, drainage districts, and weed control boards.

(b) A farmer must fill out the information requested on a permit application (or the permit) and return it to the permitting authority.

(i) The permitting authority may require the farmer to fill out an application prior to issuing a permit.

(ii) The application must describe the reason for burning and include at least the following information: Name and address of the person or corporation responsible for the burn, the specific location (county; legal description: Range, section, township, block and unit number), the crop type, the type or size of the burn, directions to the burn, specific reason for the burn, the target date for burning, and any additional information required by the permitting authority. Each permitting authority may require additional information on the application.

(iii) All applications must comply with other state or local regulations.

(c) The permitting authority must evaluate the application, if there is one, and approve the permit prior to burning.

(d) Local air agencies (and the department where no local air agency exists) may issue permits for appropriate agricultural burning activities in nonattainment and urban growth areas.

(3) All agricultural burning permits require a fee. After January 1, 1995, the fee is the greater of:

(a) A minimum fee of twenty-five dollars per year per farm based on burning up to ten acres or equivalent which will be used as follows: Twelve dollars and fifty cents of which goes to the agricultural burning research fund and the

remainder will be kept by the permitting authority to cover the costs of administering and enforcing this regulation; or

(b) A variable fee based on the acreage or equivalent of agricultural burning which will be used as follows: Up to one dollar per acre for applied research, twenty-five cents per acre for ecology administration and up to one dollar and twenty-five cents per acre for local permit program administration.

(i) Local permitting program administration. One portion of the fee shall cover the permitting authority's costs of administering and enforcing the program. The permitting authority may set the fee as an amount per farm per year, a set amount per fire, or a set rate no greater than one dollar and twenty-five cents per acre burned. The permitting authority must establish this portion of the fee by an appropriate, public process such as a local rule, ordinance, or resolution. In areas of the state where the department is the permitting authority this portion of the fee shall be one dollar and twenty-five cents per acre burned.

(ii) Ecology administration. Another portion of the fee shall be twenty-five cents per acre burned and cover the state-wide administrative, education, and oversight costs of the department. The amount (if any) by which the annual total, of this portion of the fee, exceeds the annual state-wide administrative, education, and oversight costs shall be deposited in the agricultural burning research fund of the air pollution control account.

(iii) Research fund. A final portion, the agricultural burning applied research portion, of the fee shall be no greater than one dollar per acre burned. The amount assessed may be less than one dollar per acre burned as periodically determined by the Ag task force based on applied research needs, regional needs and the research fund budget. The research portion of the fee assessed shall be fifty cents per acre burned starting in calendar year 1995. The Ag task force may also establish discounted assessment rates based on the use of best management practices.

(c) A farmer must pay the fee prior to receiving a permit. Refunds are allowed for portions not burned provided the adjusted fee after subtracting refunds is no less than twenty-five dollars.

(d) The agricultural burning practices and research task force may set acreage equivalents, for nonfield style agricultural burning practices, based on the amount of emissions relative to typical field burning emissions. Any acreage equivalents, established by rule, shall be used in determining fees. For agricultural burning conducted by irrigation or drainage districts, each mile of ditch (including banks) burned is calculated on an equivalent acreage basis.

(4) All agricultural burning permits must be conditioned to minimize air pollution.

(a) A farmer must comply with the conditions on the agricultural burning permit.

(b) For purposes of protecting public health (not eliminating agricultural burning), if an area exceeds or threatens to exceed unhealthy air pollution levels, the permitting authority may limit the number of acres, on a pro rata basis, or as provided by RCW 70.94.656.

(c) Permits must be conditioned to minimize emissions insofar as practical, including denial of permission to burn during periods of adverse meteorological conditions. Additional requirements for burning of field and turf grasses

grown for seed. The department of ecology will proceed with the process to certify alternatives to burning as identified in RCW 70.94.656(3). In addition to the certification process, ecology is also limiting the number of acres allowed to be burned as specified in RCW 70.94.656(4). Without regard to any previous burn permit history, in 1996, each farmer shall be limited to burning the greater of:

(i) Two-thirds of the number of acres the farmer burned under a valid permit issued in 1995; or

(ii) Two-thirds of the number of acres in grass seed production on May 1, 1996. "In production" means planted, growing and under the control of the farmer.

(d) Additional requirements for burning of field and turf grasses grown for seed. Beginning in 1997 and until approved alternatives become available, each farmer shall be limited to burning no more than one-third of the number of acres in grass seed production on May 1, 1996. "In production" means planted, growing and under the control of the farmer.

(e) Exemptions to additional requirements for burning of field and turf grasses grown for seed ((d) of this subsection). A farmer may request an exemption for extraordinary circumstances, such as property where a portion(s) of the field is oddly shaped or where the slope is extremely steep. Under this subsection, relief from the acreage/emissions reduction requirements of (d) of this subsection shall be limited to no more than five percent of the acreage in production on May 1, 1996, and is also subject to the following provisions:

(i) The exemption request must be certified by an agronomic professional;

(ii) The farmer must be able to show full compliance with the emissions reductions in (d) of this subsection for the acreage not exempted; and

(iii) The farmer must be in full compliance with permit requirements for other crops under WAC 173-430-040.

(f) The department of ecology or local air authority may provide for trading of permits using the method described in (f)(i), (ii), (iii), (iv), (v), and (vi) of this subsection. This trading system uses a straight transfer of acres, a transfer requiring mandatory compensation, or a combination of both. If ecology or the local air authority finds that emissions resulting from trading are creating a health impact, as defined by ecology or the local air authority, the trading system, once created, may be dissolved.

(i) Ecology or the local air authority may develop a system that allows the trading of permits by:

(A) Adding a signed transfer line to the written permit that provides for a signature for the current holder of the permit;

(B) Providing a tracking system that identifies the current holder of the permit, that identifies when the permit was last used to allow burning of acreage, and that allows the name of the holder to be changed if the transfer line is signed by the current holder;

(C) Requiring that the new holder of the permit must turn in the permit with the signed transfer line at least sixty days before the new holder plans to burn; and

(D) Assuring that the permits are used only once in a calendar year.

(ii) By signing the transfer line on the permit the permit holder must indicate that he or she understands that the acres

transferred may no longer be burned, that a permit for the acres transferred will not be issued to the signing permit holder in future years, and that the acres being transferred were not already burned during the calendar year during which the transfer takes place.

(iii) Ecology and the local air authorities may add restrictions to the transfer of permits closer to areas with higher population densities.

(iv) Only permits for acreage which has not yet been burned may be transferred or traded. The seller of the permit is responsible for permanently reducing the acreage burned by the amount of acreage transferred from January 1 of the year during which the transaction takes place.

(v) Acreage that is exempted under (e) of this subsection is not eligible for the trading system.

(vi) The authorities are encouraged to work together to use the same system and to allow trading between authority jurisdictions so as to allow the grass seed growers to adjust to the two-thirds overall reduction in acres permitted for burning as easily as possible.

(g) Measurement for emission reduction for grass seed field and turf grass. Ecology will use acres as the basis for determining emission reductions as provided by RCW 70.94.656, until another method(s) is shown to be better and meets with the intent of RCW 70.94.656(4). Ecology will investigate alternate methods, as they become available. If ecology finds that an alternate method is appropriate and meets the criteria, it may certify this method using an administrative order.

(h) Alternate open burning practices for field and turf grass grown for seed. Ecology acknowledges that there may be practices that involve some burning, but which produce emissions quantifiably below those of open field burning. If ecology finds that a practice involves open burning and still substantially reduces emissions below open field burning, ecology may certify the alternate burning practice(s) by administrative order. Any certified practice may be used to satisfy the acreage/emissions reduction requirements of (d) of this subsection provided:

(i) The acreage application of the practice is adjusted to reflect effectiveness in reducing emissions so as to meet or exceed the emissions reduction required by (d) of this subsection; and

(ii) In no case shall the emission reduction requirement for the field and turf grass grown for seed be less than that required in (d) of this subsection.

(5) Other laws. A farmer must obtain any local permits, licenses, or other approvals required by any other laws, regulations, or ordinances. The farmer must also honor other agreements entered into with any federal, state, or local agency.

of or charges made for machinery and equipment used directly in generating electricity using the wind or solar energy as the principal source of power.

Other Identifying Information: This rule was previously filed as an emergency rule on July 1, 1996 (WSR 96-14-080) and October 29, 1996 (WSR 96-22-017).

Citation of Existing Rules Affected by this Order: New section WAC 458-20-263 Wind and solar electric generating facilities sales and use tax exemption.

Statutory Authority for Adoption: RCW 82.32.300 and 82.08.02567.

Adopted under notice filed as WSR 96-22-093 on November 6, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 1, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 8, 1997

Russell W. Brubaker
Assistant Director

NEW SECTION

WAC 458-20-263 Wind energy and solar electric generating facilities sales and use tax exemption. (1) **Introduction.** Effective July 1, 1996, chapter 166, Laws of 1996, (HB 2290) provides a retail sales tax exemption for sales of or charges made for:

(a) Machinery and equipment used directly in generating electricity using the wind or solar energy as the principal source of power; or

(b) Labor and services for installing the machinery and equipment.

The sales tax exemption applies if the purchaser develops with the machinery, equipment, labor, and services a facility capable of generating not less than two hundred kilowatts of electricity using the wind or solar energy as the principal source of power. The law provides a corresponding use tax exemption for the use of machinery and equipment used directly in generating not less than two hundred kilowatts of electricity using the wind or solar as the principal source of power.

(2) **Expiration.** The sales and use tax exemptions expire on June 30, 2005.

(3) **Definitions.** The following definitions apply to this section:

(a) "Machinery and equipment" means industrial fixtures, devices, and support facilities that are integral and

WSR 97-03-027
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed January 8, 1997, 3:30 p.m.]

Date of Adoption: January 8, 1997.

Purpose: To implement the provisions of RCW 82.08.02567 and 82.12.02567 (chapter 166, Laws of 1996), which provide a retail sales and use tax exemption for sales

necessary to the generation of electricity using the wind or solar energy as the principal source of power.

(i) Machinery and equipment, where solar energy is the principal source of energy, includes, but is not limited to: Solar modules; power conditioning equipment; batteries; transformers; power poles; power lines; and connectors to the utility grid system.

(ii) Machinery and equipment, where wind is the principal source of power includes, but is not limited to: Wind turbines; blades; generators; towers and tower pads; substations; guy wires and ground stays; control buildings; power conditioning equipment; anemometers; recording meters; transmitters; power poles; power lines; and connectors to the utility grid system.

(iii) "Machinery and equipment" does not include: The utility grid system and any tangible personal property used to connect electricity directly to consumers; hand tools; property with a useful life of less than one year; repair parts required to restore machinery and equipment to normal working order; replacement parts that do not increase productivity, improve efficiency, or extend the useful life of the machinery and equipment; buildings; or building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.

(b) "Used directly" means the machinery and equipment provides any part of the process that captures the energy of the wind or solar, converts that energy to electricity, and transforms or transmits that electricity for entry into electric transmission and distribution systems.

(c) "Installation charges" means sales of or charges made for labor and services rendered in respect to installing the machinery and equipment.

(i) Labor and services to install machinery and equipment includes both the charges for labor and charges for the rental of equipment with an operator.

(ii) Labor and services to install machinery and equipment does not include the rental of tangible personal property used by the purchaser to install machinery and equipment. See WAC 458-20-211.

(4) **Retail sales tax exemption.** The retail sales tax does not apply to the purchase of or charges for machinery and equipment used directly in generating electricity using the wind or solar energy as the principal source of power or labor and services for installing the machinery and equipment. Prior approval is not required from the department of revenue in order to claim the retail sales tax exemption. However, the purchaser is required to provide the seller with an exemption certificate. Both the purchaser and the seller must retain a copy of the certificate to document the exemption.

(a) The exemption certificate may be in the form shown below, or may be in any other form that contains substantially the following information and language:

Sales and Use Tax Exemption Certificate for Wind or Solar Powered Electrical Generation Facilities

The purchaser (user) certifies that the items listed below are machinery and equipment, or are labor and services rendered to install the machinery and equipment, used directly in generating electricity using the wind or solar energy as the

principal source of power at a facility capable of generating not less than two hundred kilowatts of electricity.

Purchaser (User) UBI/Registration #
Name of Purchaser (User)
Address of Purchaser (User)
Seller UBI/Registration #
Name of Seller
Date
Item or category of items
Authorized agent for Purchaser (Print)
Authorized signature
Title
Date

(b) In lieu of providing the certificate to the department each time a purchase is made, the purchaser may provide the department with an annual summary of exempt purchases by January 31 of the year following the calendar year in which the items were purchased. The annual summary must provide the same information required in (a) of this subsection.

(5) **Use tax.** The use tax does not apply to the use of machinery and equipment used directly in generating not less than two hundred kilowatts of electricity using the wind or solar energy as the principle source of power. The user of exempt machinery and equipment is required to file an annual summary of exempt machinery and equipment similar to that described for the sales tax exemption.

Instead of an annual summary the user may elect to file with the department of revenue an exemption certificate, similar to the retail sales tax exemption certificate described in subsection (4) of this section. If so, the certificate must be filed within sixty days of the first use of the machinery and equipment in this state.

(6) **Time of sale.** The existing rules pertaining to time and place of sale and when tax liability arises apply for purposes of whether a given transaction occurred on or after the effective date of the law, July 1, 1996, for purposes of the sales and use tax exemption. See WAC 458-20-103, 458-20-178 and 458-20-197.

(a) In the case of an outright purchase of goods, the sale takes place when the goods are delivered to the purchaser in this state. Thus, machinery and equipment delivered to the purchaser on or after July 1, 1996, can qualify for exemption, regardless of when the order for the goods was placed.

(b) If machinery and equipment is acquired without payment of retail sales tax, use tax is due at the time of first use. Thus, machinery and equipment which is first put to use after July 1, 1996, can qualify for the exemption. See WAC 458-20-178.

(c) In the case of leases or rentals of tangible personal property, liability for sales tax arises as of the time the lease or rental payment falls due. Thus, in the case of leased machinery and equipment, rental payments that fall due on or after July 1, 1996, can qualify for exemption, regardless of when the lease was initiated.

PERMANENT

WSR 97-03-034
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Filed January 9, 1997, 1:00 p.m.]

Purpose: Provide for extension of exemption of resources for certain presidentially-declared disasters, clarifies treatment of sales contracts as resources, corrects cross-reference.

Citation of Existing Rules Affected by this Order:
 Amending WAC 388-511-1160.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.050.

Adopted under notice filed as WSR 96-23-018 on November 12, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; **Federal Rules or Standards:** New 0, amended 1, repealed 0; or **Recently Enacted State Statutes:** New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; **Pilot Rule Making:** New 0, amended 0, repealed 0; or **Other Alternative Rule Making:** New 0, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 9, 1997

Merry A. Kogut, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3845, filed 4/5/95, effective 5/6/95)

WAC 388-511-1160 SSI-related resource exemptions.

(1) The department shall exempt the following resources in determining eligibility for medical care programs:

(a) Home;

(i) "Home" means any shelter:

(A) In which a client has ownership interest; and

(B) The client uses as the principal place of residence.

The department shall only consider one home as the client's principal place of residence.

(ii) The client's absence from the home shall not affect the home exemption. The client's home shall remain the principal place of residence as long as:

(A) The client intends to return home. The department shall accept the client's statement of intent without challenge; or

(B) A client's spouse or dependent relative uses the home during the client's absence. The department shall:

(I) Consider a person a dependent relative when such a person is either financially or medically dependent on the client; and

(II) Accept the client's or dependent relative's written statement of dependency or relationship unless the department has reason to question such statement.

(iii) The department shall exempt the proceeds from the sale of the home providing the client uses the proceeds to purchase another home within three months of the receipt of the proceeds. Proceeds include:

(A) Real estate contracts((?)) or any similar home financing arrangements((?)); and

(B) The amount of income ((produced)) that does not reflect interest from such a contract.

(iv) The department shall evaluate transfers of the home by an institutional client or client's spouse under WAC 388-513-1365;

(b) Household goods and personal effects;

(c) Vehicle; the department shall:

(i) Exempt one vehicle regardless of its value if, for the client or a member of the client's household, the vehicle is:

(A) Necessary for employment; or

(B) Necessary for the treatment of a specific or regular medical problem; or

(C) Modified for operation by, or transportation of, a handicapped person; or

(D) Necessary due to climate, terrain, distance, or similar factors to provide the client transportation to perform essential daily activities.

(ii) Exempt one of the client's vehicles to the extent its current market value does not exceed four thousand five hundred dollars;

(iii) Count any excess against the resource limit;

(iv) Exempt a vehicle under this subsection only if a vehicle is not exempt under (c)(i) of this subsection;

(v) Treat the client's ownership of other vehicles as nonexempt resources and count the equity value toward the resource limit.

(d) Property essential to self-support. The department shall exempt:

(i) Property regardless of value, when the client uses the property:

(A) In a trade or business;

(B) As an employee for work; or

(C) As authorized by the government for income-producing activity.

(ii) Nonbusiness property up to six thousand dollars equity, when the client uses the property for producing goods or services essential to daily activities, solely for the client's household;

(iii) Nonbusiness property up to six thousand dollars equity, when the client uses the property to produce an annual income return of six percent or more of the exempt equity or is expected to produce at least a six percent return within a twenty-month period as long as the client:

(A) Currently uses the property in the activities described in subsection (1)(d) of this section; or

(B) Is expected to resume using the property in the activities described in subsection (1)(d) of this section within twelve months;

(e) Resources necessary to fulfill an approved plan for a blind or disabled client to achieve self-support as long as such plan remains in effect;

(f) Alaska Native Claims Settlement Act:

- (i) Shares of stock held in a regional or village corporation;
- (ii) Cash received from a native corporation, including cash dividends on stock received from a native corporation to the extent the cash does not exceed two thousand dollars per person per year;
- (iii) Stock issued or distributed by a native corporation as a dividend or distribution on the stock;
- (iv) A partnership interest;
- (v) Land or an interest in land, including land or an interest in land received from a native corporation, as a dividend or distribution on stock;
- (vi) An interest in a settlement trust.
- (g) Life insurance:
- (i) The department shall exempt the total cash surrender value when the total face value of all policies held by each person is one thousand five hundred dollars or less;
- (ii) The cash surrender value applies to the resource limit under WAC 388-511-1110 if the face value of all policies held by each person is over one thousand five hundred dollars; and
- (iii) When determining total face value in subsection (1)(g)(i) of this section, the department shall not include term or burial insurance with no cash surrender value.
- (h) Restricted allotted land owned by an enrolled tribal member and spouse, if married, if such land cannot be sold, transferred, or otherwise disposed of without the permission of other persons, the tribe, or an agency of the federal government;
- ~~(i) ((Insurance settlements the client receives from an insurance company for purposes of repairing or replacing a resource providing the client uses the total amount of the cash to repair or replace the exempt resource within nine months. The department may extend the nine month period based on circumstances beyond the control of the client to a maximum of nine additional months. The department shall consider any cash not used within the time period as an available resource;))~~ A settlement the client receives for the purpose of repairing or replacing a specific exempt resource for a period of:
- (i) Nine months when the client uses the total amount of the cash to repair or replace the exempt resource;
- (ii) Nine additional months when:
- (A) Circumstances beyond the control of the client prevent the repair or replacement of the exempt resource; and
- (B) The client uses the total amount of the cash to repair or replace the exempt resource; and
- (iii) Twelve additional months, for a maximum of thirty months, when:
- (A) The settlement is a result of a catastrophe which is declared a major disaster by the President of the United States;
- (B) The exempt resource is geographically within the disaster area as defined by the presidential order;
- (C) The client intends to repair or replace the exempt resource; and
- (D) Circumstances beyond the control of the client prevented the repair or replacement of the exempt resource in the time frames described under subsection (1)(i)(i) and (ii) of this section.

(iv) The department shall consider any settlement excluded and not used within the allowable time period as described under subsection (1)(i) of this section as an available resource.

(j) Burial spaces for the client, the client's spouse, or any member of the client's immediate family.

(i) The department shall consider burial spaces includes conventional grave sites, crypts, mausoleums, urns, and other repositories customarily and traditionally used for the remains of deceased persons.

(ii) The department shall consider burial spaces as including a burial space purchase agreement as well as any interest accrued on and left to accumulate as part of the value of the burial space purchase agreement.

(iii) For purposes of subsection (1)(j) and (k) of this section, "immediate family" means a client's minor and adult children, including adopted children and stepchildren; a client's brothers, sisters, parents, adoptive parents, and the spouses of those persons. The department shall not consider dependency or living-in-the-same-household as factors in determining whether a person is an immediate family member;

(k) Burial funds:

(i) The department shall ensure funds specifically set aside for the burial arrangements of a client or the client's spouse not exceed one thousand five hundred dollars for each spouse. The department shall count burial funds in excess of this limit toward the resource limit in WAC 388-511-1110.

(ii) The department shall require funds set aside for burial expenses to be kept separate from all other resources and separately identified and designated as set aside for burial. If the exempt burial funds are mixed with other resources, the department shall not apply this exemption to any portion of the funds unless the client intends to use the nonexempt funds for burial-related items or services. The department may exempt designated burial funds retroactively back to the first day of the month in which the person intended the funds to be set aside for burial.

(iii) Funds set aside for burial include revocable burial contracts, burial trusts, other burial arrangements, cash, accounts, or other financial instruments with a definite cash value the person clearly designates as set aside solely for the person's or spouse's burial expenses.

(iv) The department shall reduce the one thousand five hundred dollar exemption by:

(A) The face value of the client's insurance policies owned by the person or spouse on the life of the person if the policies have been exempted as provided in subsection (1)(g) of this section; and

(B) Amounts in an irrevocable burial trust.

(v) The department shall exempt the interest earned on exempt burial funds and appreciation in the value of exempt burial arrangements if the exempt interest and appreciation are left to accumulate and become part of the separately identified burial fund.

(vi) When used for other purposes, the department shall consider as available income any exempt burial funds, interest, or appreciated values set aside for burial expenses if, at the first of the month of use, when added to other nonexempt resources, the total exceeds the resource limit;

(l) Other resources considered exempt by federal statute;

(m) Retroactive SSI payments, including benefits a client receives under the interim assistance reimbursement agreement with the Social Security Administration, or OASDI payments for six months following the month of receipt. This exemption applies to:

(i) Payments received by the client, spouse, or any other person received that the department considers available to meet the client's needs;

(ii) SSI payments made to the client for benefits due for a month before the month of payment;

(iii) OASDI payments made to the client for benefits due for a month that is two or more months before the month of payment; and

(iv) Payments that remain in the form of cash, checking accounts, or saving accounts. The department shall not apply this exemption once the retroactive payment has been converted to any other form.

(n) Payments for medical or social services, for one-calendar month following the month of receipt, certain cash payments an SSI person receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services;

(o) Restitution payment and any interest earned from such payment to persons of Japanese or Aleut ancestry relocated and interned during war time, under P.L. 100-383;

(p) The annuity payment of trust funds to Puyallup Tribal Indians received under P.L. 101-41;

(q) Funds received from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims under P.L. 101-201;

(r) Payments from the Dutch government under the Netherlands' Act on Benefits for Victims of Persecution (WUV). See WAC 388-511-1140 (1)(aa) for the treatment of interest earned on such payment.

(s) Payments to certain survivors of the Holocaust under the Federal Republic of Germany's Law for Compensation of National Socialist Persecution or German Restitution Act. Interest earned on conserved payment is not exempt;

(t) Unspent assistance payments the client receives because of a presidential declaration of a major disaster, under P.L. 93-288, are exempt for nine months from the date of receipt.

(i) The department shall determine the exemption may extend an additional nine months, if circumstances beyond the client's control:

(A) Prevents the client from repairing or replacing the damaged or destroyed property; or

(B) Keeps the client from contracting for such repair or replacement.

(ii) Interest earned on the exempt resource is exempt for the period the exemption applies;

(u) Earned income tax credit refunds and payments are exempt during the month of receipt and the following month;

(v) Payments from a state administered victim's compensation program for a period of nine calendar months after the month of receipt;

(w) Payments, or interest accrued on payments received under the Radiation Exposure Compensation Act received by the injured person, the surviving spouse, children, grandchildren, or grandparents;

(x) Payments under section 500 through 506 of the Austrian General Social Insurance Act. The department shall:

(i) Not consider such payments as income or resources for determining eligibility or post-eligibility; and

(ii) Count the interest from such payments as unearned income for the client.

(2) The department shall consider a sales contract:

(a) An exempt resource when the current market value of the contract:

(i) Is zero or the contract is unsalable; or

(ii) When combined with other resources, exceeds the resource limit, and the sales contract was executed:

(A) On or before November 30, 1993; or

(B) On or after December 1, 1993, and:

(I) Was received as compensation for the sale of the client's principal place of residence. For an institutionalized client, this rule shall apply only to the client's principal place of residence before institutionalization of the client; and

(II) Provides for an interest rate within prevailing rates at the time of the sale; and

(III) Requires the repayment of a principal amount equal to the fair market value of the property; and

(IV) Payment on the amount owed does not exceed thirty years.

(iii) The department shall consider payment of principal and interest on a sales contract meeting the criteria of subsection (2)(a)(i) or (ii) of this section under WAC 388-505-0590 ~~((3))~~ (4)(b);

(b) An available resource when the current market value of a sales contract does not meet the requirements in subsection (2)(a)(i) or (ii) of this section. For a sales contract the department determines to be an available resource, the department shall consider the payment that represents:

(i) Principal, an available resource; and

(ii) Interest, under WAC 388-505-0590 ~~((3))~~ (4)(c).

(c) An available resource when transferred by the client to a person other than the client's spouse. See WAC 388-513-1365; and

(d) An exempt resource to the extent the proceeds from the sale of a home are used to purchase another home. The department shall not consider payments received under such sales contract as income as described under subsection (1)(a)(iii) of this section.

(3) The department shall consider cash received from the sale of an exempt resource as a nonexempt resource to the extent that the cash is not:

(a) Used to replace an exempt resource; or

(b) Invested in an exempt resource within the same month, unless specified differently under this section.

WSR 97-03-035
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services)
(Public Assistance)

[Filed January 9, 1997, 1:03 p.m.]

Purpose: Requires able-bodied adults, eighteen through fifty, without dependents, to work, participate in a work program or participate in workfare to continue to receive food stamp benefits.

Statutory Authority for Adoption: RCW 74.04.510.

Adopted under notice filed as WSR 96-24-031 on November 25, 1996.

Changes Other than Editing from Proposed to Adopted Version: The following changes were made:

WAC 388-49-355 (2)(c) now reads: A state-approved work program. The words "employment and training" were deleted.

WAC 388-49-355 (3)(f)(iii) now reads: "A student enrolled at least half time in any institution of higher education." The words "recognized school, training program or" were deleted.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, amended 0, repealed 0; **Federal Rules or Standards:** New 0, amended 0, repealed 0; **or Recently Enacted State Statutes:** New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; **Pilot Rule Making:** New 0, amended 0, repealed 0; **or Other Alternative Rule Making:** New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 9, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-49-355 Work requirements for able-bodied adults without dependents. (1) Except as provided in subsection (4) and (6) of this section, an individual shall not be eligible to participate in the food stamp program for more than three full months in the thirty-six month period beginning January 1, 1997 unless the individual fulfills one of the following requirements:

(a) Works at least twenty hours a week averaged monthly;

(b) Participates in and comply with the requirements of a work program for twenty hours or more per week; or

(c) Participates in a workfare program.

(2) A work program is defined as a program under:

(a) Job Training Partnership Act;

(b) Section 236 of the Trade Act of 1974; or

(c) A state-approved work program.

(3) The department shall exempt an individual from subsection (1) of this section who is:

(a) Under eighteen or over fifty years of age;

(b) Physically or mentally unfit for employment;

(c) A parent or other member of a household with responsibility for a dependent child under eighteen or an incapacitated person;

(d) A pregnant woman;

(e) Living in an exempt area approved by United States Department of Agriculture; or

(f) Otherwise exempt under food stamp employment and training as follows:

(i) Complying with the work requirements of the JOBS program;

(ii) Receiving unemployment compensation;

(iii) A student enrolled at least half time in any institution of higher education.

(iv) A regular participant in a drug addiction or alcoholic treatment and rehabilitation program; or

(v) Employed a minimum of thirty hours per week or receiving weekly earnings which equal the minimum hourly rate multiplied by thirty hours.

(4) An individual who is ineligible for food stamp program benefits because that individual has exhausted the three-month limit in subsection (1) of this section, shall regain eligibility by doing one of the following:

(a) Works eighty hours or more during a thirty-day period;

(b) Participates in and complies with a work program for eighty hours or more during a thirty-day period; or

(c) Participates in and complies with a workfare program.

(5) An individual who regains eligibility under subsection (4) of this section shall remain eligible as long as the individual meets the requirements of subsection (1) of this section.

(6) An individual who regains eligibility in subsection (4) of this section and subsequently loses employment or ceases participation in a work program or in workfare, shall continue to be eligible for an additional three consecutive months provided the individual is otherwise eligible. The consecutive three-month period begins the month following the date the individual first notifies the department the individual no longer meets the requirements of subsection (1) of this section.

(7) An individual shall not receive the additional benefits pursuant to subsection (6) of this section for more than a single three-month period in the thirty-six-month period.

WSR 97-03-036
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 9, 1997, 1:06 p.m.]

Purpose: Minor editorial changes. Provides clarification that rules concerning the ineligibility of an ineligible spouse apply only to noninstitutional medical. Deletes

PERMANENT

subsections concerning the eligibility of an SSI client based on drug/alcohol addiction.

Citation of Existing Rules Affected by this Order: Amending WAC 388-503-0310 and 388-511-1105.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.050.

Adopted under notice filed as WSR 96-23-019 on November 12, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 1, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 2, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 2, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 2, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 8, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3981, filed 5/22/96, effective 6/22/96)

WAC 388-503-0310 Categorically needy eligible persons. The department shall determine eligible for categorically needy medical assistance a client who is:

(1) Receiving or eligible to receive a cash assistance payment under:

(a) Aid to families with dependent children (AFDC); or
(b) Supplemental security income (SSI) including a grandfathered person and a person with an essential spouse; or

(c) State supplemental payment (SSP) to a person as assistance based on need in supplementation of SSI benefits. This payment includes mandatory state supplement or optional state supplement as defined under WAC 388-500-0005. The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for noninstitutional categorically needy medical assistance.

(2) A person twenty years of age or younger who meets the:

(a) One-person AFDC financial requirements and is in:
(i) Foster care; or
(ii) Subsidized adoption; or
(iii) A nursing facility or intermediate care facility for mentally retarded (ICF/MR); or
(iv) An approved inpatient psychiatric facility.

(b) Eligibility requirements under chapter 388-509 WAC.

(3) A current client of Title II, Social Security Administration (SSA) benefits who:

(a) Was a concurrent client of Title II and SSI benefits;

(b) Is ineligible for SSI benefits and/or state supplementary payments; and

(c) Would be eligible for SSI benefits if the department deducts the following from the current Title II benefit amount:

(i) All Title II cost-of-living benefit increases under P.L. 94-566, Section 503 received by the client since termination from SSI/SSP; and

(ii) All Title II cost-of-living benefit increases received during the time period in subsection (3)(c)(i) of this section by the client's spouse and/or other financially responsible family member living in the same household.

(4) An SSI client, after January 1, 1981, who continues to be eligible for medical assistance under P.L. 96-265 and 99-643;

(5) A currently disabled client receiving widow's or widower's benefits under Section 202 (e) or (f) of the Social Security Act if the disabled client:

(a) Was entitled to a monthly insurance benefit under Title II of the Social Security Act for December 1983; and

(b) Was entitled to and received a widow's or widower's benefit based on a disability under Section 202 (e) or (f) of the Social Security Act for January 1984;

(c) Became ineligible for SSI/SSP in the first month in which the increase provided under Section 134 of P.L. 98-21 was paid to the client;

(d) Has been continuously entitled to a widow's or widower's benefit under Section 202 (e) or (f) of the act;

(e) Would be eligible for SSI/SSP benefits if the amount of that increase, and any subsequent cost-of-living increases provided under Section 215(i) of the act, were disregarded;

(f) Is fifty through fifty-nine years of age; and

(g) Filed an application for Medicaid coverage before July 1, 1988.

(6) Effective January 1, 1991, any person receiving Title II disabled widow/widower benefits (DWB) under Section 202 (e) or (f) of the SSA, if the person:

(a) Is not eligible for the hospital insurance benefits under Medicare Part A of Title XVIII;

(b) Received SSI/SSP payments in the month before receiving such Title II benefits;

(c) Became ineligible for SSI/SSP due to receipt of or increase in such Title II benefits; and

(d) Would be eligible for SSI/SSP if the amount of such Title II benefits or increase in such Title II benefits under Section 202 (e) or (f) of the SSA, and any subsequent cost-of-living increases provided under Section 215(i) of the act were disregarded.

(7) A disabled or blind client receiving Title II Disabled Adult Childhood (DAC) benefits under Section 202(d) of the SSA if the client:

(a) Has attained eighteen years of age;

(b) Lost SSI/SSP on or after July 1, 1988, due to receipt of or increase in DAC benefits; and

(c) Would be eligible for SSI/SSP if the amount of the DAC benefits or increase under Section 202(d) of the SSA and any subsequent cost-of-living increases provided under Section 215(i) of the SSA Act were disregarded.

(8) A client who:

(a) In August 1972, received:

(i) Old age assistance (OAA);

(ii) Aid to blind (AB);

(iii) Aid to families with dependent children (AFDC); or
 (iv) Aid to the permanently and totally disabled (APTD); and

(b) Was entitled to or received retirement, survivors, and disability insurance (RSDI) benefits; or

(c) Is ineligible for OAA, AB, AFDC, SSI or APTD solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.

(9) A pregnant woman whose family income is at or below one hundred eighty-five percent of the Federal Poverty Level (FPL), or postpartum woman as described under WAC 388-508-0830;

(10) A child, born to a woman eligible for and receiving medical assistance on the date of the child's birth, from the date of birth for a period of one year when the child remains a member of the mother's household;

(11) A child eighteen years of age or younger meeting residence, citizenship, and Social Security number requirements whose countable family income is at or under two hundred percent of the FPL.

(12) In a family unit ineligible for AFDC financial assistance as a result (wholly or in part) of the collection or increased collection of child or spousal support shall be eligible for medical assistance for four months beginning with the month of ineligibility, if the family unit received AFDC financial assistance in at least three of the six months immediately preceding the month of ineligibility;

(13) In a family unit which becomes ineligible for AFDC before April 1, 1990, solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance for four calendar months beginning with the month of ineligibility, provided:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility; and

(b) A member of such family continues to be employed; and

(c) The department considers earned income tax credits (EITC) as income for the purposes of this subsection.

(14) Denied AFDC cash payments solely because of a departmental recovery of an overpayment;

(15) In a medical facility and:

(a) Who would be eligible for cash assistance if the person was not institutionalized; or

(b) Is an SSI-related institutionalized person and has gross income above the cash assistance level but below three hundred percent of the Federal Benefit Rate.

(16) Sixty-five years of age or older, a patient in an institution for mental diseases (IMD), and is resource and income eligible as described under subsection (15)(a) or (b) of this section;

(17) A person eligible for and accepting hospice services as described under WAC 388-86-047 and who shall be:

(a) SSI categorically related with gross income less than three hundred percent of the SSI Federal Benefit Rate; or

(b) AFDC categorically related.

(18) Blind or presumptively disabled under SSI criteria, as described under WAC 388-511-1105, and the person receives continuing general assistance (GA-X) cash assistance;

(19) An alien ineligible for AFDC or SSI cash assistance because of deeming of income of the alien's sponsors;

(20) Not an inmate of a public institution;

(21) Not receiving cash assistance because of special situations as defined under WAC 388-507-0740; or

(22) A client who:

(a) Was entitled to RSDI benefits in August 1972; and

(b) Is ineligible for AFDC or SSI solely because of the twenty percent increase in Social Security benefits under PL 92-336.

~~((23) Suspended from receipt of SSI benefits for noncompliance with drug or alcohol treatment requirements; or~~

~~(24) Determined eligible for SSI benefits based on a finding that alcoholism/drug addiction is a contributing factor to the person's disability and such benefits have been exhausted after receipt for thirty six months.))~~

AMENDATORY SECTION (Amending Order 3845, filed 4/5/95, effective 5/6/95)

WAC 388-511-1105 SSI-related eligibility requirements. (1) For the purposes of SSI-related medical assistance, the client shall be:

(a) Sixty-five years of age or over; or

(b) Blind with:

(i) Central visual acuity of 20(-)/200 ((degrees)) or less in the better eye with the use of a correcting lens; or

(ii) A limitation in the fields of vision so the widest diameter of the visual field subtends an angle no greater than twenty degrees; or

(c) Disabled.

(i) Decisions on SSI-related disability are the responsibility of the medical assistance administration (MAA) and shall be subject to the authority of:

(A) Federal statutes and regulations codified at 42 U.S.C. Sec 1382c and 20 C.F.R. Parts 404 and 416, as amended; or

(B) Controlling federal court decisions which define the OASDI and SSI disability standard and determination process.

(ii) For MAA's purposes, "disabled" means unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which:

(A) Can be expected to result in death; or

(B) Has lasted or can be expected to last for a continuous period of not less than twelve months.

(iii) In the case of a child seventeen years of age or younger, if the child suffers from any medically determinable physical or mental impairment of comparable severity.

(2) When a person has applied for Title II or Title XVI benefits and the SSA has denied the person's application solely because of a failure to meet Title II and Title XVI blindness or disability criteria, the SSA denial shall be binding on the department, unless the applicant's:

(a) SSA denial is under appeals in the reconsideration stage, the SSA's administrative hearing process, or the SSA's appeals council; or

(b) Medical condition has changed since the SSA denial was issued.

(3) The ineligible spouse₂ of an SSI beneficiary receiving a state supplement payment for the ineligible spouse₂ shall not be eligible for Medicaid as noninstitutional categorically needy. Such ineligible spouse may be eligible for noninstitutional medically needy.

(4) The client shall be resource eligible under WAC 388-511-1110 on the first day of the month to be eligible for any day or days of that month. The department shall make a resource determination of the first moment of the first day of the month. The department shall determine changes in the amount of a client's countable resources during a month do not affect eligibility or ineligibility for that month. Refer to WAC 388-513-1395 for an institutionalized client.

(5) The department shall consider a client under 1619(b) of the Social Security Act as eligible for SSI.

(6) The department shall provide a resident of Washington requiring medical assistance outside the United States care according to WAC 388-501-0180.

WSR 97-03-037
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Filed January 9, 1997, 1:11 p.m.]

Purpose: Repeal this WAC. It is obsolete.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 388-528-2810.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: RCW 43.20B.710.

Adopted under notice filed as WSR 96-23-044 on November 18, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 8, 1997

Merry A. Kogut, Manager
 Rules and Policies Assistance Unit

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 388-528 Receipt of resources without giving adequate consideration.

WSR 97-03-038
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Filed January 9, 1997, 1:13 p.m.]

Purpose: Include clients enrolled in managed care in the PRR program to control overutilization and protect the clients' health and safety.

Citation of Existing Rules Affected by this Order:
 Amending WAC 388-501-0135 Patients requiring regulation (PRR).

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: RCW 74.09.522.

Adopted under notice filed as WSR 96-24-076 on December 2, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 9, 1997

Merry A. Kogut, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-501-0135 Patient requiring regulation. (1) The department shall operate a patient requiring regulation (PRR) program to identify a client overutilizing, unnecessarily, or inappropriately obtaining medical care under the federally funded and state-funded medical programs. The department may restrict such a client to a single primary care provider and pharmacy for medical care.

(2) The purpose of the PRR program shall be to:

- (a) Protect the client's health and safety;
- (b) Provide continuity of medical care;
- (c) Avoid duplication of services by providers;
- (d) Avoid excessive, contraindicated, or potentially harmful use of prescription medications.

(3) For the purposes of this section, "primary care provider (PCP)" means a provider who has responsibility for supervising, coordinating and providing initial and primary care to clients, initiating referrals for specialist care, and maintaining the continuity of patient care. A PCP shall be either:

- (a) A physician ((specializing in internal or general medicine)) who meets the criteria under WAC 388-87-007;
- ((or))

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~~(b) ((Physician or)) An advanced registered nurse practitioner ((specializing in adult health care or family practice who agrees to provide, manage, and coordinate an eligible client's medical care)) (ARNP) who meets the criteria under WAC 388-87-007; or~~

~~(c) A licensed physician assistant, practicing with a sponsoring or supervising physician.~~

~~(4) For a client not enrolled in a department-contracted managed care plan, the department shall designate staff to determine the client's overuse, inappropriate, or unnecessary usage of medical care by reviewing medical assistance administration (MAA) payment records and other medical information.~~

~~(5) For a client enrolled in a department-contracted managed care plan, the department shall designate staff to evaluate the medical records and other documents provided by the client's managed care plan to determine the client's inappropriate or unnecessary use of medical care.~~

~~(6) When a client has been enrolled in more than one managed care plan during the review period, the department shall obtain and evaluate the client's medical records and other documents from all department-contracted managed care plan(s) in which the client is or has been enrolled during the review period.~~

~~(7) The department shall use medical review guidelines established by nurse advisors, physicians ((and)), pharmacy consultants, ((and the drug utilization and education (DUE) council shall establish the medical review guidelines)) and other reference sources ((that the department uses for such determinations)).~~

~~((6)) (8) The department ((established)) shall consider the following levels of utilization during a ((three month)) period of three consecutive months or less as medical review guidelines for the PRR program:~~

~~(a) Repeated and documented efforts by the client to seek medically unnecessary health services, including but not limited to prescription medication, after having been counseled at least once by a health care provider or managed care plan representative concerning appropriate utilization of health care services;~~

~~(b) Services from four different physicians;~~

~~((b)) (c) Prescriptions from four different pharmacies;~~

~~((e)) (d) Ten prescriptions received;~~

~~((d)) (e) Two emergency room visits; or~~

~~((e)) (f) Four prescribers.~~

~~((7) Medical assistance administration)) (9) The department shall notify the client in writing that the client is assigned to PRR, when the ((information)) medical review indicates the client overuses medical services, or uses medical services inappropriately or unnecessarily as determined by the department's review of the client's:~~

~~(a) Medical records and other documents which indicate ((a)) the client's use of medical services meets the criteria in subsection (8)(a) of this section or meets or exceeds three of the five guidelines under ((subsection (6)) subsections (8)(b) through (f) of this section; and~~

~~(b) ((Client's)) Diagnoses, the history of services provided or other medical information supplied by the health care provider or managed care plan.~~

~~((8)) (10) The department shall notify the client of the right to:~~

~~(a) A fair hearing as required under chapter 388-08 WAC; and~~

~~(b) Continue ((not restricted)) as unrestricted when a fair hearing is requested in a timely ((requested)) manner.~~

~~((9)) (11) A client shall respond to the department's notice within twenty calendar days by:~~

~~(a) Writing or calling the PRR representative identified in the notice;~~

~~(b) Requesting a fair hearing;~~

~~(c) Selecting a PCP and pharmacy. For a client enrolled with a department-contracted managed care plan, the client must select a PCP and pharmacy from those identified as available within their managed care plan;~~

~~((b)) (d) Requesting assistance in selecting a PCP and pharmacy; or~~

~~((e)) (e) Submitting additional medical information.~~

~~((10)) (12) The department shall assign a PCP and pharmacy for any client who fails to select a PCP and pharmacy within twenty calendar days, unless the client requests a fair hearing. The selected or assigned PCP and pharmacy shall be:~~

~~(a) Located in the client's local geographic area; or~~

~~((b))~~

~~(b) Reasonably accessible to the client.~~

~~((11)) (13) The client shall not change ((a selected)) PCP or pharmacy for ((six)) twelve months except when the:~~

~~(a) Client moves to a new residence outside the designated geographic area of the providers;~~

~~(b) PCP or pharmacy moves from the client's geographical area;~~

~~(c) PCP or pharmacy refuses to continue as the designated provider; ((or))~~

~~(d) A client ((selects a)) may change, once within the initial sixty days, the PCP ((or)) and pharmacy ((other than the department--)) assigned ((PCP or pharmacy)) by the department under subsection ((9)) (12) of this section. For a client enrolled with a department-contracted managed care plan, the client must select a PCP and pharmacy from those identified as available within their managed care plan;~~

~~(e) PCP or pharmacy no longer participates in a department-contracted managed care plan;~~

~~(f) PCP is no longer contracted with the client's managed care plan. The client shall have the option of:~~

~~(i) Selecting a new PCP from the list of available PCPs provided by the plan; or~~

~~(ii) Transferring enrollment of all family members to the new department-contracted plan which the established PCP has joined.~~

~~(g) Client chooses a new plan during an open enrollment period which occurs in the twenty-four-month restriction period.~~

~~((12)) (14) For a client enrolled in the PRR program, the department shall:~~

~~(a) Assign a client to the program for a period of twenty-four months ((and shall));~~

~~(b) Review the client's utilization at the end of the twenty-four-month period((-));~~

~~(c) Continue the client ((shall remain restricted if)) in the PRR program when the client continues to meet the criterion in subsection (8)(a) of this section or meet or exceed three of the ((overutilization)) five criteria in subsection ((6)) (8)(b) through (f) of this section; ((and shall be))~~

(d) Review((ed)) continuation of the client in the PRR program at least ((twenty-four)) every twelve months thereafter; and

(e) Allow the client the opportunity to change PCP or pharmacy after twelve months; except as allowed under subsection (13)(d) of this subsection.

~~((13))~~ (15) When the department designates a PCP and pharmacy for the client, the department shall issue a medical identification card identifying the client as a patient requiring regulation.

~~((14))~~ (16) When an emergency occurs as defined under WAC 388-500-0005, a provider other than the selected PCP may see the client.

~~((15))~~ (17) The PCP may refer the client to a specialist.

~~((16))~~ (18) For a client not enrolled in a department-contracted managed care plan, the department shall only pay for MAA-covered services authorized by the PCP, referred specialist, ((or)) selected pharmacy(~~(-The department shall apply billing limitations as described under WAC 388-87-010 and 388-87-015)~~), and those services specified in subsections (16) and (20) of this section.

~~((17))~~ (19) The client shall be responsible for payment of covered services not authorized by the PCP, referred specialists or selected pharmacist with the exception of services described under subsections (16) and (20) of this section.

(20) A client assigned to the PRR program may self-refer for family planning services.

(21) A client may self-refer to women's health care services. For a client enrolled with a department-contracted plan, the client must self-refer within the plan network.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 97-03-044
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
 [Filed January 10, 1997, 10:58 a.m.]

Date of Adoption: January 8, 1997.

Purpose: This chapter of WAC as currently written contains references to enrollment forms and other WAC sections that no longer exist. The purpose of the change will be to update those obsolete references. No financial impact to either nonhigh or high districts will occur because of these changes.

Citation of Existing Rules Affected by this Order: Amending WAC 392-132-010, 392-132-030, and 392-132-040.

Statutory Authority for Adoption: RCW 28A.545.110. Adopted under notice filed as WSR 96-24-043 on November 27, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 3, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 3, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 3, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 8, 1997
 Judith A. Billings
 Superintendent of
 Public Instruction

AMENDATORY SECTION (Amending Order 18, filed 7/19/90, effective 8/19/90)

WAC 392-132-010 Authority. This chapter is adopted pursuant to authority vested in the superintendent of public instruction by RCW 28A.545.110 and 84.52.0531(~~((7))~~) (10). RCW 28A.545.110 provides that the superintendent of public instruction may adopt rules and regulations for the payments to high school districts for educating nonhigh district students. RCW 84.52.0531(~~((7))~~) (10) provides that the superintendent of public instruction shall develop rules and regulations for the calculation of the excess maintenance and operation levy transfer from high school districts to nonhigh school districts.

AMENDATORY SECTION (Amending Order 84-14, filed 6/13/84)

WAC 392-132-030 Definitions. (1) "Estimated amount due" for a school year shall mean the result of the following calculation:

The high school district's maintenance and operations excess levy that was certified as collectible for the calendar year in which the school year ends is divided by the estimated number of average annual full-time equivalent (AAFTE) students who reside within the boundaries of the high school district. That quotient is multiplied by the estimated number of AAFTE nonhigh district students enrolled in the serving high school district during the school year as reported on Form P-213.

(2) "Actual amount due" for a school year shall mean the result of the following calculation:

The high school district's maintenance and operations excess levy that was certified as collectible for the calendar year in which the school year ended is divided by the actual number of AAFTE students who resided within the boundaries of the high school district. That quotient is multiplied by the actual number of AAFTE nonhigh district students enrolled in the serving high school district during the school year as reported on Form P-213.

(3) "Estimated number of AAFTE students who reside within the boundaries of the high school district" during a school year shall mean the result of the following calculation:

Average the total number of AAFTE students served by the high school district reported on the Form(~~((s))~~) P-223

available at the time of the calculation of the nonhigh billing. Subtract from this average the average number of AAFTE students attending the high school district's cooperative programs (~~(as)~~) and reported as nonresident on Form(~~(s-P-223NR)~~) P-223 available at the time of the calculation of the nonhigh bill. Also subtract all the estimated AAFTE nonhigh enrollment served by the nonhigh district as reported on Form(~~(s)~~) P-213. Add the average number of AAFTE students who reside within the high school district who (~~(attended)~~) are attending cooperative programs in other school districts as reported on (~~(the partial year P-223NR)~~) Form(~~(s)~~) P-223 available at the time of the calculation of the nonhigh billing.

(4) "Actual number of AAFTE students who resided within the boundaries of the high school district" during a school year shall mean the result of the following calculation:

Subtract from the total AAFTE served by the high school district for a school year as reported on Form(~~(s)~~) P-223 the nonresident AAFTE students served by the high school district for a school year as reported on Form(~~(s-P-223NR)~~) P-223. Also subtract the actual AAFTE nonhigh enrollment served by the high school district as reported on Form P-213. Added to the resident enrollment count of the high school district is the number of AAFTE students who reside within the high school district who attended cooperative programs in other school districts (~~(as)~~) and were reported as nonresident on Form(~~(s-P-223NR)~~) P-223.

(5) "Nonhigh billing" shall mean the amount due to a high school district from a nonhigh school district for educating and transporting nonhigh district students.

(6) "P-213" shall have the same meaning as this is given in WAC (~~(392-139-017)~~) 392-139-230.

(7) (~~"P-223NR" shall have the same meaning as this is given in WAC 392-139-017.~~)

(~~8~~) "Average annual full time equivalent students (AAFTE)" shall have the same meaning as this is given in WAC (~~(392-121-105)~~) 392-121-133.

(~~9~~) (8) "Annual determination of the excess maintenance and operation levy transfer from the high school district to the nonhigh school district for educating nonhigh school district students" shall have the same meaning as this is given in WAC (~~(392-139-037)~~) 392-139-340.

AMENDATORY SECTION (Amending Order 84-14, filed 6/13/84)

WAC 392-132-040 Determining levy capacity transfer and amount due. Pursuant to WAC (~~(392-139-037)~~) 392-139-340, annually, the superintendent of public instruction shall make the necessary determinations and calculate (1) the excess maintenance and operation levy transfer from the high school district to the nonhigh school district, and (2) the amount due to the high school district by the nonhigh school district. The respective high and nonhigh school district shall be notified of the results of such determinations and calculations.

WSR 97-03-062
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (General Provisions)

[Filed January 13, 1997, 11:28 a.m.]

Date of Adoption: January 13, 1997.

Purpose: Adopts standards for certified chemical dependency treatment providers for behavior management and temporary protective holding of chemically dependent youth who present a danger to themselves or others.

Citation of Existing Rules Affected by this Order: Amending WAC 440-22-005.

Statutory Authority for Adoption: RCW 70.96A.090.

Adopted under notice filed as WSR 96-09-078 on April 16, 1996, and supplemental notice WSR 96-14-055 on June 27, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 1, amended 1, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 1, amended 1, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 13, 1997

Philip A. Wozniak, Director
 Administrative Services Division

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

WAC 440-22-005 Definitions. Unless the context clearly indicates otherwise, the definitions in this section apply throughout this chapter:

(1) "Administrator" means the person designated responsible for the operation of the certified treatment service;

(2) "Adult" means a person eighteen years of age or older. "Young adult" means an adult who is not yet twenty-one years of age;

(3) "Alcoholic" means a person who has the disease of alcoholism;

(4) "Alcoholism" means a primary, chronic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. The disease is often progressive and fatal. It is characterized by impaired control over drinking, preoccupation with the drug alcohol, use of alcohol despite adverse consequences, and distortions in thinking, most notably denial. Each of these symptoms may be continuous or periodic;

(5) "Authenticated" means written, permanent verification of an entry in a patient treatment record by means of an

original signature including first initial, last name, and professional designation or job title, or initials of the name if the file includes an authentication record, and the date of the entry;

(6) "Authentication record" means a document which is part of a patient's treatment record, with legible identification of all persons initialing entries in the treatment record, and includes:

- (a) Full printed name;
- (b) Signature including the first initial and last name; and
- (c) Initials and abbreviations indicating professional designation or job title.

(7) "Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. The pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV);

(8) "Branch service site" means a physically separate certified unit where qualified staff provide a certified treatment service and are governed by a parent organization;

(9) "Certified treatment service" means a discrete program of chemical dependency treatment offered by a service provider who has a certificate of approval from the department of social and health services, as evidence the provider meets the standards of chapter 440-22 WAC;

(10) "Chemical dependency" means a person's alcoholism or drug addiction or both;

(11) "Chemical dependency counseling" means face-to-face individual or group contact using therapeutic techniques and:

(a) Led by a chemical dependency counselor (CDC) or a CDC intern under direct CDC supervision;

(b) Directed toward patients and others who are harmfully affected by the use of mood-altering chemicals or are chemically dependent; and

(c) Directed toward a goal of abstinence for chemically dependent persons.

(12) "Chemical dependency counselor (CDC)" means a person registered, certified, or exempted by the state department of health, and qualified as a CDC as described under WAC 440-22-240. Categories of chemical dependency counselors include:

(a) "Assessment officer" which means a person employed at a certified district or municipal court treatment program who meets WAC 440-22-225 requirements or is grandparented as meeting those requirements;

(b) "Youth chemical dependency counselor" which means a person who meets WAC 440-22-230 requirements.

(13) "Chemical dependency counselor (CDC) intern" means a person who meets the standards for CDC interns described under WAC 440-22-200 and 440-22-220, and is supervised by a CDC in a certified treatment agency, as described under WAC 440-22-210;

(14) "Child" means a person less than eighteen years of age, also known as adolescent, juvenile, or minor;

(15) "County coordinator" means the person designated by the chief executive officer of a county to carry out administrative and oversight responsibilities of the county chemical dependency program;

(16) "Criminal background check" means a search by the Washington state patrol for any record of convictions or

civil adjudication related to crimes against children or other persons, including developmentally disabled and vulnerable adults, per RCW 43.43.830 through 43.43.842 relating to the Washington state patrol;

(17) "Danger to self or others," for purposes of WAC 440-22-406, means a youth residing in a chemical dependency treatment agency who creates a risk of serious harm to the health, safety, or welfare to self or others. Behaviors considered a danger to self or others include:

- (a) Suicide threat or attempt;
- (b) Assault or threat of assault; or
- (c) Attempt to run from treatment, potentially resulting in a dangerous or life-threatening situation.

(18) "Department" means the Washington state department of social and health services;

~~((18))~~ (19) "Detoxification" or "detox" means care and treatment of a person while the person recovers from the transitory effects of acute or chronic intoxication or withdrawal from alcohol or other drugs;

~~((19))~~ (20) "Disability, person with a" means a person who:

- (a) Has a physical or mental impairment that substantially limits one or more major life activities of the person;
- (b) Has a record of such an impairment; or
- (c) Is regarded as having such an impairment.

~~((20))~~ (21) "Discrete treatment service" means a chemical dependency treatment service that:

(a) Provides distinct chemical dependency supervision and treatment separate from other services provided within the facility;

(b) Provides a separate treatment area for ensuring confidentiality of chemical dependency treatment services; and

(c) Has separate accounting records and documents identifying the provider's funding sources and expenditures of all funds received for the provision of chemical dependency services.

~~((21))~~ (22) "Domestic violence" means:

(a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members; or

(b) Sexual assault of one family or household member by another.

~~((22))~~ (23) "Drug addiction" means a primary, chronic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. The disease is often progressive and fatal. Drug addiction is characterized by impaired control over use of drugs, preoccupation with drugs, use of a drug despite adverse consequences, and distortions in thinking, most notably denial. Each of these symptoms may be continuous or periodic;

~~((23))~~ (24) "First Steps" means a program available across the state for low-income pregnant women and their infants. First Steps provides maternal and child health care and support services;

~~((24))~~ (25) "Governing body" means the legal entity responsible for the operation of the chemical dependency treatment service;

~~((25))~~ (26) "HIV/AIDS brief risk intervention (BRI)" means an individual face-to-face interview with a client or patient, to help that person assess personal risk for

HIV/AIDS infection and discuss methods to reduce infection transmission;

~~((26))~~ (27) "HIV/AIDS education" means education, in addition to the brief risk intervention, designed to provide a person with information regarding HIV/AIDS risk factors, HIV antibody testing, HIV infection prevention techniques, the impact of alcohol and other drug use on risks and the disease process, and trends in the spread of the disease;

~~((27))~~ (28) "Medical practitioner" means a physician, certified nurse practitioner, or certified physician's assistant. Nurse practitioners and midwives with prescriptive authority may perform practitioner functions related only to indicated specialty services;

~~((28))~~ (29) "Misuse" means use of alcohol or other drugs by a person in:

(a) Violation of any law; or

(b) Breach of agency policies relating to the drug-free work place.

~~((29))~~ (30) "Off-site treatment" means provision of treatment by a certified provider at a location where treatment is not the primary purpose of the site;

~~((30))~~ (31) "Opiate dependency treatment agency" means an organization that administers or dispenses an approved drug as specified in 212 CFR Part 291 for treatment or detoxification of opiate dependency. The agency is:

(a) Approved by the Federal Food and Drug Administration;

(b) Registered with the Federal Drug Enforcement Administration;

(c) Licensed by the county in which it operates; and

(d) Certified as an "opiate dependency treatment agency" by the department.

~~((31))~~ (32) "Patient" is a person receiving chemical dependency treatment services from a certified program;

~~((32))~~ (33) "Patient contact" means counselor time spent with a client or patient to do assessments, individual or group counseling, or education;

~~((33))~~ (34) "Probation assessment service" means a certified assessment service offered by a misdemeanor probation department or unit within a county or municipality;

~~((34))~~ (35) "Progress notes" are a permanent record of ongoing assessments of a patient's participation in and response to treatment, and progress in recovery;

~~((35))~~ (36) "Restraint," for purposes of WAC 440-22-406, means the use of methods, by a trained staff person, to prevent or limit free body movement in the event of out-of-control behavior. "Restraint" includes:

(a) Containment or seclusion in an unlocked quiet room;

(b) Physical restraint, meaning a person physically holds or restricts another person in a safe manner for a short time in an immediate crisis; or

(c) Use of a safe and humane apparatus which the person cannot release by oneself.

(37) "Service provider" or "provider" means a legally operated entity certified by the department to provide chemical dependency treatment services. The components of a service provider are:

(a) Legal entity/owner;

(b) Facility; and

(c) Staff and services.

~~((36))~~ (38) "Sexual abuse" means sexual assault, incest, or sexual exploitation;

~~((37))~~ (39) "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct when:

(a) Submission to such conduct is made explicitly or implicitly a term or condition of employment or treatment;

(b) Such conduct interferes with work performance or creates an intimidating, hostile, or offensive work or treatment environment.

~~((38))~~ (40) "Substance abuse" means a recurring pattern of alcohol or other drug use which substantially impairs a person's functioning in one or more important life areas, such as familial, vocational, psychological, physical, or social;

~~((39))~~ (41) "Summary suspension" means an immediate suspension of certification, per RCW 34.05.422(4), by the department pending administrative proceedings for suspension, revocation, or other actions deemed necessary by the department;

~~((40))~~ (42) "Supervision" means:

(a) Regular monitoring of the administrative, clinical, or clerical work performance of a staff member, intern, student, volunteer, or employee on contract by a person with the authority to give directions and require change; and

(b) "Direct supervision" means the supervisor is on the premises and available for immediate consultation.

~~((41))~~ (43) "Suspend" means termination of the department's certification of a provider's treatment services for a specified period or until specific conditions have been met and the department notifies the provider of reinstatement;

~~((42))~~ (44) "Treatment services" means the broad range of emergency, detoxification, residential, and outpatient services and care. Treatment services include diagnostic evaluation, chemical dependency education, individual and group counseling, medical, psychiatric, psychological, and social services, vocational rehabilitation and career counseling which may be extended to alcoholics and other drug addicts and their families, persons incapacitated by alcohol or other drugs, and intoxicated persons;

~~((43))~~ (45) "Urinalysis" means analysis of a patient's urine sample for the presence of alcohol or controlled substances by a licensed laboratory or a provider who is exempted from licensure by the department of health:

(a) "Negative urine" is a urine sample in which the lab does not detect specific levels of alcohol or other specified drugs; and

(b) "Positive urine" is a urine sample in which the lab confirms specific levels of alcohol or other specified drugs.

~~((44))~~ (46) "Vulnerable adult" means a person sixty years of age or older who has the functional, mental, or physical inability to care for oneself.

~~((45))~~ (47) "Youth" means a person seventeen years of age or younger.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 440-22-406 Behavior management. (1) Upon application for a youth's admission, a provider shall:

(a) Advise the youth's parent and other referring persons of the programmatic and physical plant capabilities and constraints in regard to providing treatment with or without a youth's consent;

(b) Obtain the parent's or other referring person's agreement to participate in the treatment process as appropriate and possible; and

(c) Obtain the parent's or other referring person's agreement to return and take custody of the youth as necessary and appropriate on discharge or transfer.

(2) The administrator shall ensure policies and procedures are written and implemented which detail least to increasingly restrictive practices used by the provider to stabilize and protect youth who are a danger to self or others, including:

(a) Obtaining signed behavioral contracts from the youth, at admission and updated as necessary;

(b) Acknowledging positive behavior and fostering dignity and self respect;

(c) Supporting self-control and the rights of others;

(d) Increased individual counseling;

(e) Increased staff monitoring;

(f) Verbal de-escalation;

(g) Use of unlocked room for containment or seclusion;

(h) Use of restraints; and

(i) Emergency procedures, including notification of the parent, guardian or other referring person, and, when appropriate, law enforcement.

(3) The provider shall ensure staff are trained in safe and therapeutic techniques for dealing with a youth's behavioral and emotional crises, including:

(a) Verbal de-escalation;

(b) Crisis intervention;

(c) Anger management;

(d) Suicide assessment and intervention;

(e) Conflict management and problem solving skills;

(f) Management of assaultive behavior;

(g) Proper use of restraint; and

(h) Emergency procedures.

(4) To prevent a youth's unauthorized exit from the residential treatment site, the provider may have:

(a) An unlocked room for containment or seclusion;

(b) A secure perimeter, such as a nonscalable fence with locked gates; and

(c) Locked windows and exterior doors.

(5) Providers using holding mechanisms in subsection (4) of this section shall meet 1994 Uniform Building Code requirements or its successor, which include fire safety and special egress control devices, such as alarms and automatic releases.

(6) When less-restrictive measures are not sufficient to de-escalate a behavioral crisis, clinical staff may contain or seclude a youth in a quiet unlocked room which has a window for observation and:

(a) The clinical supervisor shall be notified immediately of the staff person's use of a quiet room for a youth, and shall determine its appropriateness;

(b) A chemical dependency counselor shall consult with the youth immediately and at least every ten minutes, for counseling, assistance, and to maintain direct communication; and

(c) The clinical supervisor or designated alternate shall evaluate the youth and determine the need for mental health consultation.

(7) Youth who demonstrate continuing refusal to participate in treatment or continuing to exhibit behaviors that present health and safety risks to self, other patients, or staff may be discharged or transferred to more appropriate care after:

(a) Interventions appropriate to the situation from those listed in subsection (2) of this section have been attempted without success;

(b) The person has been informed of the consequences and return options;

(c) The parents, guardian, or other referring person has been notified of the emergency and need to transfer or discharge the person; and

(d) Arrangements are made for the physical transfer of the person into the custody of the youth's parent, guardian, or other appropriate person or program.

(8) Involved staff shall document the circumstances surrounding each incident requiring intervention in the youth's record and include:

(a) The precipitating circumstances;

(b) Measures taken to resolve the incident;

(c) Final resolution; and

(d) Record of notification of appropriate others.

WSR 97-03-064**PERMANENT RULES****DEPARTMENT OF TRANSPORTATION**

[Order 167—Filed January 13, 1997, 3:19 p.m.]

Date of Adoption: January 13, 1997.

Purpose: To ensure the proper training, registration, conduct and management of aerial search and rescue.

Citation of Existing Rules Affected by this Order: Amending WAC 468-200-080, 468-200-160, and 468-200-350.

Statutory Authority for Adoption: Chapter 47.68 RCW.

Adopted under notice filed as WSR 97-01-075 on December 17, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 3, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 3, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 3, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.
 January 13, 1997
 S. A. Moon
 Deputy Secretary
 for Operations

AMENDATORY SECTION (Amending Order 160, filed 1/3/96, effective 2/3/96)

WAC 468-200-080 Registration. Registration is a prerequisite for emergency workers involved in the conduct of air search & rescue/disaster relief missions conducted under the authority of this chapter or chapter 47.68 RCW.

- (1) Aircraft pilots and observers shall register with the aviation division by completing and filing a form as designated by the aviation division.
- (2) Main base support personnel, assigned and working at the aviation division designated incident command post must also be registered with the aviation division.
- (3) Ground personnel engaging in search and rescue field activities in remote or isolated locations must be registered emergency workers having complied with the registration requirements of chapter 38.52 RCW and chapter 118-04 WAC.
- (4) The information provided during registration may be used by authorized officials to conduct criminal history, flying record, driving record, and background checks.
- (5) Failure to truthfully respond to statements set forth on the registration form may result in the denial of registration or revocation of registration.
- (6) Registration required under chapter 47.68 RCW and this chapter shall be ~~((at the discretion of))~~ accomplished by the aviation division on a form supplied or approved by the aviation division. Registration shall be completed upon the successful completion of the required training program as approved by the aviation division.

- (a) An employee of the state or of a political subdivision of the state who is required to perform emergency duties as a normal part of their job shall not be required to register.
- (b) When such individuals are outside the jurisdiction of their employment during a disaster, emergency, mission or incident, except when acting under the provisions of a mutual aid agreement, they should report to the on-scene authorized official and announce their capabilities and willingness to serve as a volunteer during the emergency or disaster. The on-scene authorized official shall register the individual as a temporary worker.
- (c) Employees of the National Park Service, U.S. Forest Service, Bureau of Land Management performing their normal assigned duties in jurisdictions under their control shall not be required to register.
- (d) Members of active duty, reserve, or National Guard components of the Department of Defense performing duties while in a "paid duty" status shall not be required to register.
- (e) Members of active duty or reserve components of the U.S. Coast Guard performing duties while in a "paid duty" status shall not be required to register.
- (f) Temporary registration may be authorized in those emergency situations requiring immediate or on-scene recruiting of volunteers to assist in time-critical or life threatening situations.

AMENDATORY SECTION (Amending Order 160, filed 1/3/96, effective 2/3/96)

WAC 468-200-160 Establishment of state standards. ~~((When appropriate))~~ Additional state standards may be established for classes of individual emergency workers involved in air search and rescue and air responses to disaster situations. Upon establishment of ~~((a))~~ any such state standards, training programs within the state shall, at a minimum, comply with ~~((that))~~ these standards.

AMENDATORY SECTION (Amending Order 160, filed 1/3/96, effective 2/3/96)

WAC 468-200-350 Appeal procedure. Any individual who or organization which feels that the provisions of this chapter have not been fairly or equitably administered may appeal, in writing, to the director of aviation. The director will review the complaint and respond within thirty days. Appeals generally will be limited to training, certification, and registration matters. Due to the nature of emergency response the decision of the appointed incident commander on any emergency response mission shall be final. Organizations and individuals may seek a meeting with the director of aviation after the incident for future review and clarification.

WSR 97-03-076
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed January 15, 1997, 9:12 a.m.]

Date of Adoption: January 15, 1997.

Purpose: To clarify the application procedures for certificates of ownership of vehicles held in trust.

Citation of Existing Rules Affected by this Order: Amending WAC 308-56A-065, 308-56A-070, and 308-56A-075.

Statutory Authority for Adoption: RCW 46.01.110 and 46.12.030.

Adopted under notice filed as WSR 96-23-049 on November 19, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 3, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 3, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 3, repealed 0.

Effective Date of Rule: Thirty-one days after filing.
 January 15, 1997
 K. Friedt
 Director

PERMANENT

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308-56A-065 Vehicles held in trust. (1) The trustee of a trust, including family trusts, executed pursuant to chapter 11.98 RCW listing a vehicle on the property schedule shall ~~((be shown on any))~~ make application for certificate of ~~((title as registered owner if a vehicle is held in trust for the benefit of another))~~ ownership and registration in the name of the trustee, pursuant to chapters 46.12 and 46.16 RCW. ~~((There is no requirement that))~~ The certificates of ownership and registration shall show the trustee as registered or legal owner followed by the word "trustee" ~~((be placed after))~~ and the name of ~~((any such owner))~~ the trust. The name of the trust may be abbreviated to fit into available space.

(2) ~~((If the application and subsequently issued title includes the word "trustee" after the name of the registered owner, any signature releasing interest in the vehicle by that owner shall include that designation.~~

(3) ~~Upon the death of the trustee, a co-trustee or successor trustee shall make application for transfer of title into his/her own name. An affidavit that he is the successor or co-trustee and a copy of the documents so designating him shall accompany any such application.)~~ Applications for licensing activities on the vehicle, including release of interest and transfer of ownership shall be requested over the signature of the trustee until the trustee is replaced or the trust is terminated. The replacement trustee shall make application for transfer of ownership as provided in subsection (1) of this section. If a replacement trustee is not appointed or the trust is terminated, the beneficiary of the vehicle shall make application for ownership as provided in chapter 46.12 RCW.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308-56A-070 ((Vehicles held in trust)) Leased vehicles. If the vehicle is leased and operated in Washington, it must be titled and licensed in Washington.

(1) The application for title is to be completed with the name of the lessee as registered owner, followed by the word "lessee." The name of the lessor is shown as the secured party or legal owner, followed by the word "lessor."

(2) If the vehicle is subject to a security agreement, the application will be completed as above except the lessor's name will be immediately below the lessee's name and will be identified by the word "lessor." The address shown will be the lessee's. The secured party's name and address will be shown in the legal owner's space.

(3) Dealers and persons engaged in the business of vehicle leasing may simply show the lessor as sole registered owner if a copy of the lease or rental agreement is attached to the application. This does not apply if the lease contains an option to purchase or if it is for more than one year.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308-56A-075 ((Vehicles held in trust)) Two legal owners. If one of two legal owners shown on a certificate of title has his/her security interest in the vehicle

satisfied, that interest in the vehicle shall be released in the appropriate manner and the appropriate documentation forms forwarded to the remaining legal owner. The remaining legal owner shall either (1) retain that documentation and forward it to the department at the time his/her interest is satisfied along with an application for reissue or (2) the documentation shall be immediately presented to the department with an application for reissue of title to show the remaining secured party as the sole legal owner of the vehicle. If the outstanding certificate of title does not show the address of the remaining legal owner, there must be an application for reissue of title in order that the address of the remaining legal owner may be indicated on the outstanding certificate of title.

**WSR 97-03-080
PERMANENT RULES
DEPARTMENT OF HEALTH**
[Filed January 15, 1997, 9:30 a.m.]

Date of Adoption: January 10, 1997.

Purpose: Repeal chapter 246-321 WAC, Hospice care centers.

Citation of Existing Rules Affected by this Order: Repealing chapter 246-321 WAC.

Statutory Authority for Adoption: RCW 43.70.040.

Adopted under notice filed as WSR 96-24-098 on December 4, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 16.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 16.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 16; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 15, 1997
Bruce A. Miyahara
Secretary

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 246-321-001 Purpose.
- WAC 246-321-010 Definitions.
- WAC 246-321-012 Licensure—Notice of decision—Adjudicative proceeding.
- WAC 246-321-014 Governing body and administration.
- WAC 246-321-015 Staff—Personnel—Volunteers.

PERMANENT

- WAC 246-321-017 HIV/AIDS education and training.
- WAC 246-321-018 Criminal history, disclosure, and background inquiries.
- WAC 246-321-020 Policies and procedures.
- WAC 246-321-025 Patient care services.
- WAC 246-321-030 Food and dietary services.
- WAC 246-321-035 Infection control.
- WAC 246-321-040 Pharmaceutical service.
- WAC 246-321-045 Clinical records.
- WAC 246-321-050 Physical environment and equipment.
- WAC 246-321-055 Nonflammable medical gases—Respiratory care.
- WAC 246-321-990 Fees.

WSR 97-03-087
PERMANENT RULES
WASHINGTON STATE PATROL
 [Filed January 16, 1997, 8:23 a.m.]

Date of Adoption: January 16, 1997.

Purpose: Add a new section to chapter 204-10 WAC to provide a clear definition of an antique motor-driven cycle. The Senate Law and Justice Committee requested the addition in order to eliminate confusion over what types of motor-driven cycles are exempt from the helmet law.

Statutory Authority for Adoption: RCW 46.37.005 and 46.37.530.

Adopted under notice filed as WSR 96-23-032 on November 15, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 1, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 13, 1997
 Annette M. Sandberg
 Chief

NEW SECTION

WAC 204-10-035 Antique motor-driven cycles. The term "antique motor-driven cycle" in RCW 46.37.530 means a motor-driven cycle as defined in RCW 46.04.332, which is at least forty years old.

WSR 97-03-094
PERMANENT RULES
GAMBLING COMMISSION

[Order 306—Filed January 17, 1997, 12:06 p.m., effective July 1, 1997]

Date of Adoption: January 10, 1997.

Purpose: This amendment establishes that the regularly scheduled public commission meetings will be held at a date and place to be established by the commission with at least two weeks notice.

Citation of Existing Rules Affected by this Order: Amending WAC 230-02-020.

Statutory Authority for Adoption: RCW 9.46.050(3), 9.46.070 (14), (20).

Adopted under notice filed as WSR 96-21-071 on October 15, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: July 1, 1997.

January 13, 1997
 David D. Shaw
 Rules and Policy Coordinator

AMENDATORY SECTION (Amending WSR 86-15-025, filed 7/14/86)

WAC 230-02-020 Time and place of meetings. Regular public meetings of the commission shall normally be held quarterly at the (~~hour of 10:00 a.m.,~~) date, time, and place to be set by the commission with at least two weeks advance notice. Additional public meetings necessary to discharge the business of the commission may be called from time to time.

WSR 97-03-095
PERMANENT RULES
GAMBLING COMMISSION

[Order 307—Filed January 17, 1997, 12:08 p.m.]

Date of Adoption: January 10, 1997.

Purpose: This rule clarifies the procedures for requesting a hearing regarding seizure of a gambling device and the rights involved in such hearing.

Statutory Authority for Adoption: RCW 9.46.231, 9.46.070 (14), (20).

Adopted under notice filed as WSR 96-21-070 on October 15, 1996.

PERMANENT

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, amended 0, repealed 0; Federal Rules or Standards: New 1, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.
January 13, 1997
David D. Shaw
Rules and Policy Coordinator

NEW SECTION

WAC 230-50-005 Seizures - Hearings. In addition to the provisions of RCW 9.46.231, the following procedures apply to the seizure of gambling devices.

(1) For purposes of this rule, gambling devices are defined in RCW 9.46.0241 and includes, but is not limited to, slot machines, video poker, and other electronic games of chance.

(2) Upon seizure of a gambling device, any person claiming ownership or right to possession of the seized gambling device must notify the seizing agency in writing within 45 days of the seizure. Notification after 45 days will be deemed insufficient and result in forfeiture of the seized item.

(3) If a hearing is timely requested, such hearing will be held within 90 days of the agency's receipt of the request for a hearing.

(4) At a seizure hearing, the only issues to be determined are:

(a) Whether the item seized is a gambling device; and

(b) Whether the item seized is an antique device as defined by RCW 9.46.235.

If a claimant is unable to prove (a) and (b) above, the item seized shall be summarily forfeited to the state.

WSR 97-03-121
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed January 21, 1997, 4:55 p.m.]

Date of Adoption: January 17, 1997.

Purpose: Filed under CR-102 WSR 96-20-113 and CR-102 continuation WSR 96-22-111: WAC 308-12-025 Application for examination, removes deadlines for applications and references to the paper-and-pencil examination that is no longer available. WAC 308-12-031 Registration examination, removes reference to a written form of examination that is no longer available. WAC 308-12-040 Appeal of examinations, removes references to the grading of the

written form of examinations that is no longer available. WAC 308-12-050 Registration by reciprocity, removes out-of-date reference to applicants' base state which is no longer used. WAC 308-12-324 Compliance with laws, updates the reference to other licensing jurisdictions' laws to which architects must comply. WAC 308-12-140 Examination—Qualifications of candidates, repealed as no longer applicable. WAC 308-12-145 Acceptable work experience, repealed as no longer applicable. WAC 308-12-210 Application of brief adjudicative proceedings, explanation of the administrative uses of the brief adjudicative proceedings by the Board of Registration for Architects. WAC 308-12-220 Preliminary record in brief adjudicative proceedings, lists the required documents for conducting a brief adjudicative proceeding. WAC 308-12-230 Conduct of brief adjudicative proceedings, provides the administrative procedures for appointing the presiding officer and conducting the brief adjudicative proceedings. WAC 308-12-240 Reinstatement of suspended certificates, eligibility for registration, or denied renewals, provides the administrative procedures for persons to obtain reinstatement of eligibility, certification, or registration for suspension or denial actions under brief adjudicative proceedings.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-12-140 and 308-12-145; and amending WAC 308-12-025, 308-12-031, 308-12-040, 308-12-050, and 308-12-324.

Statutory Authority for Adoption: WAC 308-12-025 and 308-12-145 is RCW 18.08.350(2); WAC 308-12-031, 308-12-040 and 308-12-140 is RCW 18.08.360(2); and WAC 308-12-050, 308-12-324, 308-12-210, 308-12-220, 308-12-230, and 308-12-240 is RCW 18.08.340.

Adopted under notice filed as WSR 96-22-111 on November 6, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 4, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 5, repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 5, repealed 2.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.
January 17, 1997
George Nachtsheim
Chairman

AMENDATORY SECTION (Amending WSR 95-04-080, filed 1/31/95, effective 3/3/95)

WAC 308-12-025 Application for examination. (1) The application (~~for examination~~) to begin the examination process must be submitted on forms approved by the board, accompanied by academic and/or practical experience

verification to document eligibility under the provisions of RCW 18.08.350. ~~((Applications for admission to a scheduled examination must be submitted or postmarked not later than the following dates:~~

<u>Examination Months/Divisions</u>	<u>Cut-off Dates</u>
June All Divisions	April 1
December B(Graphic), C	October 1

(2) Applications for the examination must be accompanied by the application fee for the examination as established by the director and published in chapter 308-12 WAC, architect fees. The application fee to begin the examination process will not be refunded.

(3) ~~On subsequent attempts examinees may retake any divisions offered not passed on previous attempts. ((Applications for examination or reexamination must be accompanied by the application fee for examination or reexamination fee and the appropriate examination fee for each division as established by the director and published in chapter 308-12 WAC, architect fees. For reexamination applicants, examination fees are listed by separate division.~~

(3) ~~For the June and December examinations, notices of acceptance (examination admission letters) will be mailed to eligible applicants approximately six weeks prior to the examination, along with detailed information as to times, place, and scheduled examination divisions.~~

(4) ~~The application fee for examination and the reexamination fee are administrative charges and will not be refunded. The examination fees for each division may be refunded if notice of cancellation is received by the department prior to ordering of examinations from the national test supplier.))~~

AMENDATORY SECTION (Amending WSR 90-11-062, filed 5/15/90, effective 6/15/90)

WAC 308-12-031 Registration examination. The ~~((form of))~~ board adopts the N.C.A.R.B. Architect Registration Examination (A.R.E.) as the examination required of applicants ~~((shall consist of a written and an oral examination)).~~ Where RCW 18.08.360 refers to the "entire examination," it means the ~~((written examination))~~ NCARB A.R.E. together with the oral examination. ~~((The written examination shall be administered at times and locations the board determines appropriate.))~~

The board adopts the ~~((architectural registration examination and))~~ grading procedures prepared by the ~~((National Council of Architectural Registration Boards as the written portion of the examination. The written examination includes computerized versions))~~ NCARB.

(1) The ~~((director))~~ test vendor shall publish an information guide concerning examination content, locations, ~~((and))~~ schedules, and fees.

(2) ~~((To pass the written examination,))~~ An applicant must ~~((achieve a passing grade on))~~ pass each division of the NCARB examination.

(3) The oral examination is given upon the applicant's completion of the ~~((written))~~ NCARB examination.

The purpose of the oral examination is to test in those areas of knowledge and skill not covered in the ~~((written))~~ NCARB examination.

The oral part of the examination shall include a review of the applicant's practical experience, an understanding of the law and the responsibility to safeguard life, health, and property and to promote the public welfare.

The oral examination may be conducted by the full board or by an architect member of the board. The board may ~~((waive))~~ set aside the full board examination if the examining board member deems the applicant prepared for registration. If ~~((such waiver is not granted))~~ the full board examination is not set aside or if the examining board member fails the applicant, the applicant must then appear for a full board oral examination.

The board may ~~((waive))~~ set aside the entire oral examination based upon certification by the ~~((National Council of Architectural Registration Boards))~~ NCARB of successful completion of the intern development program. Such applicants ~~((may))~~ shall submit the ~~(("green cover"))~~ NCARB Council Record of IDP ~~((certificate in lieu of the exhibit checklist which is required for the oral examination. This waiver of))~~ completion. The decision to set aside the oral examination does not affect the requirement to summarize the law and rules pertaining to architecture.

~~((If an applicant does not receive a recommendation for registration, the board will advise the applicant of the areas of deficiency and schedule another oral examination.))~~

An applicant must successfully complete the entire examination within a five-year period. The five-year period shall begin with the month an applicant ~~((begins the examination process))~~ passes the first division of the examination. Passing scores for any division of the examination may be carried forward for a period of five years from the date the applicant passed that division of the examination. Applicants shall retake any division of the examination which was passed more than five years previously, along with any division of the examination not yet passed. The oral examination is part of the entire examination and shall be completed within the five-year period.

AMENDATORY SECTION (Amending Order PM 843, filed 6/5/89)

WAC 308-12-040 Appeal of examinations. The board adopts the grading procedures as ~~((set forth in the current Circular of Information Number 2, of))~~ established by the ~~((National Council of Architectural Registration Boards))~~ NCARB. No appeal of failing scores will be accepted by the department or the board ~~((after the conclusion of the national grading session)).~~

AMENDATORY SECTION (Amending Order PM 857, filed 8/10/89, effective 9/10/89)

WAC 308-12-050 Registration by reciprocity. Pursuant to RCW 18.08.400, the board will recommend to the director that the director grant a certificate of registration to a currently registered architect in ~~((another state or territory of the United States, the District of Columbia, or another country))~~ any jurisdiction recognized by NCARB provided:

(1) That such applicant presents evidence that the applicant has satisfactorily completed ~~((a written))~~ an examination equivalent to the examination required of Washington state registrants. Documentation of NCARB

PERMANENT

certification may be accepted by the board as satisfactory evidence that the applicant's qualifications and experience are equivalent to the qualifications and experience required of a person registered under RCW 18.08.350.

(2) That the applicant provides a typed summary analysis of chapter 18.08 RCW and chapter 308-12 WAC. The summary must include an analysis of each section of chapter 18.08 RCW and chapter 308-12 WAC in sufficient detail to demonstrate a thorough understanding of the law and rules as determined by the board.

(3) That the board will require an oral interview of any candidate for registration by reciprocity, except that the oral interview may be ~~((waived))~~ set aside in cases where documentary or other evidence shows sufficient information for the board to reach judgment.

(4) That the architect's ~~((base))~~ current state license is not delinquent or inactive. The current ~~((base))~~ state license cannot be under suspension, disciplinary restrictions, or in process of disciplinary review. Reciprocity applicants are held to the same qualifications as initial applicants for registration.

AMENDATORY SECTION (Amending Order PL 560, filed 10/17/85)

WAC 308-12-324 Compliance with laws. (1) An architect shall not, in the conduct of his or her architectural practice, knowingly violate any state or federal criminal law.

(2) An architect shall neither offer nor make any payment or gift to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the architect is interested.

(3) An architect shall comply with the registration laws and regulations governing his or her professional practice ~~((in any United States jurisdiction))~~.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-12-140	Examination—Qualifications of candidates.
WAC 308-12-145	Acceptable work experience.

NEW SECTION

WAC 308-12-210 Application of brief adjudicative proceedings. The board adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request pursuant to subsection (1) below or at the discretion of the board chair pursuant to RCW 34.05.482. (1) If an adjudicative proceeding is requested, a brief adjudicative proceeding will be conducted where the matter involves one or more of the following issues:

(a) A determination whether an applicant meets the qualifications for a certificate of registration or certificate of authorization to practice architecture in this state and the board proposes to deny the application;

(b) A determination if an applicant for a certificate of registration to practice architecture in this state is eligible to

begin the examination, continue the examination if already in the examination process, or to complete the examination;

(c) A determination whether a person or organization is in compliance with the terms and conditions of a final order previously issued by the board; or,

(d) A determination whether a certificate holder or an applicant for examination, certification or certificate renewal has been certified by a lending agency and reported for nonpayment or default on a federally or state-guaranteed student loan or service conditional scholarship.

(2) Brief adjudicative proceedings under subsection (1) shall be limited to consideration of the following issues:

(a) In proceedings under subsections (1)(a) and (b) above, the sole issue to be considered at the hearing is whether the documentation submitted by an applicant for issuance or renewal of a certificate of registration or certificate of authorization to practice architecture in this state, or examination meets the requirements for issuance, or renewal of a certificate or to take the examination for a certificate.

(b) In proceedings under subsection (1)(c) above, the sole issue to be considered at the hearing is whether the documentation submitted indicates that a person or organization is in compliance with the terms and conditions of a final order previously issued by the board.

(c) In proceedings under subsection (1)(d) above, the issues to be considered at the hearing are: (i) whether the person has been correctly certified by a lending agency and reported to the board for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship and (ii) is in a state of nonpayment or default at the time of the brief adjudicative proceeding.

NEW SECTION

WAC 308-12-220 Preliminary record in brief adjudicative proceedings. (1) The preliminary record with respect to an application for a license or to begin or continue the examination shall consist of:

(a) The application for the license or examination and all associated documents; and

(b) All documents relied upon by the program in proposing to deny the application; and

(c) All correspondence between the applicant for license or approval and the program regarding the application.

(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:

(a) The previously issued final order or agreement; and

(b) All reports or other documents submitted by the license holder, or at the direction of the license holder, in full or partial fulfillment of the terms of the final order; and

(c) All correspondence between the license holder and the program regarding compliance with the final order or agreement.

(d) All documents relied upon by the program that the license holder has failed to comply with the previously issued final order or agreement.

(3) The preliminary record for determination of nonpayment or default by the license holder on a federally or state-guaranteed student loan or service-conditional scholarship shall consist of:

(a) Certification and report by the lending agency that the identified person is in default or nonpayment on a federally or state-guaranteed student loan or service-conditional scholarship; or

(b) A written release, if any, issued by the lending agency stating that the person is making payment on the loan in accordance with a repayment agreement approved by the lending agency.

NEW SECTION

WAC 308-12-230 Conduct of brief adjudicative proceedings. (1) Brief adjudicative proceedings shall be conducted by a presiding officer appointed by the current board chair in accordance with RCW 34.05.485. The presiding officer for brief adjudicative proceedings shall have agency expertise in the subject matter but shall not have personally participated in the decision to issue the initiating document.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis for decision.

(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial written order.

NEW SECTION

WAC 308-12-240 Reinstatement of suspended certificates, eligibility for registration, or denied renewals. Where a person's certificate of registration has been suspended, an applicant has been denied certificate renewal, or an applicant has been denied the ability to take the examination for certificate of registration due to nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship, his or her certificate renewal or examination application will be reinstated when the person provides the board a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency, provided, the person shall pay any applicable reinstatement or renewal fee.

**WSR 97-03-122
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS**

[Filed January 22, 1997, 8:19 a.m.]

Date of Adoption: January 16, 1997.

Purpose: To eliminate broker-dealer record-keeping regulations inconsistent with those contained in federal

regulations. The National Securities Markets Improvement Act of 1996 preempted inconsistent state regulations on broker-dealer record keeping.

Citation of Existing Rules Affected by this Order: Repealing WAC 460-21B-080, 460-22B-070, 460-22B-080 and 460-24A-046; and amending WAC 460-21B-050.

Statutory Authority for Adoption: RCW 21.20.100 and 21.20.450.

Adopted under notice filed as WSR 96-24-040 on November 26, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 1, repealed 4; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 21, 1997

John L. Bley

Director

AMENDATORY SECTION (Amending WSR 95-16-026, filed 7/21/95, effective 8/21/95)

WAC 460-21B-050 Books and records of broker-dealers. (1) Each registered broker-dealer shall make, maintain, and preserve books and records in compliance with United States Securities and Exchange Commission Rules 17a-3 (17 C.F.R. § 240.17a-3 (1991)), 17a-4 (17 C.F.R. § 240.17a-4 (1991)), 15c2-6 (17 C.F.R. § 240.15c2-6 (1991)) and 15c2-11 (17 C.F.R. § 240.15c2-11 (1991) as amended in Release No. 34-29094, 56 Fed. Reg. 19148 (1991)) which are hereby incorporated by reference. To the extent that the United States Securities and Exchange Commission promulgates changes to the above-referenced rules, dealers in compliance with such rules as amended shall not be subject to enforcement action by the commission for violation of this rule to the extent that the violation results solely from the dealer's compliance with the amended rule.

(2) ~~((Each broker-dealer shall keep and maintain at each branch office or if the broker-dealer maintains no branch office in this state, at any office in this state where the broker-dealer conducts business, the following items relating to the operations of that branch office, which, together with any other books and records made or kept at the branch office, are open to inspection by the administrator or the administrator's designee pursuant to RCW 21.20.100:~~

~~(a) A complaint file containing every written customer complaint and a record of the action taken by the broker-dealer with respect to that complaint;~~

~~(b) A litigation file documenting each criminal or civil action filed in a state or federal court against the broker-~~

dealer office or against any of its personnel with respect to a securities or investment advisory transaction and the disposition of any such litigation;

(c) A correspondence file containing all correspondence or copies thereof disseminated to or received from the public in connection with the business of the office;

(d) Copies of each confirmation of purchase or sale sent to each customer and each order ticket completed at the office;

(e) Copies of each periodic statement sent to a customer;

(f) Commission runs showing the amount of commissions earned by each salesperson of the broker-dealer;

(g) Copies or originals of new account records indicating the name and address of each customer or client, whether the customer or client is legally of age, the signature of the salesperson introducing the account, and the signature of the manager accepting the account for the broker-dealer. If a broker-dealer customer is associated with or employed by another broker-dealer, this fact must be recorded. In discretionary broker-dealer accounts, the broker-dealer shall also record:

(i) The age or approximate age and occupation of the customer;

(ii) The signature of the person authorizing the use of discretion;

(iii) The signature of each person authorized to exercise discretion in such account;

(h) Copies of each margin agreement;

(i) Copies of each written option agreement; and

(j) Blotter (or other records of original entry) containing an itemized daily record of all purchases and sales of securities at the office, all receipts and deliveries of securities (including certificate numbers) at the office, and all other debits and credits relating to the operation of the office. Such records shall show the amount for which each such transaction was effected, the name and amount of securities, the unit and aggregate purchase or sale price (if any), the trade date, and the name or other designation of the person from whom purchased or received or to whom sold or delivered.

(3) The administrator or the administrator's designee may copy records made, kept, or maintained pursuant to subsections (1) and (2) of this section or require a broker-dealer registered in this state to copy those records and provide the copies to the administrator in a manner reasonable under the circumstances.

(4) The records required to be kept and maintained by subsection (2) of this section may be kept or maintained on computer, microform, or other electronic data storage system if the records can be immediately produced in document form.

(5)) The administrator may, by order, upon written request and for good cause shown, waive any of the requirements of this rule.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 460-21B-080 Written procedures.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 460-22B-070 Dual representation and affiliation.

WAC 460-22B-080 Receipt of both securities sales commission and investment adviser fees.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 460-24A-046 Dual representation and affiliation.

WSR 97-03-127 PERMANENT RULES WASHINGTON STATE PATROL

[Filed January 22, 1997, 10:01 a.m.]

Date of Adoption: December 27, 1996.

Purpose: Under chapter 46.72A RCW, the Washington State Patrol may impose annual vehicle inspection fees for limousine carriers. This new chapter sets those fees and outlines the inspections procedures.

Statutory Authority for Adoption: RCW 46.72A.030.

Adopted under notice filed as WSR 96-22-050 on November 1, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 1, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 1, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 17, 1997

Annette M. Sandberg
Chief

Chapter 204-95 WAC LIMOUSINE BUSINESSES

NEW SECTION

WAC 204-95-030 Fees. The department of licensing, as authorized in RCW 46.72A.030 and 46.72A.090, shall charge and collect the following fees:

Fees listed in WAC 308-87-060

Annual Inspection	\$25.00
Reinspection	\$15.00
Background Check	as set in WAC 446-20-600

The background check shall consist of a fingerprint-based background search at the state level conducted by the Washington state patrol identification section.

NEW SECTION

WAC 204-95-080 Annual inspections, safety of equipment. Upon the request of a new limousine applicant or a limousine operator applying for annual renewal of their limousine license with the department of licensing, the Washington state patrol shall conduct a safety inspection of the equipment to be used in the limousine service. Applicants or operators must present their vehicle(s) at a Washington state patrol district or detachment office for inspection Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. The vehicle must pass the inspection to qualify for renewal of original limousine operators license with department of licensing. The vehicle inspection will consist for the following:

(1) All standard equipment for vehicles will be checked to include brake systems, functional brake performance test, wheel systems, steering and suspension, fuel system, exhaust system, lighting and signal system, visibility system, body components, interior condition and cleanliness.

(2) If a vehicle fails an initial inspection and must be re-inspected, a reinspection fee as provided in WAC 308-87-060 will apply. The applicant or operator must present the original inspection form and reinspection form to the department of licensing.

(3) Upon successful completion of the safety inspection, a commercial vehicle safety alliance decal will be applied to the upper right hand corner of the windshield.



**WSR 97-03-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

(Fisheries)

[Order 97-01—Filed January 3, 1997, 4:22 p.m.]

Date of Adoption: January 3, 1997.

Purpose: Personal use fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-56-24000F; and amending WAC 220-56-240.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: To adopt recreational sturgeon regulations that are part of the 1997-99 sturgeon management plan negotiated by Washington Department of Fish and Wildlife and Oregon Department of Fish and Wildlife in a manner consistent with Oregon's effective date of January 1, 1997.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 3, 1997
Ron Swatfigure
for Bern Shanks
Director

NEW SECTION

WAC 220-56-24000G Daily limits sturgeon, smelt, herring and other food fish not otherwise provided for. Notwithstanding the provisions of WAC 220-56-240, effective immediately until further notice, it is unlawful for any person to retain in any day more than the following quantities and sizes of food fish taken for personal use.

(1) Sturgeon:

(a) 1 fish with the following size restrictions in all other state waters:

(i) Minimum size is 42 inches in length except minimum size 48 inches in length in waters of the Columbia River and tributaries upstream from The Dalles Dam;

(ii) Maximum size is 60 inches in length.

(b) The possession limit is two daily limits of fresh sturgeon. Additional sturgeon may be possessed in a frozen or processed form.

(c) There is an annual personal use limit of 10 sturgeon.

(2) Smelt: 20 pounds. The daily limit and the possession limit are the same. It is unlawful for any person to possess more than 20 pounds of smelt at any time.

(3) Herring: 20 pounds fresh. Additional herring may be possessed in a frozen or processed form.

(4) All other food fish not otherwise provided for in this chapter: No limit.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-24000F Daily limits sturgeon, smelt, herring and other food fish not otherwise provided for. (96-209)

**WSR 97-03-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**
(Fisheries)

[Order 97-02—Filed January 3, 1997, 4:25 p.m.]

Date of Adoption: January 3, 1997.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-32-05700U; and amending WAC 220-32-057.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of sturgeon are available and these rules are adopted to conform with regulations adopted by treaty tribes to harvest their allotment of available sturgeon.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 3, 1997
 Ron Swatfigure
 for Bern Shanks
 Director

WSR 97-03-033
 EMERGENCY RULES
 DEPARTMENT OF
 SOCIAL AND HEALTH SERVICES
 (Institutions)

[Filed January 9, 1997, 12:55 p.m.]

NEW SECTION

WAC 220-32-05700U Columbia River sturgeon seasons above Bonneville. (1) Notwithstanding the provisions of WAC 220-32-057, effective immediately until further notice, it is unlawful for a person to take sturgeon with set line gear or to possess sturgeon taken with set line gear for commercial purposes from Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except that those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla and Nez Perce treaties may fish for sturgeon using set line gear effective January 1, 1997 through January 31, 1997.

(2) During the season specified in section 1, it is unlawful:

(a) To retain for commercial purposes sturgeon less than 48 inches or greater than 72 inches in length.

(b) To remove the head or tail from a sturgeon prior to its sale to a wholesale dealer licensed under RCW 75.28.300.

(c) To sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of the sturgeon prior to the time the sturgeon is sold to a wholesale dealer licensed under RCW 75.28.300.

(d) To deliver to a wholesale dealer or fish buyer sturgeon that have been dressed (not in the round).

(3) During the season specified in section 1, it shall be unlawful to use set line gear:

(a) With more than 100 hooks per set line;

(b) With hooks less than the minimum size of 9/0;

(c) With treble hooks; or

(d) Without visible buoys attached and with buoys that do not specify operator and tribal identification.

(4) Notwithstanding the provisions of WAC 220-22-010, during the season specified in section 1:

(a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids.

(b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a point one mile above the fishway exit on the Washington shore and a point one mile above the fishway exit on the Oregon shore, and downstream from Preacher's Eddy light below John day Dam.

(c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the John day River, Oregon, to a fishing boundary marker on the Washington shore and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. January 31, 1997:

WAC 220-32-05700U Columbia River sturgeon seasons above Bonneville. (97-02)

Purpose: Clarify and limit the use of state funds expended under the Division of Developmental Disabilities' family support program.

Citation of Existing Rules Affected by this Order: Repealing WAC 275-27-221 Family financial participation; and amending WAC 275-27-023 Exemptions, 275-27-220 Family support services, and 275-27-223 Service need levels.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 71A.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Funding considerations require the Department of Social and Health Services to put these rules into effect on an emergency basis. Failure to do so would cause reduction in necessary services to families and jeopardize the health and safety of persons with disabilities. Immediate action is needed to negate the need for additional funding for potential institutionalization and other out-of-home placement for persons with developmental disabilities.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 4, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 4, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 9, 1997

Merry A. Kogut, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3230, filed 8/9/91, effective 9/9/91)

WAC 275-27-023 Exemptions. (1) The department may approve an exemption to a specific rule in this chapter as defined under WAC 275-27-020(7) provided an:

(a) Assessment of the exemption shall not undermine the legislative intent of Title 71A RCW; and

(b) Evaluation of the exemption request shows granting the exemption shall not adversely effect the quality of the

services, supervision, health, and safety of department-served persons.

(2) Agencies and individual providers shall retain a copy of each department-approved exemption.

(3) Exemption requests are not subject to appeal.

AMENDATORY SECTION (Amending Order 3702, filed 2/1/94, effective 3/4/94)

WAC 275-27-220 Family support services. (1) The department's intent of family support services shall be to:

(a) Reduce or eliminate the need for out-of-home residential placement of a client where the in-home placement is in the client's best interest;

(b) Allow a client to live in the most independent setting possible; and

(c) Have access to services best suited to a client's needs.

(2) The department's family support services shall include, ~~((but not be limited to,))~~ the following services:

~~((a) Emergency or planned))~~ Respite care~~((;~~

~~(b))~~ and attendant care~~((;~~

~~(c) Therapeutic services, including:~~

~~(i) Physical therapy;~~

~~(ii) Occupational therapy;~~

~~(iii) Behavior management therapy; and~~

~~(iv) Communication therapy.~~

~~(d) The purchase, rental, loan, or refurbishment of specialized equipment, environmental modifications, and other adaptations; and~~

~~(e) Other service approved by the director or designee as described under subsection (1) of this section)) or nursing which may include the use of community activities which provide respite.~~

(3) Up to nine hundred dollars of the service need level amount in subsection (7)(b) of this section may be used during a designated service period for flexible use as follows. The requested service must be necessary as a result of the disability of the client.

(a) Training and supports including parenting classes and disability related support groups;

(b) Specialized equipment and supplies including the purchase, rental, loan or refurbishment of specialized equipment or adaptive equipment not covered by another resource including Medicaid. Mobility devices such as walkers and wheelchairs are included, as well as communication devices and medical supplies such as diapers for those more than three years of age;

(c) Environmental modification including home repairs for damages, and modifications to the home needed because of the disability of the client;

(d) Occupational therapy, physical therapy, communication therapy, behavior management or counseling for the client related to a disability not covered by another resource such as public schools and child development services funding;

(e) Medical/dental services not covered by any other resource. This may include the payment of insurance premiums and deductibles and is limited to the expenses of the client;

(f) Nursing services provided by a registered nurse or licensed practical nurse that cannot be provided by an

unlicensed care giver. Includes ventilation, catheterization, insulin shots, etc., when not covered by another resource;

(g) Special formulas or specially prepared foods needed because of the disability of the client;

(h) Parent/family counseling dealing with a diagnosis, grief and loss issues, genetic counseling and behavior management;

(i) Specialized clothing adapted for a physical disability, excessive wear clothing, or specialized footwear;

(j) Specialized utility costs including extraordinary supplemental utility costs related to the client's disability or medical condition;

(k) Transportation costs for gas or tickets (ferry fare, transit cost) for a client to get to essential services and appointments, if another resource is not available;

(l) Other services approved by the DDD regional administrator or designee that will replace or reduce ongoing departmental expenditures and will reduce the risk of out-of-home placement. Exemption requests under this section are not subject to appeal.

(4) Payment for services specified in subsection (3), except (3)(a) and (h), shall cover only the portion of cost attributable to the client.

(5) Requests must be received by DDD no later than midway through the service authorization period unless circumstances exist justifying an emergency.

(6) A plan shall be developed between the family and the department ((shall authorize services to the family for a specified time limited)) for each service authorization period. The department may contract directly with the vendor, may authorize purchase by another agency, or may reimburse the parent of the client.

(a) A departmental service authorization shall state the type, amount, and period (duration) of service. Each department authorization shall constitute a new service for a new period.

(b) If the client becomes eligible and begins to receive services under Medicaid Personal Care as defined in WAC 388-15-880 through 388-15-890, the family support funding will be reduced at the beginning of the next month of service. The family will receive notice of the reconfiguration of services at least five working days before the beginning of the month.

(c) If requested family support services are not authorized, such actions shall be deemed a denial of services.

~~((e))~~ (d) Family support services may be authorized below the amount requested by the family for the period. When, during the authorized service period, family support services are reduced or terminated below the amount specified in service authorizations, the department shall deem such actions as a reduction or termination of services.

~~((4) The department shall authorize family support services in accordance with department established policies.))~~

(7) The department shall base periodic service authorizations on:

(a) Requests for family support services described in subsection (2) of this section;

(b) Service need levels as described in WAC 275-27-223 of this chapter. Service need level lid amounts are as follows:

(i) Clients designated for service need level one (WAC 275-27-223) may receive up to nine hundred twenty-one

dollars per month or two thousand two hundred seventy-three dollars per month if the client requires licensed nursing care in the home;

(A) If a client is receiving funding through Medicaid Personal Care or other DSHS in-home residential support, the maximum payable through family support shall be four hundred nine dollars per month;

(B) If the combined total of family support services at this maximum plus in-home support is less than nine hundred twenty-one dollars additional family support can be authorized to bring the total to nine hundred twenty-three dollars.

(ii) Clients designated for service need level two may receive up to three hundred sixty-five per month if not receiving funding through Medicaid personal care.

(A) If a client is receiving funds through Medicaid personal care or other DSHS in-home residential support service, the maximum receivable through family support shall be two hundred five dollars per month.

(B) If the combined total of family support services at this maximum plus in-home support is less than three hundred sixty-five dollars, additional family support can be authorized to bring the total to three hundred sixty-five dollars;

(iii) Clients designated for service need level three may receive up to two hundred five dollars per month provided the client is not receiving Medicaid personal care. If the client is receiving Medicaid personal care or other DSHS in-home residential support service, the maximum receivable through family support shall be one hundred three dollars per month; and

(iv) Clients designated for service level four may receive up to one hundred three dollars per month family support services.;

(c) Availability of family support funding;

(d) ~~((The family's ability to purchase services required by a minor client as described under WAC 275-27-221 based on family provided financial information; and~~

(e)) Authorization by a review committee, in each regional office, which reviews each request for service.

~~((5))~~ (8) The department shall authorize family support services contingent upon the applicant providing accurate and complete information ~~((concerning family income and))~~ on disability-related ~~((expenses as requested by the department))~~ requests.

~~((6))~~ (9) The department shall ensure service authorizations do not exceed maximum amounts for each service need level based on the availability of funds.

~~((7))~~ (10) The department shall not authorize a birth parent, adoptive parent, or stepparent living in the same household as the client as the direct care provider for respite, attendant, nursing, therapy, or counseling services for a child seventeen years of age or younger.

~~((8) The department shall ensure subsections (4)(d) and (5) of this section are only in effect until July 31, 1995.))~~

(11) Emergency Services. Emergency funds may be requested for use in response to a single incident or situation or short term crisis such as care giver hospitalization, absence, or incapacity. The request shall include anticipated resolution of the situation. Funds shall be provided for a limited period not to exceed two months. All requests are

to be reviewed and approved or denied by the regional administrator or designee.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 3702, filed 2/1/94, effective 3/4/94)

WAC 275-27-223 Service need levels. (1) The department shall use service need levels to determine periodic family support service authorizations.

(2) The department shall determine service need levels in order of priority for funding as follows:

(a) Service need level 1: Client is at immediate risk of out-of-home placement without the provision of family support services. The client needs intensive residential support to assist the client's family to care for the family's child or adult requiring nursing services, attendant care, or support due to difficult behaviors. A client shall:

(i) Have received, over the past three months, at least ten days or eighty hours of service; or

(ii) Requires at least ten days or eighty hours per month of service to prevent immediate out-of-home placement, based upon an assessment conducted by the department;

(b) Service need level 2: Client is at high risk of out-of-home placement without the provision of family support services and has one or more of the following documented in writing:

(i) The client:

(A) Currently receives adult protective services or division of children and family services as an active:

(I) Child protective service client;

(II) Child welfare service client; or

(III) Family reconciliation service client.

(B) Has returned home from foster care or group care placement within the last six months;

(C) Has a serious medical problem requiring close and ongoing monitoring and/or specialized treatment, such as:

(I) Apnea monitor;

(II) Tracheotomy;

(III) Heart monitor;

(IV) Ventilator;

(V) Constant monitoring due to continuous seizures;

(VI) Immediate life-saving intervention due to life threatening seizures;

(VII) Short bowel syndrome; or

(VIII) Brittle bone syndrome.

(D) Has a dual diagnosis based on current mental health DSM Axis I diagnosis;

(E) Has an extreme behavioral challenge resulting in health and safety issues for self and/or others which:

(I) Resulted in serious physical injury to self or others within the last year;

(II) For a client who is two years of age or older, requires constant monitoring when awake for personal safety reasons; or

(III) Is of imminent danger to self or others as determined by a psychiatrist, psychologist, or other qualified professional.

(F) Is ten years of age or older or weighs forty pounds or more, requires lifting, and needs direct physical assistance in three or more of the following areas:

- (I) Bathing;
- (II) Toileting;
- (III) Feeding;
- (IV) Mobility; or
- (V) Dressing.

(ii) The caregiver:

(A) Is a division of developmental disabilities client;

(B) Has a physical or medical problem that interferes with providing care; or

(C) Has serious mental health or substance abuse problems and:

(I) Is receiving counseling for these problems; or

(II) Has received or applied for counseling within the past six months.

(c) Service need level 3: The family is at risk of significant deterioration which could result in an out-of-home placement of the client without provision of family support services due to the following:

(i) The client requires direct physical assistance, above what is typical for such client's age, in three or more of the following areas:

- (A) Bathing;
- (B) Toileting;
- (C) Feeding;
- (D) Mobility; or
- (E) Dressing.

(ii) The client has current behavioral episodes resulting in:

(A) Physical injury to the client or others;

(B) Substantial damage to property; and/or

(C) Chronic sleep pattern disturbances or chronic continuous screaming behavior.

(iii) The client has medical problems requiring substantial extra care; and/or

(iv) The family is:

- (A) Experiencing acute and/or chronic stress;
- (B) Has acute or chronic physical limitations; or
- (C) Has acute or chronic mental or emotional limitations.

(d) Service need level 4: Family needs temporary or ongoing services in order to:

(i) Receive support to relieve and/or prevent stress of caregiver/family; or

(ii) Enhance the current functioning of the family.

(3) The department, through regional review committees, shall determine service need level of the client's service request by reviewing information received from the client, family, and other sources about:

(a) Whether client is an active recipient of services from the division of children and family services or adult protective services;

(b) Whether indicators of risk of out-of-home placement exist, and the imminence of such an event. The department's assessment of such risk may include:

(i) Review of family's requests for placement;

(ii) History of family's involvement with children's protective services or adult protective services;

(iii) Client's current adjustment;

(iv) Parental history of psychiatric hospitalization;

(v) Clinical assessment of family's condition; and

(vi) Statements from other professionals.

(c) Caregiver conditions, such as acute and/or chronic:

(i) Stress;

(ii) Physical limitations; and

(iii) Mental and/or emotional impairments.

(d) Client's need for intense medical, physical, or behavioral support;

(e) Family's ability to use typical community resources;

(f) Availability of private, local, state, or federal resources to help meet the need for family support;

(g) Severity and chronicity of family or client problems; and

(h) Degree to which family support services will:

(i) Ameliorate or alleviate such problems; and

(ii) Reduce the risk of out-of-home placement.

AMENDATORY SECTION (Amending Order 2596, filed 2/5/88)

WAC 275-27-400 Notification. (1) The department shall notify the client or applicant, the parent when the client or applicant is a minor, and the guardian when the client or applicant is an adult, of the following decisions:

(a) Denial or termination of eligibility set forth in WAC 275-27-030;

(b) Development or modification of the individual service plan set forth in WAC 275-27-060;

(c) Authorization, denial, reduction, or termination of services set forth in WAC 275-27-230; and

(d) Admission or readmission to, or discharge from, a residential habilitation center.

(2) The notice shall set forth appeal rights pursuant to WAC 275-27-500 and a statement that the client's case manager can be contacted for an explanation of the reasons for the action.

(3)(a) The department shall provide notice of a denial or partial authorization of a family support services request and a statement of reason for denial or partial authorization, or reduction to the person or persons described in subsection (1) of this section. The department shall send such notice no later than five working days before the end of the month previous to the month for which service was requested;

(b) The department shall make available an administrative review of a decision to deny or partially authorize services upon receipt of a written request by a person or persons described in subsection (1) of this section to the administrator of the region in which the client is living. The regional office must receive a request for administrative review by the last working day of the month;

(c) The client shall state in the written request why the client or client's family believes their service priority designation is not correct;

(d) Upon receipt of request for administrative review, the regional administrator or designee shall review the request and the client file; and

(e) The department shall send the results of the administrative review to the client and/or family within the first five

working days of the service month for which the client is being denied or receiving a partial authorization for services.

(4) The department shall provide at least thirty days' advance notice of action to terminate a client's eligibility, terminate or reduce a client's service, or discharge a client from a residential habilitation center to the community(~~(7 except for the)~~). Transfer or removal of a client from a service set forth in WAC 275-27-500 (5)(f) is governed by that section, and reduction of family support funding during the service authorization period is covered by subsection (3)(a) of this section.

(5) All parties affected by such department decision shall be consulted, whenever possible, during the decision process by the responsible field services regional office in person and/or by telephone.

(6) The division shall ensure notification to the school district in which a school-aged child is to be placed when a placement decision is reached.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 275-27-221 Family financial participation.

WSR 97-03-039
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Wildlife)

[Order 97-03—Filed January 9, 1997, 2:02 p.m., effective January 16, 1997, 12:01 a.m.]

Date of Adoption: January 9, 1997.

Purpose: Emergency changes to the 1997 Winter steelhead fishing regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: **Item 1:** The Green River wild winter-run steelhead escapement goal is 2,000. The 1997 wild runsize is predicted to be 2,362 allowing a harvestable number of only 362 wild steelhead. The February 1st wild steelhead release regulations will protect wild spawners, while allowing hatchery steelhead to be harvested. The tribal net fishery will not extend past January 31, 1997.

Items 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12: The Snohomish River system wild winter-run steelhead escapement goal is 6,500. The 1997 wild runsize is predicted to be 8,362, allowing a harvestable number of 1,842 wild steelhead. The February 16th wild steelhead release regulations will protect wild spawners, while allowing hatchery steelhead to be harvested. The tribal net fishery will not extend past January 18, 1997.

Item 13: A 1996-97 wild winter steelhead runsize could not be predicted using established methodologies. Wild steelhead escapements could not be estimated two out of the last four years due to extremely poor spring weather conditions, thus making the 1996-97 preseason estimation impossible. Given previous years' wild runsizes it is expected there will be an unquantified number of harvestable wild fish in 1996-97. However, given the lack of increase in the wild run in recent seasons the parties agreed to manage 1996-97 wild winter steelhead in the same fashion as 1994-95. In an effort not to exceed a 16 percent combined sport and tribal harvest rate on wild fish, the tribal fishery will end during management week 8 (2/16 to 2/22), the sport fishery will go to wild steelhead release regulations March 1, 1997. The hatchery winter steelhead sport fishery will proceed uninterrupted.

Item 14: In an attempt to manage the wild winter-run steelhead resource in a balanced region-wide manner, the Stillaguamish River is being proposed for wild steelhead release regulations March 1, 1997. Although the escapement of wild steelhead in the North Fork Stillaguamish River index area has consistently exceeded the escapement goal. In past years when surrounding rivers have been placed on emergency wild steelhead release regulations there has been concern about a shift in sport angler effort to the Stillaguamish River. The angler shift and associated wild harvest could potentially decrease the number of spawning fish to below the spawning objective. In the past there has been considerable public concern about not achieving this spawning objective.

Items 15 and 16: The predicted wild runsize for 1996-97 is 2,025. With the interim wild steelhead escapement goal of 2,000 spawners, the harvestable number of steelhead is 25. The January 16th wild steelhead release regulations will protect wild spawners while allowing hatchery steelhead to be harvested. The tribal net fishery will not extend beyond management week 3 (1/12 to 1/18).

Item 17: The stock status of Elwha River wild winter-run steelhead is depressed. Hatchery winter-run steelhead return predominantly during November through February and are targeted for harvest in sport and tribal fisheries. Wild winter-run steelhead return predominantly during March and April and would be protected from sport harvest by this emergency regulation.

The proposed emergency closure is also supported by the Lower Elwha Tribe which has agreed not to fish after February 28 during the 1996-97 season. For the 1997-98 season, the Washington Department of Fish and Wildlife has proposed a June 1 - February 28 season with wild steelhead release; this emergency regulation would implement the February 28 season closure one season earlier and provide additional protection for wild steelhead. Wild steelhead release is not appropriate during the 1996-97 season since hatchery steelhead adults returning to the Elwha River will not be marked.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: January 16, 1997, 12:01 a.m.

January 9, 1997

Bern Shanks

Director

NEW SECTION

WAC 232-28-61900B 1997 Washington game fish seasons and catch limits — Green River, Snohomish River, Snoqualmie River, Skykomish River, Wallace River, Sultan River, Pilchuck River, Tolt River, Raging River, Tokul Creek, Skagit River, Stillaguamish River, Puyallup River, Carbon River and Elwha River. Notwithstanding the provisions of WAC 232-28-619, effective January 16, 1997, the following regulations apply:

- Item 1: Green River (King Co.) From its mouth to the SR 167 Freeway Bridge: Wild Steelhead Release February 1, 1997-February 28, 1997.
From SR 167 Freeway Bridge to Tacoma Headworks Dam: Wild Steelhead Release February 1, 1997 - February 28, 1997.
- Item 2: Snohomish River From mouth (Burlington Northern Railroad bridges (including all channels, sloughs and inter-connected waterways) upstream to the confluence of the Skykomish and Snoqualmie rivers (all channels): Wild Steelhead Release February 16, 1997 - March 31, 1997.
From Highway 529 upstream (all channels): Wild Steelhead Release February 16, 1997 - March 31, 1997.
- Item 3: Snoqualmie River From mouth to falls: Wild Steelhead Release February 16, 1997 - March 31, 1997.
- Item 4: Skykomish River (Mainstem) From its mouth to mouth of Sultan River: Wild Steelhead Release February 16, 1997 - February 28, 1997.
From the mouth of the Sultan River to the forks: Wild Steelhead Release

- February 16, 1997 - March 31, 1997.
- Item 5: Skykomish River (North Fork) From its mouth to 1000' downstream from Bear Creek Falls: Wild Steelhead Release February 16, 1997 - February 28, 1997.
- Item 6: Skykomish River (South Fork) From its mouth to 600' downstream from the Sunset Falls Fishway: Wild Steelhead Release February 16, 1997 - February 28, 1997.
- Item 7: Wallace River From the mouth to mouth of Olney Creek: Wild Steelhead Release February 16, 1997 - February 28, 1997.
- Item 8: Sultan River From its mouth to a point 400' downstream from the diversion dam at river mile 9.7: Wild Steelhead Release February 16, 1997 - February 28, 1997.
- Item 9: Pilchuck River From its mouth to 500' downstream from the Snohomish City diversion dam: Wild Steelhead Release February 16, 1997 - February 28, 1997.
- Item 10: Tolt River From its mouth to the USFS trolley cable near the confluence of the North and South Forks: Wild Steelhead Release February 16, 1997 - February 28, 1997.
- Item 11: Raging River From its mouth to the Highway 18 Bridge (three miles upstream from Preston): Wild Steelhead Release February 16, 1997 - February 28, 1997.
- Item 12: Tokul Creek From its mouth to the posted cable boundary marker located approximately 700' upstream from the mouth: Wild Steelhead Release February 16, 1997 - March 31, 1997.
- Item 13: Skagit River From mouth to pipeline crossing at Sedro Woolley: Wild Steelhead Release March 1, 1997 - March 31, 1997.
From pipeline crossing at Sedro Woolley to Bacon Creek: Wild Steelhead

EMERGENCY

- Item 14: Stillaguamish River

Release March 1, 1997 - March 15, 1997.

All sloughs downstream of Warm Beach-Stanwood Highway: Wild Steelhead Release March 1, 1997 - until further notice.

From Warm Beach-Stanwood Highway upstream to forks: Wild Steelhead Release March 1, 1997 - March 31, 1997.
- Item 15: Puyallup River

From the mouth to Electron power plant outlet: Wild Steelhead Release January 16, 1997 - January 31, 1997.
- Item 16: Carbon River

From mouth to Highway 162 Bridge: Wild Steelhead Release January 16, 1997 - January 31, 1997.
- Item 17: Elwha River

From mouth to Aldwell Lake Dam: Closed to fishing for all game fish March 1, 1997 - April 15, 1997.

All other provisions of WAC 232-28-619 relating to the above waters remain in effect and unchanged.

WSR 97-03-045
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
 (Fisheries)

[Order 97-04—Filed January 10, 1997, 3:08 p.m.]

Date of Adoption: January 10, 1997.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-52-07300L; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of red sea urchins are available in Sea Urchin Districts 1, 2, and 4. Harvestable amounts of green sea urchins are available in Sea Urchin Districts 3 and 4.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 10, 1997
 Bern Shanks
 Director

NEW SECTION

WAC 220-52-07300M Sea urchins. Notwithstanding the provisions of WAC 220-52-073, effective immediately until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) **Red sea urchins:** Sea Urchin Districts 1, 2, and 4 are open only on January 13, 1997. The maximum daily landing for a vessel is 500 pounds of red sea urchins. It is unlawful to harvest red sea urchins larger or smaller than the following size (size in diameter exclusive of the spines):

- (a) Districts 1 and 2 4.0 minimum to 5.5 maximum inches
- (b) District 4 3.25 minimum to 5.0 maximum inches

(2) **Green sea urchins:** Sea Urchin Districts 3 and 4 are open only on January 13 and 14, 1997. The minimum size for green sea urchins is 2.25 inches in diameter exclusive of the spines.

(3) **Sea Urchin Districts**

(a) Sea Urchin District 2 (Southern San Juans and Port Townsend) is defined as those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and east of a line projected true north from Limestone Point on San Juan Island, and Areas 21A, 21B, 22B, 23A, 23B, 25A, and 25B. The following areas within Sea Urchin District 2 are closed to the harvest of sea urchins at all times.

(i) Those waters of Haro Strait north of a line projected east-west one half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(ii) Those waters of San Juan Channel and Upright Channel within the following lines: north of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island, south of a line projected from Flat Point on Lopez Island true west to Shaw Island, west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island, and south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island.

(4) It is unlawful for any person to dive for any purpose from a commercially-licensed fishing vessel, designated for use with a sea urchin fishery license, except vessels actively fishing geoducks under contract with the Washington

EMERGENCY

Department of Natural Resources, on the following dates:
January 11 and 12, 1997.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07300L Sea urchins (96-215)

**WSR 97-03-046
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

(Public Assistance)

[Filed January 10, 1997, 4:07 p.m.]

Date of Adoption: January 10, 1997.

Purpose: To be in compliance with the federal temporary assistance to needy families (TANF) law to provide the address of a recipient to a law officer if the recipient is a fugitive felon or probation or parole violator or has information that is necessary for the officer to conduct the official duties of the office.

Citation of Existing Rules Affected by this Order: New section WAC 388-200-1400; and amending WAC 388-320-225.

Statutory Authority for Adoption: RCW 74.04.050 and 74.04.055.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Federal law requires immediate adoption.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, amended 1, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 10, 1997
Merry Kogut, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-200-1400 Application of rules—Temporary assistance to needy families. Unless otherwise specified, references in Title 388 WAC to the aid to families with dependent children (AFDC) program shall include the temporary assistance to needy families (TANF) program.

AMENDATORY SECTION (Amending Order 1609, filed 2/19/81)

WAC 388-320-225 Qualifications on nondisclosure.

(1) To the extent that nondisclosable information can be deleted from the specific records sought, the remainder of the records shall be disclosable.

(2) No exemptions shall be construed to require nondisclosure of statistical information not descriptive of identifiable persons, as required by RCW 42.17.310(2).

(3) Inspection and copying of any specific records otherwise nondisclosable is permissible pursuant to an order of the superior court enforcing a subpoena in accordance with the provisions of RCW 42.17.310(3), or an order of the office of hearings enforcing a subpoena.

(4) Upon written request of a person who has been properly identified as an officer of the law with a felony arrest warrant or a properly identified United States immigration official with a warrant for an illegal alien the department shall disclose to such officer or official the current address and location of the person described in the warrant, as required by RCW 74.04.062.

(5) The department shall furnish a federal, state, or local law enforcement officer, upon the request of the officer, with the current address of any recipient of temporary assistance for needy families if the officer furnishes the agency with the name of the recipient and notifies the agency that:

(a) The recipient:

(i) Is a fugitive felon or probation or parole violator as described in WAC 388-215-1550; or

(ii) Has information that is necessary for the officer to conduct the official duties of the officer; and

(b) The location or apprehension of the recipient is within such official duties.

(6) Any person may inquire of the department whether a named individual is a recipient of welfare assistance in accordance with RCW 74.04.060.

((6)) (7) Any records of the department may be made accessible for research purposes provided that the research complies with the guidelines published by the department in response to 45 C.F.R. 46 or other applicable state and federal law.

**WSR 97-03-047
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

(Public Assistance)

[Filed January 10, 1997, 4:08 p.m.]

Date of Adoption: January 10, 1997.

Purpose: Implements state statute to treat compensatory lump sum awards as a resource and for all other lump sums

to exempt the difference of a nonrecurring lump sum payment between the client's existing resource value and the resource ceiling limit and treat the remainder as newly acquired income when received by an applicant/recipient of the temporary assistance for needy families (TANF) program.

Citation of Existing Rules Affected by this Order: Amending WAC 388-218-1820, 388-218-1530, and 388-216-2900.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, and 74.04.055.

Other Authority: RCW 74.04.005.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Changes in federal law require emergency adoption to implement existing state statute to treat compensatory lump sum awards as a resource and for all other lump sums to exempt the difference of a nonrecurring lump sum payment between the client's existing resource value and the resource ceiling limit and treat the remainder as newly acquired income when received by an applicant/recipient of TANF.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 3, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 3, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 10, 1997

Merry Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-218-1820 Treatment of nonrecurring income—Lump sum(s) payments. The department shall treat nonrecurring lump sum payments received by a client and used to accumulate cash reserves in the following manner:

(1) ~~((The department shall consider nonrecurring lump sum payments as income in the month received))~~ Compensatory awards or related settlements shall be treated as follows:

(a) Awards or settlements for destroyed or stolen exempt property or medical bills as provided under WAC 388-218-1530; and

(b) All other compensatory awards or settlements as newly acquired resources as provided under WAC 388-216-2900.

~~(2) ((When the assistance unit's nonrecurrent lump sum income, plus other income, after applicable disregards exceeds the payment standard, plus authorized additional requirements, the assistance unit shall be ineligible for assistance))~~ All other lump sum payments shall be treated as follows:

(a) The department shall exempt the difference between the resource ceiling and the client's existing resources when the client received the lump sum. Any excess shall be considered as newly acquired income in the month received.

(b) In determining the client's existing resources, the department shall deduct any unexpended grant monies received within thirty days of the date the client received the lump sum.

(c) Such exemption shall apply once for each nonrecurring lump sum received.

(3) The department shall also apply these requirements to the income of persons required to be included in the assistance unit but are excluded for reasons of sanction or noncooperation.

~~(4) ((Ineligibility shall exist for the number of full months derived by dividing this total income by the need standard plus authorized additional requirements))~~ If the client's newly acquired income, plus any other income, after applicable disregards is less than the payment standard, plus authorized additional requirements, the department shall deduct the difference from the corresponding payment month.

~~(5) ((A minimum period of ineligibility shall be one month))~~ If the client's newly acquired income, plus any other income, after applicable disregards is equal to or exceeds the payment standard plus authorized additional requirements, the department shall discontinue assistance:

(a) If such income is equal to or in excess of one month's payment standard, but less than two months' payment standard plus authorized additional requirements, the department shall suspend assistance:

(i) Effective the first day of the payment month;

(ii) Shall deduct the income in excess of one month's payment standard plus authorized additional requirements from the grant for the month following the month of suspension; and

(iii) The department shall treat a person acquiring income during suspended status as a recipient in terms of eligibility.

(b) If the income, plus other income, is in excess of two months' payment standard plus authorized additional requirements, the department shall terminate assistance effective the first day of the month of receipt of the income:

(i) Ineligibility shall continue for two months (maximum period of ineligibility is two months);

(ii) Upon completion of the two-month period of ineligibility, the department shall determine eligibility for those that reapply on the same basis as other new applicants.

~~(6) ((The department shall treat any income remaining after this calculation is treated as income received in the first month following the period of ineligibility.~~

~~(7))~~ The department may shorten the period of ineligibility specified in subsection (5)(b) of this section when the following conditions are met:

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(a) An event occurs which, had the assistance unit been receiving assistance, would result in an increase in the ~~(need)~~ payment standard; or

(b) The income received, or any part thereof, has become unavailable to the members of the assistance unit for reasons beyond their control; or

(c) Members of the assistance unit incur, become responsible for, and pay medical expenses.

~~((8))~~ (7) Assistance is authorized only after the events in subsection ~~((7))~~ (6)(a), (b), or (c) of this section have been verified and current eligibility has been established.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-218-1530 Determining net income—Other income. (1) Net income from any other nonexempt source shall be the gross amount less any cost of securing or maintaining the income.

(2) The department shall consider any payments on mortgages or contracts as income less any cost of securing or maintaining the income.

(3) The department shall consider a compensatory award or related settlement covering destroyed or stolen exempt property as a newly acquired ~~(nonexempt income)~~ resource as provided under WAC 388-216-2900 unless the client, within sixty days of receipt:

(a) Expends the funds to repair or replace the destroyed or stolen exempt property for which the settlement was intended; or

(b) Pays medical bills for which the settlement was intended.

(4) The department shall consider funds deposited into a joint account or into an account held for another, or funds held for others as the income of the client since the entire amount is at the client's disposal, except when the client can show that all or a portion of the funds are:

(a) Derived from funds belonging exclusively to the other holder; and

(b) Held and/or utilized solely for the benefit of that holder. The department shall not consider all funds so verified as actually available to the client.

(5) When appointment of a legal guardian is required by the Social Security Administration or the Veterans Administration as a condition for receipt of a benefit from either agency, the necessary costs of securing a guardian shall be deducted from the benefit received to determine the client's net income.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-216-2900 Resources—Newly acquired resources. When a client obtains a newly acquired resource, the department shall:

(1) Apply the resource exemptions to newly acquired resources.

(2) Treat income tax refunds as follows:

(a) ~~((The department shall))~~ Consider an income tax refund as a nonexempt resource in the month of receipt; and

(b) ~~((The department shall))~~ Consider the Earned Income Tax Credit (EITC) portion of an income tax refund as an exempt resource in the month of receipt and in the

month following the month of receipt. The department shall consider the EITC as a nonexempt resource in the second month following the month of receipt.

(3) Treat lump sum compensatory awards and related settlements not exempt under WAC 388-218-1530 as resources exempt within ceiling limits on the first of the month following the month of receipt. A recipient may reduce the value of a compensatory award or settlement prior to the first of the month following the month of receipt provided the award or settlement monies are not transferred for less than adequate consideration with the intent to qualify for assistance as provided under chapter 388-217 WAC.

(4) Add the value of the client's newly acquired resources to the client's existing nonexempt resources. If the recipient's total nonexempt resources are in excess of the resource standard, the recipient is ineligible.

~~((4))~~ (5) Any increase in the value of a resource (such as interest on a savings account, stock dividends, or livestock births) affects eligibility only to the extent the increased value causes the total value of the client's nonexempt resources to exceed the resource standard. The excess is considered income.

**WSR 97-03-048
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Public Assistance)**

[Filed January 10, 1997, 4:09 p.m.]

Date of Adoption: January 10, 1997.

Purpose: RCW 74.04.005, allows applicants/recipients of temporary assistance for needy families (TANF) to retain personal property having great sentimental value as an exempt resource.

Citation of Existing Rules Affected by this Order: Amending WAC 388-216-2500.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, and 74.04.055.

Other Authority: RCW 74.04.005.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Changes in federal law require emergency adoption to implement existing state statute to exempt personal property of great sentimental value as a resource for all families in need who meet temporary assistance for needy families (TANF) eligibility criteria. To implement resource exemption contained in state statute consistent with the inception of TANF.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 1, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

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Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 10, 1997

Merry Kogut, Manager

Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-216-2500 Resources—Exempt as a resource with no ceiling value. (~~"Goodwill" means the reputation and patronage of a company. Goodwill can generally be valued as the amount a company would sell for over the value of its physical property, money owed it, and other assets.~~)

(1) Irrespective of value, the department shall exempt the following resources:

(a) The client's home, subject to the conditions specified in sections WAC 388-216-2550 through 388-216-2590.

(b) Household furnishings and personal clothing essential for daily living. The department shall not exempt household furnishings and personal clothing in storage without evidence that these items are essential for daily living.

(c) One cemetery plot for each member of the assistance household.

(d) Personal property of "great sentimental value" when the applicant/recipient establishes the circumstances and conditions giving the personal property this value. "Sentimental value" as used in this section means personal property held primarily because of personal attachment or hobby interest, rather than for its intrinsic value.

(2) The department may declare real and personal property which will be used in a self-employment enterprise as an exempt resource:

(a) On the basis of an agreed plan; and

(b) When the department determines that the real or personal property:

(i) Is necessary to restore the client's independence; or

(ii) Will aid in rehabilitating the client or the client's dependents by providing self-employment experience which can reasonably be expected to lead to full or partial self-support.

(3) The department shall consider any increase in value to exempted stock, raw materials, or inventory as:

(a) Exempt, when the increase is necessary to the health of the enterprise; or

(b) Income, when such increase might reasonably be used towards the client's self-support.

(4) In the absence of an agreed plan, the department shall consider the business assets of a self-employment enterprise, if available and nonexempt, as available to the owner in the amount of the sale value minus encumbrances.

(5) Under an agreed plan, the department shall consider accounts receivable as:

(a) An exempt resource when:

(i) The client makes a diligent effort to collect; or
(ii) If efforts to collect are unsuccessful, the client turns the accounts over to a collection agency;

(b) A nonexempt resource when the client does not meet the requirements in (a) of this subsection; and

(c) Earned income from self-employment, when payment is received.

(6) The department shall consider goodwill as an unavailable resource until the business is sold. Goodwill as used in this section means the reputation and patronage of a company. Goodwill can generally be valued as the amount a company would sell for over the value of its physical property, money owed it, and other assets.

WSR 97-03-049

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Public Assistance)

[Filed January 10, 1997, 4:10 p.m.]

Date of Adoption: January 10, 1997.

Purpose: To comply with the federal requirement that temporary assistance to needy families (TANF) be denied to fugitive felons and probation and parole violators.

Citation of Existing Rules Affected by this Order: New section WAC 388-215-1550 Temporary assistance to needy families—Denial of assistance to fugitive felons and probation and parole violators.

Statutory Authority for Adoption: RCW 74.04.050 and 74.04.055.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: In order to secure federal funding for the state of Washington's TANF program beginning January 10, 1997, the state must comply with the federal requirements of Public Law 104-193 which denies TANF benefits to individuals who are fugitive felons or probation or parole violators.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 1, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

EMERGENCY

January 10, 1997
Merry Kogut, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-215-1550 Temporary assistance to needy families (TANF)—Denial of assistance to fugitive felons and probation and parole violators. (1) The department shall not authorize TANF on behalf of an individual who is:

(a) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which is a high misdemeanor under the laws of a state, as in the case of New Jersey; or

(b) Violating a condition of probation or parole imposed under federal or state law as determined by an administrative body or court of competent jurisdiction.

(2) Subsection (1) of this section shall not apply to an individual in any month after that individual has been pardoned by the President of the United States for such conduct described in subsection (1).

**WSR 97-03-054
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Public Assistance)**

[Filed January 10, 1997, 4:15 p.m.]

Purpose: To comply with the federal requirement in Public Law 104-193 that temporary assistance to needy families (TANF) be denied to unmarried minor parents who have not completed a high school education and are not participating in activities leading to the attainment of a high school diploma or equivalent.

Citation of Existing Rules Affected by this Order: Amending WAC 388-215-1650 Assistance to a minor child.

Statutory Authority for Adoption: RCW 74.04.050 and 74.04.055.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: In order to secure federal funding for the state of Washington's TANF program beginning January 10, 1997, the state must comply with the federal requirements of Public Law 104-193 which denies TANF benefits to unmarried minor parents who have not finished high school and are not participating in activities leading to the attainment of a high school diploma or equivalent.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; **Federal Rules or Standards:** New 1, amended 0, repealed 0; or **Recently Enacted State Statutes:** New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; **Pilot Rule Making:** New 0, amended 0, repealed 0; or **Other Alternative Rule Making:** New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 10, 1997
Merry Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-215-1650 Assistance to a minor child. (1) A minor is a person seventeen years of age and younger.

(2) Under state law, (chapter 74.13 RCW, Child welfare services), the department shall protect and care for homeless, dependent, or neglected children or children in danger of becoming delinquent.

(3) If a minor applies for assistance for himself or herself, the department shall determine eligibility for AFDC as required under this chapter. If an unmarried pregnant minor is requesting an abortion, parental consent is not required. The decision to proceed with an abortion rests solely with the minor. Involvement and/or consultation with parents in reaching this decision should be a matter of individual case judgment.

(4) Prior to authorizing assistance for a minor, the department shall determine the parent's ability to financially support and willingness to contribute. See WAC 388-506-0610 (1) and (2) for responsibility for medical care. Parental contact is not required when the minor applicant:

(a) Is married;

(b) Is in the military service;

(c) Has been declared emancipated by a court of competent jurisdiction prior to the application for assistance; or

(d) Is applying for medical assistance related to pregnancy.

(5) The minor's emancipation status is not an eligibility factor. The identification of emancipation status is necessary to determine if there is parental responsibility for support.

(6) The department shall inform the minor applicant that there will be communication with the minor's parents during the eligibility determination process in order to determine the parents' willingness to contribute to the support of the minor.

(7) If a minor parent and his or her child live with such minor's parent or parents, the department shall establish the assistance unit of the minor according to WAC 388-215-1600 through 388-215-1610. If the minor parent's parent is not included in the assistance unit of the minor parent, the department shall consider the income of such parent available to meet the needs of the minor parent as specified under WAC 388-218-1660 and 388-218-1680.

(8) If a minor parent's legal guardian has a court-ordered responsibility for the support of such minor parent, the department shall treat such legal guardian's income, with respect to determining the availability of such income to meet the needs of the minor parent, the same as the income

of a minor parent's parent as specified in subsection (7) of this section.

(9) The department shall require an unmarried minor parent who has not completed a high school education (or its equivalent), and whose youngest child is at least twelve weeks old, to participate in educational activities leading to the attainment of a high school diploma or its equivalent, or participate in an alternative educational or training program that has been approved by the department. The following conditions apply:

(a) "Participate" means maintaining satisfactory attendance as required by the school or program in which the minor parent is enrolled.

(b) No TANF benefits will be issued for a minor parent who is not participating as required above. The eligibility of the minor parent's child is not affected by this rule.

(c) The income of a minor parent who is disqualified under this section shall be allocated under WAC 388-218-1640 as if the minor parent were ineligible due to sanction or noncooperation.

WSR 97-03-063

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Order 6012—Filed January 13, 1997, 11:44 a.m.]

Date of Adoption: January 13, 1997.

Purpose: Allow for resealing of controlled atmosphere storage facilities containing standard or red delicious apples due to damage caused by inclement weather conditions, and whereby the seal of the facility is inadvertently opened or broken after December 15.

Citation of Existing Rules Affected by this Order: Amending WAC 16-459-010 Controlled atmosphere storage.

Statutory Authority for Adoption: Chapter 15.17 RCW, Standards of grades and packs.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Due to damage caused to controlled atmosphere facilities by inclement weather conditions experienced during the latter part of December, and whereby the seal of the facility was inadvertently opened or broken after December 15, the immediate adoption of this emergency rule is necessary to allow the apple industry to reseal controlled atmosphere facilities containing standard and red delicious apples.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 13, 1997

Jim Jesernig

Director

AMENDATORY SECTION (Amending Order 1486, filed 9/15/76)

WAC 16-459-010 Requirements—General. (1)

Controlled atmosphere storage operators and/or lessees are required to submit an application for license prior to August 31 of any year. This form will be entitled application for a controlled atmosphere storage license and will be form Agri 060-6074: *Provided*, Late license renewal will be in accordance with RCW 15.30.070.

(2) Controlled atmosphere storage operators are required to separately report to the district manager the date of sealing the storage and

(a) The quantity of loose fruit by variety and owner.

(b) The quantity of packed fruit by variety and owner.

This information will be submitted to the district manager on form Agri-060-6075 and signed by the operator.

(3) Each controlled atmosphere operator must keep daily determinations of air components as to percentages of carbon dioxide, oxygen, and temperature at least once each day as prescribed in RCW 15.30.120. This information is subject to audit by the inspection service and the various audits will be reported for each storage on form Agri-060-6076 by department personnel.

(4) In addition to the above general requirements, standard and red delicious apple varieties must be in a sealed controlled atmosphere storage on or before *December 15 each year* in order to qualify and be identified as Washington controlled atmosphere storage apples.

The forms mentioned above are department of agriculture forms which will be furnished by the plant industry division.

All license holders are required to notify the local inspection office on or before opening any controlled atmosphere storage rooms.

(5) In the event inclement weather conditions cause damage to a "controlled atmosphere storage" facility containing standard or red delicious apples, and whereby the seal of the facility is inadvertently opened or broken after December 15, the department may, upon receipt of a written request from an apple industry organization or individual facilities to the director, allow standard and red delicious apples to be resealed in a controlled atmosphere storage facility. Such apples may be identified and marketed as having been exposed to a controlled atmosphere storage, only after they have completed treatment for a minimum of ninety continuous days.

WSR 97-03-099
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

(Wildlife)

[Order 97-05—Filed January 17, 1997, 3:25 p.m., effective February 16, 1997, 12:01 a.m.]

Date of Adoption: January 17, 1997.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 232-28-61900C; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The allowable recreational harvest of winter steelhead will be exceeded in the Hoh River without additional restrictions to reduce the harvest.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: February 16, 1997, 12:01 a.m.

January 17, 1997

Bern Shanks
 Director

NEW SECTION

WAC 232-28-61900C Washington game fish seasons and daily limits-Regional regulation exceptions Notwithstanding the provisions of WAC 232-28-619:

(1) effective February 16, 1997 through March 31, 1997, the Hoh River downstream of the the Highway 101 Bridge is closed to fishing from 12:01 a.m. Sunday to 11:59 p.m. Monday of each week;

(2) the Hoh River (Jefferson County), from mouth to mouth of South Fork is closed to fishing 12:01 a.m. April 1, 1997; and

(3) the Hoh River South Fork (Jefferson County), outside of the Olympic National Park boundary, is closed to fishing 12:01 a.m. April 1, 1997.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed effective April 16, 1997:

WAC 232-28-61900C Washington game fish seasons and daily limits-Regional regulation exceptions (Order 97-05)

WSR 97-03-100
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

(Wildlife)

[Order 97-06—Filed January 17, 1997, 3:28 p.m., effective January 20, 1997, 12:01 a.m.]

Date of Adoption: January 17, 1997.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 232-28-61900D; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation will increase harvest opportunity for hatchery winter steelhead.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: January 20, 1997, 12:01 a.m.

January 17, 1997

Bern Shanks
 Director

NEW SECTION

WAC 232-28-61900D Washington game fish seasons and daily limits-regional regulation exceptions Notwithstanding the provisions of WAC 232-28-619:

(1) Effective 12:01 a.m. January 20, 1997 through March 15, 1997 it is lawful to fish for and possess steelhead in the following waters of the Elochoman River:

(a) Those waters from 200 feet below the upper Hatchery rack to the Elochoman Hatchery Bridge located 400 feet below the upper Hatchery rack.

(b) Those waters from a point 50 feet above to 100 feet below the outlet pipes from the most downstream Elochoman Hatchery rearing pond and extending 30 feet out from the south bank of the river.

(c) Those waters from the Beaver Creek Bridge to 50 feet above the weir at Beaver Creek Hatchery and waters from 50 feet below to 200 feet below the weir at Beaver Creek Hatchery.

(2) Effective 12:01 a.m. January 20, 1997 through March 15, 1997 it is lawful to fish for and possess steelhead in the following waters of the Kalama River:

(a) Those waters from 400 feet below the fishway at the upper Salmon Hatchery to 1000 feet below the fishway at the upper Salmon Hatchery.

(3) All other permanent rules remain in effect.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. March 15, 1997:

WAC 232-28-61900D Washington game fish seasons and daily limits regional regulation exceptions.

**WSR 97-03-101
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)**

[Order 97-07—Filed January 17, 1997, 3:30 p.m.]

Date of Adoption: January 17, 1997.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300M; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of red sea urchins remain in Districts 1, 2, and 4. Harvestable amounts of green sea urchins remain in Districts 3 and 4.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, amended 0, repealed 1.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 17, 1996 [1997]

Bern Shanks
Director

NEW SECTION

WAC 220-52-07300N Sea urchins. Notwithstanding the provisions of WAC 220-52-073, effective immediately until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) **Red sea urchins:** Sea Urchin Districts 1, 2, and 4 are open only on January 20, 1997. The maximum daily landing for a vessel is 500 pounds of red sea urchins in District 4. It is unlawful to harvest red sea urchins larger or smaller than the following size (size in diameter exclusive of the spines):

- (a) Districts 1 and 2 4.0 minimum to 5.5 maximum inches
- (b) District 4 3.25 minimum to 5.0 maximum inches

(2) **Green sea urchins:** Sea Urchin Districts 3 and 4 are open only on January 20 and 21, 1997. The minimum size for green sea urchins is 2.25 inches in diameter exclusive of the spines.

(3) **Sea Urchin Districts**

(a) Sea Urchin District 2 (Southern San Juans and Port Townsend) is defined as those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and east of a line projected true north from Limestone Point on San Juan Island, and Areas 21A, 21B, 22B, 23A, 23B, 25A, and 25B. The following areas within Sea Urchin District 2 are closed to the harvest of sea urchins at all times.

(i) Those waters of Haro Strait north of a line projected east-west one half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(ii) Those waters of San Juan Channel and Upright Channel within the following lines: north of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island, south of a line projected from Flat Point on Lopez Island true west to Shaw Island, west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island, and south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island.

(4) It is unlawful for any person to dive for any purpose from a commercially-licensed fishing vessel, designated for use with a sea urchin fishery license, except vessels actively fishing geoducks under contract with the Washington Department of Natural Resources, on the following dates: January 18 and 19, 1997.

EMERGENCY

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07300M Sea urchins (97-04)

EMERGENCY



OFFICE OF THE CODE REVISER
Quarterly Rule Making Report
Covering Registers 96-19 through 96-24
CORRECTION

Reviser's note: Through an inadvertent error, the information in the Quarterly Rule Making Report that appeared in the 97-02 Issue of the Register did not accurately reflect the statistics submitted by the following agencies. The following information correctly reflects the agencies submissions.

<u>Type of Activity</u>	<u>New</u>	<u>Amended</u>	<u>Repealed</u>
LABOR AND INDUSTRIES, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	914	71	326
Number of Rules Adopted as Emergency Rules	0	2	4
Number of Rules Proposed for Permanent Adoption	43	11	40
Number of Rules Withdrawn	0	3	0
Number of Sections Adopted at Request of a Nongovernmental Entity	3	17	2
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	297	21	3
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	42	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	29	33	0
Number of Sections Adopted on the Agency's own Initiative	886	62	324
Number of Sections Adopted using Negotiated Rule Making	0	4	0
Number of Sections Adopted using Other Alternative Rule Making	297	62	3
Number of Sections Adopted using Pilot Rule Making	0	0	0

<u>Type of Activity</u>	<u>New</u>	<u>Amended</u>	<u>Repealed</u>
SOCIAL AND HEALTH SERVICES, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	49	48	10
Number of Rules Adopted as Emergency Rules	1	18	0
Number of Rules Proposed for Permanent Adoption	4	23	1
Number of Rules Withdrawn	1	3	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	1	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	23	56	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	8	0
Number of Sections Adopted in Order to Comply with Federal Statute	2	22	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	27	25	0
Number of Sections Adopted on the Agency's own Initiative	23	45	0
Number of Sections Adopted using Negotiated Rule Making	0	3	0
Number of Sections Adopted using Other Alternative Rule Making	1	19	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

WSR 97-03-003
PROCLAMATION
OFFICE OF THE GOVERNOR
 [January 2, 1997]

AMENDING PROCLAMATION OF AN EMERGENCY

The severe winter storm which began December 26, 1996 is continuing to cause extensive damage throughout Washington State.

WHEREAS, heavy snowfall and flooding has caused extensive damage to homes, businesses, infrastructure, and public utilities in Spokane, Walla Walla, Whitman, Garfield, and Columbia Counties;

NOW THEREFORE, I, MIKE LOWRY, Governor of the state of Washington as a result of the aforementioned situation and under RCW 43.06 and 38.52, do hereby amend the proclamation of December 26, 1996, and further pro-

claim that a State of Emergency exists in Spokane, Walla Walla, Whitman, Garfield, and Columbia Counties and authorize execution of the Washington State Comprehensive Emergency Management Plan.

IN WITNESS WHERE OF, I have hereunto set my hand and caused the Seal of the state of Washington to be affixed at Olympia this 2nd day of January, A.D., Nineteen Hundred Ninety-seven.

Mike Lowry
 Governor of Washington

Attest:

Donald F. Whiting
 Assistant Secretary of State

MISCELLANEOUS

WSR 97-03-004
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE LIBRARY
 (Library Commission)
 [Memorandum—December 27, 1996]

The Washington State Library Commission will hold the following public meetings as listed below:

WASHINGTON STATE LIBRARY (WSL) COMMISSION WORKSHOP

DATE: Friday, February 7, 1997
 TIME: 9:00 a.m. to noon
 LOCATION: Washington State Library
 Olympia, Washington

WASHINGTON STATE LIBRARY (WSL) COMMISSION BRIEFING MEETING

DATE: Thursday, March 13, 1997
 TIME: 3:00 p.m.
 LOCATION: Washington State Library
 Olympia, Washington

WASHINGTON STATE LIBRARY COMMISSION QUARTERLY MEETING

DATE: Friday, March 14, 1997
 TIME: 10:00 a.m. - noon
 LOCATION: Timberland Regional Library
 415 Airdustrial Way S.W.
 Olympia, WA

WASHINGTON STATE LIBRARY (WSL) COMMISSION WORKSHOP

DATE: Friday, April 4, 1997
 TIME: 9:00 a.m. to noon
 LOCATION: Washington State Library
 Olympia, Washington

For additional information, please do not hesitate to contact Cathy M. Stussy at (360) 753-2914, FAX (360) 586-7575 or e-mail cstussy@statelib.gov.

WSR 97-03-005
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE
 [Memorandum—January 2, 1997]

EDMONDS COMMUNITY COLLEGE
 BOARD OF TRUSTEES
 NOTICE OF MEETINGS
 TO MEDIA/OTHER

The Edmonds Community College board of trustees may attend the following functions during the month of January.

January 6, 1997*
 3:30 - 5 p.m. Connections VIP Social
 Triton Union Building 202
 20200 68th Avenue West
 Lynnwood, WA

January 15, 1997*
 3:30 - 5:00 p.m. Echelbarger/Sherman Exceptional
 Faculty Reception
 Culinary Connections
 Brier Hall 105
 20122 68th Avenue West

Lynnwood, WA

January 15, 1997
 4:00 p.m.

EdCC Board of Trustees Meeting
 Sno-King Building Boardroom
 6600 196th S.W.
 Lynnwood, WA

January 15, 1997*
 7:30 p.m.

City of Lynnwood Meeting
 City Chambers
 Lynnwood, Washington

*These events are being scheduled as special meetings, which are study sessions where no action will be taken.

WSR 97-03-006
NOTICE OF PUBLIC MEETINGS
SHORELINE COMMUNITY COLLEGE
 [Memorandum—January 2, 1997]

In accordance with the requirements of RCW 42.30.075, listed below is the regular meeting schedule of the board of trustees of Shoreline Community College, District Number Seven for 1997.

All regular meetings of the board are held on the third Friday of the month and commence at 8:00 a.m. in the board room of the Administration Building on the college campus, 16101 Greenwood Avenue North.

Friday, January 17, 1997
 Friday, February 21, 1997
 Friday, March 21, 1997
 Friday, April 18, 1997
 Friday, May 16, 1997
 Friday, June 20, 1997
 Friday, September 19, 1997
 Friday, October 17, 1997
 Friday, November 21, 1997
 Friday, December 19, 1997

WSR 97-03-007
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—December 31, 1996]

In accordance with RCW 42.30.075, the University of Washington is providing the following list of meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the UW Public Records Office.

[These schedules are available for public inspection at the following address:

Public Records Office
 4014 University Way N.E.
 Box 355502
 Seattle, WA 98195]

American Ethnic Studies
 Anesthesiology
 Animal Care Committee
 Anthropology
 Astronomy
 Biobehavioral Nursing and Health Systems

MISCELLANEOUS

Biochemistry
 Biological Structure
 Botany
 Business Administration
 Chemical Engineering
 Chemistry
 Classics
 Comparative Medicine
 Computer Science and Engineering
 Dance Program
 Dentistry, School of
 Drama, School of
 Educational Psychology
 Electrical Engineering
 Endodontics
 Environmental Health
 Epidemiology
 Faculty Senate
 Family Medicine
 Fisheries, School of
 Graduate School
 Harborview Medical Center, Board of Trustees
 History
 Institute for Nuclear Theory
 International Studies, Jackson School of
 Laboratory Medicine
 Law, School of
 Libraries, University
 Library and Information Sciences
 Mathematics
 Mechanical Engineering
 Medical Education
 Medical History and Ethics
 Music
 Nursing, School of
 Nursing, Program
 Oral Biology
 Oral and Maxiofacial Surgery
 Oral Medicine
 Orthopaedics
 Pharmacy, Department of
 Pharmacy, School of
 Philosophy
 Physiology and Biophysics
 Prosthodontics
 Psychosocial and Community Health
 Public Affairs, Graduate School of
 Public Health and Community Medicine
 Regents, Board of
 Scandinavian Languages and Literature
 Slavic Languages and Literature
 Sociology
 Urology
 Use of University Facilities
 University of Washington - Bothell Education Program
 University of Washington - Bothell Liberal Studies Program
 University of Washington - Bothell Faculty
 UWMC Administration
 Washington Technology Center

WSR 97-03-008
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—December 31, 1996]

In accordance with RCW 42.30.075, the University of Washington is providing the following meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the UW Public Records Office.

PATHOBIOLOGY

Pathobiology Faculty

Meeting Dates	Location	Time
January 7, 21	HSD, F-348	1:30 - 3:00 p.m.
February 4, 18	HSD, F-348	1:30 - 3:00 p.m.
March 4, 18	HSD, F-348	1:30 - 3:00 p.m.
April 1, 15, 29	HSD, F-348	1:30 - 3:00 p.m.
May 13, 27	HSD, F-348	1:30 - 3:00 p.m.
June 10, 24	HSD, F-348	1:30 - 3:00 p.m.
July 8, 22	HSD, F-348	1:30 - 3:00 p.m.
August 5, 19	HSD, F-348	1:30 - 3:00 p.m.
September 2, 16, 30	HSD, F-348	10:30 - 12:00 p.m.
October 14, 28	HSD, F-348	10:30 - 12:00 p.m.
November 18	HSD, F-348	10:30 - 12:00 p.m.
December 2, 16	HSD, F-348	10:30 - 12:00 p.m.

Admissions

Meeting Dates	Location	Time
*January 22	HSD, E-167	3-5 p.m.
*February 5	HSD, E-167	1-5 p.m.
*February 6	HSD, E-167	1-5 p.m.
*March 6	HSD, E-167	3-5 p.m.
*March 19	HSD, E-167	3-5 p.m.
*November 13	HSD, E-167	3-5 p.m.

* Approximate dates/times.

Curriculum

Meeting Dates	Location	Time
February 12	HSD, E-167	3-5 p.m.
May 8	HSD, E-167	3-5 p.m.
October 30	HSD, E-167	3-5 p.m.

GS-AC

Meeting Dates	Location	Time
*March 27	HSD, E-167	3-5 p.m.
*September 18	HSD, E-167	3-5 p.m.
*December 17	HSD, E-167	3-5 p.m.

* Approximate dates/times.

Student Affairs

Meeting Dates	Location	Time
February 26	HSD, E-167	3-5 p.m.
April 30	HSD, E-167	3-5 p.m.
July 30	HSD, E-167	3-5 p.m.
November 20	HSD, E-167	3-5 p.m.

MISCELLANEOUS

WSR 97-03-009
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—January 2, 1997]

In accordance with RCW 42.30.075, the University of Washington is providing the following meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the UW Public Records Office.

**Applied Mathematics
 Faculty Meeting**

Meeting Dates	Location	Time
January 7, 1997	Guggenheim 408D	12:00 p.m.
February 4, 1997	Guggenheim 408D	12:00 p.m.
March 4, 1997	Guggenheim 408D	12:00 p.m.
April 8, 1997	Guggenheim 408D	12:00 p.m.
May 6, 1997	Guggenheim 408D	12:00 p.m.
June 3, 1997	Guggenheim 408D	12:00 p.m.
September 9, 1997	Guggenheim 408D	12:00 p.m.
October 7, 1997	Guggenheim 408D	12:00 p.m.
November 4, 1997	Guggenheim 408D	12:00 p.m.
December 2, 1997	Guggenheim 408D	12:00 p.m.

Departmental Faculty

Meeting Dates	Location	Time
January 17	H-562	1:30
February 13	H-562	1:30
March 14	H-562	1:30
April 11	H-562	1:30
May 9	H-562	1:30
June 13	H-562	1:30
September 12	H-562	1:30
October 10	H-562	1:30
November 14	H-562	1:30
December 12	H-562	1:30

WSR 97-03-010
NOTICE OF PUBLIC MEETINGS
WHATCOM COMMUNITY COLLEGE
 [Memorandum—January 2, 1997]

The board of trustees at Whatcom Community College recently adopted the following annual meeting schedule.

1997 Meeting Schedule of the Board of Trustees
 Second Tuesday of the Month at 2:00 p.m.
 Board Room in the Laidlaw Center

Whatcom Community College
 237 West Kellogg Road
 Bellingham, WA 98226

- January 14
- February 11
- March 11
- April 8
- May 13
- June 10
- July 8
- August 12 (no meeting)

- September 9
- October 14
- November 10
 (Veteran's Day is Tuesday,
 November 11)
- December 9

WSR 97-03-011
NOTICE OF PUBLIC MEETINGS
GREEN RIVER
COMMUNITY COLLEGE
 [Memorandum—December 30, 1996]

Following is the schedule of the regular meetings planned for the 1997 calendar year, adopted by the Green River Community College board of trustees at its December 19, 1996, regular meeting.

The board of trustees of Green River Community College will meet the third Thursday of each month as follows:

- January 16
- February 20
- March 20
- April 17
- May 15
- June 19
- July 17
- August 21
- September 18
- October 16
- November 20
- December 18

The board of trustees of Community College District No. 10 does hereby set the regular meeting dates for the board of trustees on the third Thursday of each month, commencing at 4:00 p.m., in the board room of the Administration Building, Green River Community College, 12401 S.E. 320th Street, Auburn, WA 98002. Notice of any change from such meeting schedule shall be published in the state register for distribution at least twenty days prior to the rescheduled meeting date.

WSR 97-03-012
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE
 [Memorandum—January 6, 1997]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, January 20, 1997, 9-11 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 extension 334 for information.

MISCELLANEOUS

WSR 97-03-013
PROCLAMATION
OFFICE OF THE GOVERNOR
 [January 3, 1997]

AMENDING PROCLAMATION OF AN EMERGENCY

The severe winter storm which began December 26, 1996 is continuing to cause extensive damage throughout Washington State.

WHEREAS, heavy snowfall and flooding has caused extensive damage to public facilities and infrastructure in Pacific, Clark, Wahkiakum, Klickitat, Chelan, Ferry and previously declared Counties;

NOW THEREFORE, I, MIKE LOWRY, Governor of the state of Washington as a result of the aforementioned situation and under RCW 43.06 and 38.52, do hereby amend the proclamation of December 26, 1996, and further proclaim that a State of Emergency exists in Pacific, Clark, Wahkiakum, Klickitat, Chelan and Ferry Counties; and authorize execution of the Washington State Comprehensive Emergency Management Plan.

IN WITNESS WHERE OF, I have hereunto set my hand and caused the Seal of the state of Washington to be affixed at Olympia this 3rd day of January, A.D., Nineteen Hundred Ninety-seven.

Mike Lowry
 Governor of Washington

Attest:

Ralph Munro
 Secretary of State

WSR 97-03-015
NOTICE OF PUBLIC MEETINGS
TRANSPORTATION IMPROVEMENT BOARD
 [Memorandum—January 3, 1997]

MEETING NOTICE FOR JANUARY 1997
 TRANSPORTATION IMPROVEMENT BOARD
 OLYMPIA, WASHINGTON 98504-0901

Increase Committee, 10:00 a.m. - 1:00 p.m., Thursday, January 23, 1997, at the Ramada Hotel Tacoma Dome, 2611 East E Street, Tacoma.

Sidewalk Committee, 1:00 p.m. - 2:00 p.m., Thursday, January 23, 1997, at the Ramada Hotel Tacoma Dome.

Legislative Committee, 2:00 p.m. - 3:00 p.m., Thursday, January 23, 1997, at the Ramada Hotel Tacoma Dome.

Bus Tour of Pierce County Projects, 3:00 p.m. - 5:00 p.m., Thursday, January 23, 1997, meet at the Ramada Hotel.

Work Session, 7:00 p.m., Thursday, January 23, 1997, at the Ramada Hotel.

Board Meeting, 9:00 a.m., Friday, January 24, 1997, at the Ramada Hotel.

SPECIAL NEEDS: For special accommodations or to request an auxiliary aid, please contact the TIB office at (360) 705-7300 by January 15, 1997.

There is no TIB in February. The next scheduled meeting is March 21, 1997, in Kent. A notice with further detail of the March meeting will be mailed February 28, 1997.

WSR 97-03-018
NOTICE OF PUBLIC MEETINGS
PUBLIC EMPLOYEES
BENEFITS BOARD
 [Memorandum—January 7, 1997]

Public Employees Benefits Board
 Attorney General Conference Room
 Attorney General Conference Center
 RoweSix, Building 1
 4224 6th Avenue S.E.
 Lacey, WA 98504
 1:00 p.m., January 13, 1997

If you are a person with a disability and need a special accommodation, please contact Judy Lamm at (360) 923-2828.

WSR 97-03-019
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE
 [Memorandum—January 3, 1997]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, January 16, 1997, 9-11 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 extension 334 for information.

WSR 97-03-020
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
 (Board of Hearing and Speech)
 [Memorandum—December 23, 1996]

The Board of Hearing and Speech has changes to several public meeting dates scheduled in 1997, please note the changes below:

February 17, 1997, has been changed to February 21, 1997.

April 18, 1997, has been changed to April 14, 1997.

May 14 and 15, 1997, have been canceled, May 16, 1997, will remain a set date.

All locations for the public meetings will remain the same.

WSR 97-03-024
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—January 6, 1997]

In accordance with RCW 42.30.075, the University of Washington is providing the following meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the UW Public Records Office.

Speech Communication

Faculty Meeting

Meeting Dates	Location	Time
1st and 3rd Wednesday	221 Raitt	3:30

Rehabilitation Medicine

Department Staff Meeting

Meeting Dates	Location	Time
2nd Monday of Month	BB 938	11:30 -
	UWMC Health	12:30
	Sciences	

WSR 97-03-025
NOTICE OF PUBLIC MEETINGS
WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD
 [Memorandum—January 7, 1997]

WASHINGTON STATE
 WORKFORCE TRAINING AND EDUCATION
 COORDINATING BOARD
 MEETING NO. 51
 JANUARY 28, 1997

THE OLYMPIA CENTER
 222 NORTH COLUMBIA
 OLYMPIA, WA 98501
 (360) 753-8380

January 27, 1997, Westcoast Tye Hotel, 500 Tye Drive S.W., Tumwater, WA, 6:00 - 9:00 p.m., the Workforce Training and Education Coordinating Board will meet for dinner and a work session in preparation for the board meeting.

January 28, 1997, The Olympia Center, 8:00 a.m. - 4:00 p.m., the Workforce Training and Education Coordinating Board will hold a meeting on January 28, 1997, at the Olympia Center, Olympia, Washington. The board will take action on recommendations regarding regions to the Governor's STWT Task Force and discuss the draft school-to-work goals and indicators. The board will receive a final report on public awareness research on STWT and workforce development issues; the final report of the ESHB 1988 net impact study; a briefing on welfare reform; a preliminary report from the Workforce Improvement Team (WIT); a report on the evaluation of private career schools, and an update on One-Stop Career Center development.

The meeting site is barrier free. People needing special accommodations, please call Anne Townsend at least ten days in advance at (360) 753-5677.

Miscellaneous

WSR 97-03-026
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE PATROL
 [Memorandum—January 8, 1997]

TRAINING AND EDUCATION REVIEW COMMITTEE MEETINGS
FOR 1997

This committee meets at the request of the Fire Protection Policy Board. The meetings will be held at the Washington State Patrol Fire Training Academy, 50310 S.E. Grouse Ridge Road, North Bend, WA 98504 [98045], (206) 453-3000. Meetings are held from 11 a.m. to 2 p.m. on the following dates:

- February 11, 1997
- April 8, 1997
- June 10, 1997
- August 12, 1997
- October 14, 1997
- December 9, 1997

WSR 97-03-030
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
GENERAL ADMINISTRATION
 (Capitol Campus Design Advisory Committee)
 [Memorandum—January 3, 1997]

Please record the following Capitol Campus Design Advisory Committee 1997 meeting dates in the Washington State Register:

- Thursday, February 20
- Wednesday, May 14
- Thursday, September 25
- Thursday, November 20

The meetings begin at 9:30 a.m. in Room 207, General Administration Building.

WSR 97-03-031
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 [Filed January 9, 1997, 12:50 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: DSHS Administrative Policy 6.16.
 Subject: DSHS Employees - Foster Care Licensing and Adoption Certification.

Effective Date: October 25, 1996.

Document Description: The document outlines conditions under which the Department of Social and Health Services employees may be licensed as foster parents or certified as adoptive parents. It requires that all the Department of Social and Health Services employees seeking or possessing a family foster home license must obtain that license by certification through a private child-placing agency. Employees seeking certification for adoption may apply through the department or a private agency.

To receive a copy of the interpretive or policy statement, contact Art Cantrall, Mailstop 45710, P.O. Box 45710,

MISCELLANEOUS

Olympia, WA 98504-5710, phone (360) 902-7956, TDD (360) 902-7906, FAX (360) 902-7903, e-mail CANA300@dshs.wa.gov.

December 26, 1996
Jennifer Strus

WSR 97-03-032
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed January 9, 1997, 12:52 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Administrative Policy 7.21 (Formerly 7.07).

Subject: Provision of Services to Limited English (LEP) Clients.

Effective Date: June 1, 1989.

Document Description: This policy will be used as a guide for the Department of Social and Health Services programs to provide required language services for LEP clients. Revision of existing policy.

To receive a copy of the interpretive or policy statement, contact Language Interpreter Services and Translations (LIST), P.O. Box 45820, Olympia, WA 98504-5820, phone (360) 902-8111, TDD (360) 902-8111, FAX (360) 902-8128.

January 6, 1997
Alice Liou

WSR 97-03-040
NOTICE OF PUBLIC MEETINGS
ARTS COMMISSION
[Memorandum—January 8, 1997]

Washington State Arts Commission
Meeting Schedule

Dates	Locations
February 26-28, 1997	Olympia
May 28-30, 1997	Anacortes
August 6-8, 1997	Port Townsend
October 29-31, 1997	Olympia

Special meeting to be called pursuant to chapter 42.30 RCW.

If you have any questions, please call Gena M. Anderson, Arts Program Assistant, (360) 586-5347.

WSR 97-03-041
DEPARTMENT OF CORRECTIONS
[Filed January 10, 1997, 8:17 a.m.]

Reviser's note: The following material has *not* been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but has been filed in the office of the code reviser and is published in the Register exactly as filed.

The following enclosed Department of Corrections WAC rules are amended: WAC 137-28-40 [137-28-140], 137-28-

160, 137-28-220, 137-28-260, 137-28-350; chapter 137-55 WAC is a new WAC. All are submitted for publication in the Register and the Washington Administrative Code. Pertinent information is as follows:

- a. Chapter 137-55 WAC is a new rule and is adopted as of February 4, 1997.
- b. The effective date of this rule is February 4, 1997.
- c. The purpose of this rule is to establish a system for the acquisition of personal hygiene items for offenders of the Department of Corrections.
- d. WAC 137-28-140 is amended and establishes a system that clearly links the offender's behavior and participation in available education and work programs.
- e. WAC 137-28-160 is amended and adds a definition of "earned time" and "earned release time" to the already established definitions.
- f. WAC 137-28-220 is amended and under sec. 251 of the rule, adds possession of tobacco products as prohibited conduct.
- g. WAC 137-28-260 is amended and under sec. 620, which is a new section of the rule, adds "receipt or possession of contraband during participation in off-grounds activity" as unauthorized possession. Sec. 557 of the rule also adds "refusing to participate in an available education or work program" as a penalty for the failure to follow orders or rules. Sec. 606 of the rule also adds "possession of tobacco products and or matches in close/maximum housing units" as misuse of controlled substances.
- h. WAC 137-28-350 is amended and under sec. (k) adds "or fines" under authority to impose. Under sec. (p) of the rule, "the loss of available earned release credits and other privileges" are added as sanctions for infractions under # 557.
- i. I certify pursuant to RCW 34.05.030(c) that the above rules are exempt from the Administrative Procedure Act.
- j. The effective date of the amended rules under chapter 137-28 WAC is February 4, 1997.

Chase Riveland

Chapter 137-55 WAC
ADULT CORRECTIONAL INSTITUTIONS—
ACQUISITION OF PERSONAL HYGIENE ITEMS

NEW SECTION

WAC 137-55-010 Purpose. The purpose of these rules is to establish a uniform procedure for the acquisition and replenishment of personal hygiene items within all department of corrections facilities.

NEW SECTION

WAC 137-55-020 Definitions. (1) "Personal hygiene items" shall consist of items directed towards a particular individual, which are used to promote or preserve that individual's health and to contribute to the prevention of disease or infection.

(2) "Indigent" for purposes of this rule shall be defined as an offender who has less than a ten-dollar balance of disposable income in his or her institutional account on the

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day the request is made to use funds or during the thirty days previous to the request.

(3) "Acquisition" for the purpose of this rule shall refer to the act of acquiring or locating personal hygiene items.

(4) "Replenishment" for the purposes of this rule shall refer to the act of adding to or obtaining a new supply of new personal hygiene items.

NEW SECTION

WAC 137-55-030 Acquisition of items. (1) All offenders incarcerated within department of corrections facilities shall be responsible for the acquisition and replenishment of personal hygiene items after the initial issuance of those items at the reception center.

(2) Initial issuance of personal hygiene items shall include the department's issuance of the following items to individual offenders:

- (a) Bath soap;
- (b) Tooth brush;
- (c) Tooth paste;
- (d) Razor - one each;
- (e) Comb or hair pick - one each;
- (f) Shampoo - thirty-day supply (optional issuance for offenders in the reception center only);
- (g) Deodorant - thirty-day supply (optional issuance for offenders in the reception center only); and
- (h) State issued sanitary napkins will be made available to female offenders on an as needed basis without charge.

NEW SECTION

WAC 137-55-040 Replenishment. (1) "Replenishment" of offender personal hygiene items shall be in accordance with the department's established usage factors for personal hygiene items.

(2) The guideline usage for each personal hygiene item shall be as follows:

- (a) Bath soap - seven days per bar;
- (b) Tooth brush - sixty days;
- (c) Tooth paste - thirty days;
- (d) Razor - five days;
- (e) Comb - sixty days; and
- (f) Hair pick - one hundred eighty days.

(3) Department replenishment of personal hygiene items shall be issued to those offenders meeting the definition of indigent and those offenders that do not have sufficient money available.

(4) If a nonindigent offender does not have sufficient money for a single item issue, any money available will be deducted and a debt established for the balance and collected in accordance with the offender financial debt collection procedure.

(5) State issued sanitary napkins will be made available to female offenders on an as needed basis without charge.

NEW SECTION

WAC 137-55-050 Indigent offender. (1) Those offenders meeting the definition of indigent offenders, shall not be denied access to personal hygiene items in terms of both initial acquisition and later replenishment.

(2) The department of corrections shall establish uniform issue by quantity per item.

(3) The state shall be reimbursed for the cost of the personal hygiene supplies in accordance with established department of corrections procedures as stated in the offender financial debt collection procedure.

NEW SECTION

WAC 137-55-060 Nonindigent offenders. Nonindigent offenders who have sufficient money shall purchase personal hygiene items through their facility commissary program.

AMENDATORY SECTION (Amending WSR 95-15-044, filed 7/13/95, effective 8/15/95)

WAC 137-28-140 Purpose. The rules in this chapter provide a standardized system to determine whether misconduct by an inmate of an adult correctional institution has occurred, and to provide a system that clearly links an offender's behavior and participation in available education and work programs as determined through classification with the receipt or denial of earned early release time and other privileges.

The rules in this chapter shall not apply to proceedings of the indeterminate sentence review board or the division of community corrections.

The following rules set forth procedural guidelines. They do not create any procedural or substantive rights in any person, including any liberty interests in time credits, levels of custody, classification status, or other privileges. In accordance with Washington statutes, such matters are governed solely by the discretion of the department of corrections.

AMENDATORY SECTION (Amending WSR 95-15-044, filed 7/13/95, effective 8/15/95)

WAC 137-28-160 Definitions. For the purposes of this chapter, the following words have the following meanings:

Adult correctional institution and institution - a facility identified in RCW 72.01.050(2) and any similar facility hereinafter established.

Aggravated assault - an assault resulting in physical injury and requiring medical care (see definition of medical care).

Assault - a physical attack upon the body of another person. The attack may be made with any instrument including, but not limited to weapons, body parts, food products or bodily secretions.

Attempt - putting forth an effort to commit any infraction shall be considered the same as commission of the infraction. However, attempted aggravated assault shall be considered an attempted assault.

Bodily harm - physical pain or injury, illness, or impairment of physical condition.

Cell tag - if contraband or other violation is discovered in an area under control of the inmate (such as within the confines or contents of a cell), the contraband or other violation shall be constructively attributed to the inmate(s) assigned to that area, unless the inmate(s) can establish a

lack of involvement in the infraction at the disciplinary hearing.

Conspiracy - an agreement between two or more persons to commit an infraction. Conspiracy to commit an infraction shall be considered the same as commission of the infraction.

Director - the director of the division of prisons of the Washington state department of corrections, or the director's designee.

Discovery - when a staff member discovers that an infraction has occurred or when an investigation into the incident is concluded.

Earned time - means that portion of time an offender is eligible to earn for program participation approved by the classification process and consistent with his/her case management plan.

Earned release time - means the combined earned time and good conduct time credit an offender is eligible to earn off the minimum term established by the indeterminate sentence review board or the sentencing court.

Good conduct time credits - that portion of an inmate's potential reduction to minimum term which is authorized by RCW 9.95.070 and 72.09.130 and which may be lost by receiving serious infractions.

Hearing officer - Staff member(s) designated by the superintendent to conduct disciplinary hearings.

Infraction - commission of, attempt to commit, or conspiracy with another to commit any violation of prison rules as enumerated in this code. Aiding or abetting another to commit an infraction will be considered the same as commission of the infraction.

Lesser included offense - any infraction that must necessarily have been committed in order to commit another infraction.

Medical care - any care conducted in a medical facility/treatment center by medical staff to treat a documented, physical injury, including, but not limited to bandaging, suturing, surgery, etc. An examination conducted by medical staff to determine whether an injury has been sustained shall not be considered medical care.

Possession - established when an item(s) is found on a person or in an area which is under the control of the individual(s) charged.

Promptly - to act as soon as reasonably possible, consistent with institutional goals of safety, security, and rehabilitation.

Sexual harassment - any word, action, gesture or other behavior that is sexual in nature and that would be offensive to a reasonable person.

Staff member - for purposes of this chapter includes employees of the department of corrections, contract employees, and volunteers.

Superintendent - superintendent of an adult correctional institution or the superintendent's designee.

Working days - Monday through Friday, excluding weekends and holidays.

AMENDATORY SECTION (Amending WSR 95-15-044, filed 7/13/95, effective 8/15/95)

WAC 137-28-220 General infractions. Any of the following types of behavior constitutes a general infraction:

Unauthorized possession/theft

- 051 - Unauthorized possession of money, stamps or negotiable instruments the total value of which is less than five dollars.
- 053 - Possession of anything not authorized for retention or receipt by an inmate and/or not issued to an inmate by regular institutional channels.
- 255 - Misuse or waste of issued supplies, goods, services or property, the replacement value of which is less than ten dollars.
- 310 - Pretending or failing to take prescribed medication that the inmate has accepted by concealing or retaining a single or daily dose.
- 354 - Theft of food, the value of which is five dollars or less.
- 356 - Possession of unauthorized amount of otherwise authorized clothing, bedding, or issued supplies.

Loaning/trading

- 052 - Loaning of property for profit.
- 351 - Giving, selling, borrowing, lending, or trading money or anything of value to, or accepting or purchasing money or anything of value from, another inmate or that inmate's friend(s) or family the value of which is less than ten dollars.

Altering/destroying property

- 055 - Mutilating, altering, defacing or destroying any item valued at less than ten dollars and that is not the personal property of the inmate.

Disruptive behavior/lying

- 202 - Abusive language, harassment or other offensive behavior directed to or in the presence of staff, visitors, inmates, or other persons or groups.
- 203 - Lying to a staff member.
- 244 - Unauthorized displays of sexual affection with another inmate.
- 353 - Disruptive behavior.
- 355 - Horseplay, roughhousing or any other unauthorized physical contact between inmates.

Failure to follow rules and orders

- 102 - Failure to follow any written rules or policies adopted by the institution and not specified within this chapter or in local disciplinary rules.
- 103 - Refusing or failing to obey an order, oral or written, of any staff member.
- 210 - Out of bounds; being in an area where the presence of the inmate is unauthorized.

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- 214 - Interfering or failing to comply with court procedures.
- 251 - Smoking and possession of tobacco products where prohibited.
- 301 - Failure to keep your person or your quarters in accordance with institution rules or policies.

Unauthorized communication/visitor contact

- 303 - Unauthorized use of mail or telephone.
- 304 - Unwanted written and telephonic communications to any person.
- 305 - Correspondence or conduct with a visitor in violation of published or posted rules and policies.
- 309 - Unauthorized display of affection with a visitor.

Inappropriate use of equipment

- 212 - Using any equipment or machinery when not specifically authorized.
- 213 - Using any equipment or machinery contrary to instructions or safety standards.

Unexcused absence/feigning illness

- 104 - Unexcused absence from work or any assignment, scheduled meeting, appointment, or call out.
- 352 - Pretending to be ill or injured contrary to medical/mental health screening results.

AMENDATORY SECTION (Amending WSR 95-15-044, filed 7/13/95, effective 8/15/95)

WAC 137-28-260 Serious infractions.**Assault/threatening actions/causing injury to another person**

- 501 - Committing homicide.
- 502 - Aggravated assault on another offender.
- 503 - Extortion, blackmail, or demanding or receiving money or anything of value in return for protection against others, or under threat of informing.
- 505 - Fighting with any person.
- 506 - Threatening another with bodily harm or with any offense against another person, property or family.
- 508 - Throwing objects, materials, substances or spitting at staff, visitors, or other inmates.
- 511 - Aggravated assault on a visitor.
- 520 - Unauthorized demonstration, practice or use of martial arts.
- 521 - Taking or holding any person hostage.
- 588 - Causing a valid and documented threat of transmission of a contagious disease to any person due to intentional, negligent or reckless action.
- 599 - Careless behavior that causes injury to another offender.
- 604 - Aggravated assault on a staff member.
- 633 - Assault on another offender.

- 663 - Using physical force, intimidation or coercion against any person.
- 699 - Careless behavior that causes injury to a staff member.
- 704 - Assault on a staff member.
- 711 - Assault on a visitor.
- 717 - Causing a threat of injury to another person by disregard of orders, careless behavior, resisting assisted movement or physical efforts to restrain.
- 777 - Causing injury to a staff member by resisting orders, resisting assisted movement or physical efforts to restrain.
- 799 - Careless behavior that causes injury to a visitor.

Unauthorized possession

- 559 - Gambling; possession of gambling paraphernalia.
- 601 - Possession, manufacture or introduction of an explosive device or any ammunition, or any components of an explosive device or ammunition.
- 602 - Possession, manufacture or introduction of any gun, firearm, weapon, sharpened instrument, knife, or poison or any components thereof.
- 620 - Receipt or possession of contraband during participation in off-grounds or outer perimeter activity or work detail.
- 660 - Unauthorized possession of money, stamps, or negotiable instruments, the value of which is five dollars or more.
- 702 - Possession, manufacture or introduction of an unauthorized tool.
- 736 - Possession, manufacture or introduction of unauthorized keys.
- 738 - Possession of the clothing of a staff member.

Tattooing

- 710 - Being tattooed while incarcerated, tattooing another, or possessing tattoo paraphernalia.

Theft/possession of stolen property

- 555 - Theft of property or possession of stolen property.
- 741 - Theft of food, the value of which is more than five dollars.
- 755 - Misuse or waste of issued supplies, goods, services or property, the replacement value of which is ten dollars or more.

Forgery

- 654 - Counterfeiting, forging, altering or unauthorized reproduction of any document, article of identification, money, security, or official paper.

Setting fire, damaging or destroying property

- 553 - Setting a fire.

- 554 - Mutilating, altering, defacing or destroying any item, the value of which is ten dollars or more and that is not the personal property of the inmate.
- 563 - Making a false fire alarm or tampering with, damaging, blocking or interfering with fire alarms, fire extinguishers, fire hoses, fire exits, or other fire fighting equipment or devices.
- 600 - Tampering with, damaging, blocking, or interfering with any locking or security device.
- 720 - Flooding a cell or other area of the institution.

Inciting others/participation in unacceptable group behavior

- 650 - Rioting.
- 651 - Inciting others to riot.
- 652 - Engaging in or inciting a group demonstration.
- 661 - Performing or taking part in an unauthorized marriage.
- 682 - Engaging in an organized work stoppage.
- 708 - Organizing or participating in an unauthorized group activity or meeting.
- 734 - Participating or engaging in the activities of any unauthorized club, organization, gang or security threat group; or wearing or possessing the symbols of an unauthorized club, organization, gang or security threat group.
- 746 - Participating in or inciting others to go on a hunger strike.

Inappropriate sexual behavior

- 504 - Engaging in sexual acts with others with the exception of spouses during approved extended family visits.
- 659 - Sexual harassment; any word, action, gesture or other behavior that is sexual in nature and that would be offensive to a reasonable person.
- 728 - Possession of any written, photographic or hand drawn material that depicts sexually explicit acts as defined in DOC 450.100.
- 750 - Indecent exposure.

Providing false statements

- 551 - Lying to the disciplinary hearing officer or lying on a disciplinary appeal.
- 552 - Causing an innocent person to be penalized or proceeded against by lying.
- 706 - Lying or giving false information about proposed community residence when proposing a release plan, community placement, etc.

Interfering with staff/impersonating

- 558 - Interfering with staff members, medical personnel, fire fighters, or law enforcement personnel in the performance of their duties.
- 605 - Impersonating any staff member, other inmate or visitor.

Failure to follow orders and rules

- 509 - Refusing a direct order by any staff member to proceed to or disperse from a particular area.

- 556 - Refusing to submit to or cooperate in a search when ordered to do so by a staff member.
- 557 - Refusing (~~or failing to comply with a work order~~) to participate in an available education or work program or other mandatory programming assignment.
- 609 - Refusing or failing to submit to testing required by policy, statute, or court order, such as DNA blood tests, when ordered to do so by a staff member.
- 658 - Failing to comply with any administrative or posthearing sanction imposed for committing any general or serious infraction.
- 724 - Refusing a cell or housing assignment.
- 745 - Refusing a transfer to another facility.

Counts/unauthorized absence

- 653 - Causing an inaccurate count by means of unauthorized absence, hiding, concealing ones self or other form of deception or distraction.

Escape/attempted escape

- 525 - Violating conditions of furlough.
- 550 - Escape or attempted escape.
- 560 - Unauthorized possession of items or materials likely to be used in an escape attempt.

Committing crimes/excess infractions

- 507 - Committing any act that is a felony under state or federal law that is not otherwise included in these rules.
- 517 - Committing any act that is a misdemeanor under local, state, or federal law that is not otherwise included in these rules.
- 657 - Being found guilty of four or more general infractions which have been reported in writing arising out of separate incidents, all of which occur within a six-month period.

Unacceptable communication

- 718 - Use of mail or telephone in violation of court order or local, state or federal law.
- 726 - Telephoning or sending written communication or otherwise initiating communication with a minor without the approval of that minor's parent or guardian.
- 727 - Telephoning or sending written communications to any person contrary to previous written warnings and/or documented disciplinary actions.

Misuse of controlled substances, drugs, alcohol and related programs

- 603 - Possession, introduction, or transfer of any narcotic, controlled substance, illegal drug, unauthorized drug or drug paraphernalia.
- 606 - Possession of tobacco products and/or matches in close/maximum housing units where strictly prohibited.
- 607 - Refusing to submit to a urinalysis and/or failure to provide a urine sample when ordered to do so by a staff member.

- 608 - Refusing or failing to submit to a breathalyzer or other standard sobriety test when ordered to do so by a staff member.
- 610 - Unauthorized accumulation of prescribed medication greater than a single or daily dose.
- 655 - Making intoxicants, alcohol, controlled substances, narcotics, or the possession of ingredients, equipment, items, formulas or instructions that are used in making intoxicants, alcohol, controlled substances, or narcotics.
- 707 - Possession, introduction, or transfer of any alcoholic or intoxicating beverage.
- 716 - Unauthorized use of drugs, alcohol or other intoxicants.
- 752 - Receiving a positive test for use of unauthorized drugs, alcohol, or other intoxicants.

Soliciting/fraud

- 656 - Giving, offering or receiving from any person a bribe or anything of value for an unauthorized favor or service.
- 662 - Soliciting goods or services for which the provider would expect payment when the inmate knows or should know that no funds are available to pay for those goods or services.
- 714 - Giving, selling, borrowing, lending, or trading money or anything of value to, or accepting or purchasing money or anything of value from, another inmate or that inmate's friend(s) or family, the value of which is ten dollars or more.
- 740 - Fraud, embezzlement, or obtaining goods, services, money, or anything of value under false pretense.

Creating an emergency situation

- 712 - Attempted suicide or self-mutilation.
- 742 - Creating a false emergency by feigning illness when contrary to medical/mental health screening results.
- 744 - Making a bomb threat.

AMENDATORY SECTION (Amending WSR 95-15-044, filed 7/13/95, effective 8/15/95)

WAC 137-28-350 Sanctions—Authority to impose.

(1) If the hearing officer determines that an inmate is guilty of a serious infraction, he/she may impose one or more of the following sanctions:

- (a) Any of the sanctions available for general infractions;
- (b) Any of the sanctions available under DOP 320.150 disciplinary sanctions directive;
- (c) Loss of a privilege or privileges as specified by the hearing officer not to exceed: Thirty days on a first offense, ninety days on a second offense, and one hundred eighty days on a third offense, within a one-year period;
- (d) Evening lockup or confinement to quarters for ten days;
- (e) Weekend and/or holiday lockup or confinement to quarters for a period of one or more weekends but not to

exceed twelve consecutive weekends per incident. For purposes of this rule, a "weekend" shall begin at the end of the Friday workday and terminate at the beginning of the Monday workday;

(f) Confinement to quarters except for meals, or with meals in cell, with or without curtailment of job assignment for a period not to exceed thirty days;

(g) Recommendation to the unit team/classification committee/assignment officer for reconsideration of custody classification or program change;

(h) Recommendations to the classification committee/classification officer for transfer to another institution when, as a result of the infraction committed, the inmate is unable to function in the institution of present confinement, or if other disciplinary methods have been attempted and failed;

(i) Confinement on segregation status for a period not to exceed thirty consecutive days;

(j) Confinement on isolation status for a period not to exceed ten consecutive days; however, where a serious infraction occurs during a period of isolation imposed under this rule, additional periods of isolation not to exceed ten days may be imposed. In situations where an inmate is in isolation for more than ten consecutive days, the director's prior approval is required unless the inmate is released from isolation for at least seventy-two consecutive hours between the end of one isolation sanction and the beginning of another;

(k) Restitution or fines;

(l) Recommendation to the superintendent that he/she not certify good conduct time credit for an inmate subject to the jurisdiction of the indeterminate sentence review board, pursuant to RCW 9.95.070 or that he/she approve the denial of good conduct time credit for those inmates not under the jurisdiction of the board.

(i) The recommendation will be consistent with guidelines established by the secretary of the department of corrections.

(ii) Any sanctions for loss of good conduct credits in excess of the guidelines established by the secretary of the department of corrections must have final approval by the director, division of prisons.

(iii) For inmates not under the board's jurisdiction, all awards of good conduct time shall be considered tentative and therefore all good conduct time credits earned or to be earned may be addressed under this rule;

(m) Recommendation to the indeterminate sentence review board for a disciplinary hearing or reconsideration of minimum term should occur only with infractions providing for actual time loss of twelve months or more and consistent with guidelines established by the department;

(n) Interruption of visitation between the offender and a specified individual(s) for a period of up to one hundred eighty consecutive days when there has been an infraction for visit related behavior or behavior that presents a security or safety threat. In cases of multiple or very serious offenses, recommendations may be made to the superintendent for extended or permanent loss of the privilege of visitation with a specified individual(s);

(o) Restrictions, interruption or termination of correspondence, and/or telephone privileges with specified individuals. Sanctions for offense(s) within any one-year period may not exceed: Up to ninety consecutive days for

the first offense, one hundred eighty consecutive days for the second offense and permanent loss for the third offense. Termination of correspondence and/or telephone privileges may be permanent for the first offense if:

- (i) The recipient so requests; or
- (ii) A parent or guardian of the recipient, if a minor or an incompetent person, so requests; or
- (iii) A felony was involved in the incident; or
- (iv) If the contact violates a court order;

(p) The sanction for infraction # 557 shall be the loss of available earned release credits and other privileges as outlined in division directives. Progressively more severe sanctions will be utilized for subsequent infractions # 557.

(2) If the hearing officer determines that more than one infraction occurred as a result of the same incident, he/she shall not impose consecutive sanctions for the separate infractions but shall consider them together and impose penalties for the group of infractions.

(3) The hearing officer may suspend the execution of a disciplinary sanction for a fixed period of time, not to exceed three hundred sixty-five consecutive days, subject to the good behavior of the inmate or to meeting other conditions as specified by the hearing officer. If the subsequent behavior of the inmate is appropriate, the hearing officer may, at or before the end of the fixed period, cancel the sanction. A suspended sanction may be imposed if the inmate has been found guilty of a general or serious infraction or of violating the conditions attached to the original suspension. A suspended sanction may be imposed by the hearing officer following notice to, and an in-person meeting with, the inmate.

(4) The hearing officer may review any decision he/she previously made and may modify downward any sanction previously imposed.

(5) Sanctions shall not be imposed while an appeal from the hearing officer's decision is under consideration by the superintendent.

(6) In all cases, regardless whether an appeal is taken, the superintendent may review a sanction imposed and may reduce its severity.

(7) Nothing in this section limits the superintendent's discretion to grant, deny, suspend, or revoke any privilege.

WSR 97-03-056
NOTICE OF PUBLIC MEETINGS
BIG BEND
COMMUNITY COLLEGE
 [Memorandum—January 6, 1997]

In accordance with RCW 42.30.075 please be advised that the board of trustees for Big Bend Community College meet on the fourth Tuesday of each month at 7:00 p.m. in the Fireside Room of Building 1400.

WSR 97-03-057
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER

[Memorandum—January 8, 1997]

The Washington State Convention and Trade Center (WSCTC) design committee will meet on Wednesday, January 15, 1997, at 10:00 a.m. in Room 206 of the Convention Center, 800 Convention Place, Seattle.

A regular meeting of the WSCTC board of directors will also be held on Wednesday, January 15 at 1:30 p.m. in Room 211 of the Convention Center.

If you have any questions regarding these meetings, please call 447-5000.

WSR 97-03-058
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON

[Memorandum—January 8, 1997]

In accordance with RCW 42.30.075, the University of Washington is providing the following meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the UW Public Records Office.

College of Engineering
 Executive Committee

Meeting Dates	Location	Time
January 15, 1997	355 Loew Hall	3:30 p.m.
January 29, 1997	355 Loew Hall	3:30 p.m.
February 12, 1997	355 Loew Hall	3:30 p.m.
March 5, 1997	355 Loew Hall	3:30 p.m.
March 19, 1997	355 Loew Hall	3:30 p.m.
April 2, 1997	355 Loew Hall	3:30 p.m.
April 16, 1997	355 Loew Hall	3:30 p.m.
April 30, 1997	355 Loew Hall	3:30 p.m.
May 14, 1997	355 Loew Hall	3:30 p.m.
May 28, 1997	355 Loew Hall	3:30 p.m.
June 11, 1997	355 Loew Hall	3:30 p.m.
June 25, 1997	355 Loew Hall	3:30 p.m.
July 9, 1997	355 Loew Hall	3:30 p.m.
July 28, 1997	355 Loew Hall	3:30 p.m.
August 7, 1997	355 Loew Hall	3:30 p.m.
August 20, 1997	355 Loew Hall	3:30 p.m.
September 3, 1997	355 Loew Hall	3:30 p.m.
September 17, 1997	355 Loew Hall	3:30 p.m.
October 1, 1997	355 Loew Hall	3:30 p.m.
October 15, 1997	355 Loew Hall	3:30 p.m.
November 5, 1997	355 Loew Hall	3:30 p.m.
November 19, 1997	355 Loew Hall	3:30 p.m.
December 3, 1997	355 Loew Hall	3:30 p.m.
December 17, 1997	355 Loew Hall	3:30 p.m.

MISCELLANEOUS

WSR 97-03-059
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE

[Memorandum—January 13, 1997]

Board of Trustees Meeting

Special
January 15, 1997
Sno-King Building
Boardroom 103
4:00 - 5:25

An executive session may be held for any of those items for which an executive session may be held under the Open Public Meetings Act. Action items as necessary in the discretion of the board as a result of any item properly considered in executive session.

The facilities for this meeting are free of mobility barriers and interpreters for deaf individuals and braille or taped information for blind individuals will be provided upon request when adequate notice is given.

WSR 97-03-060
NOTICE OF PUBLIC MEETINGS
CRIMINAL JUSTICE
TRAINING COMMISSION

[Memorandum—January 9, 1997]

The 1997 meeting dates for the Criminal Justice Training Commission are as noted below:

March 5, 1997
June 4, 1997
September 10, 1997
December 3, 1997

The meeting site remains the Washington State Training and Conference Center located at 19010 1st Avenue South, Seattle, WA. All meeting times are scheduled for 10 a.m.

WSR 97-03-061
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
FINANCIAL INSTITUTIONS

[Memorandum—January 10, 1997]

Mortgage Broker Commission Meetings

3rd Wednesday of every 3rd month (normally):

Washington Interactive Television

Lacey, Lynnwood, Seattle, Spokane, and Vancouver sites

Tuesday, February 18, 1997 9 a.m. - 12 noon
Wednesday, May 21, 1997 9 a.m. - 12 noon
Wednesday, August 20, 1997 9 a.m. - 12 noon
Wednesday, November 19, 1997 9 a.m. - 12 noon

Escrow Commission Meetings

2nd Tuesday of odd months (normally):

Washington Interactive Television

Lacey, Lynnwood, Seattle, and Spokane sites

Thursday, January 23, 1997 1 p.m. - 4 p.m.
Tuesday, March 11, 1997 1 p.m. - 4 p.m.
Tuesday, May 13, 1997 9 a.m. - 12 noon
Tuesday, July 8, 1997 9 a.m. - 12 noon
Tuesday, September 9, 1997 9 a.m. - 12 noon
November 1997 - to be announced

WSR 97-03-068
PROCLAMATION
OFFICE OF THE GOVERNOR
[January 14, 1997]

AMENDING PROCLAMATION OF AN EMERGENCY

The severe winter storm which began December 26, 1996 is continuing to cause extensive damage throughout Washington State.

WHEREAS, heavy snowfall and flooding has caused extensive damage to homes, businesses, public utilities, public facilities and infrastructure in Benton, Grant, Lincoln, Okanogan, Stevens, Pend Oreille, Adams and previously declared Counties;

NOW, THEREFORE, I, MIKE LOWRY, Governor of the state of Washington as a result of the aforementioned situation and under RCW 43.06 and 38.52, do hereby amend the proclamation of December 26, 1996, and further proclaim that a State of Emergency exists in Benton, Grant, Lincoln, Okanogan, Stevens, Pend Oreille, and Adams Counties; and authorize execution of the Washington State Comprehensive Emergency Management Plan.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the state of Washington to be affixed at Olympia this 14th day of January, A.D., Nineteen Hundred Ninety-seven.

Mike Lowry
Governor of Washington

Attest:

Ralph Munro
Secretary of State

WSR 97-03-069
NOTICE OF PUBLIC MEETINGS
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION

[Memorandum—January 10, 1997]

At their regular quarterly meeting on November 12, 1996, the Interagency Committee for Outdoor Recreation adopted the following meeting schedule for 1997:

March 13-14 Olympia/Natural Resources Building,
Room 175
July 17-18 Yakima/Arboretum
September 25-26 Olympia/Natural Resources Building,
Room 172
November 13-14 Olympia/Natural Resources Building,
Room 172

MISCELLANEOUS

**WSR 97-03-070
RULES COORDINATOR
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION**

[Filed January 14, 1997, 3:07 p.m.]

In accordance with RCW 34.05.310, this memorandum is to inform you that the Interagency Committee for Outdoor Recreation's rules coordinator is Greg Lovelady, Manager, Planning Services, Natural Resources Building, 2nd Floor East, P.O. Box 40917, Olympia, WA 98504-0917, phone (360) 902-3008, FAX (360) 902-3026, e-mail gregl@iac.wa.gov.

Laura Eckert Johnson
Director

**WSR 97-03-072
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
(Beef Commission)**

[Memorandum—January 13, 1997]

The 1997 meeting schedule for the Washington State Beef Commission is as follows:

January 10, 1997 (Friday)	Board Meeting	Ellensburg
February 27-28, 1997 (Thursday-Friday)	Strategic Planning	Seattle
April 24, 1997 (Thursday)	Budget Meeting	Ellensburg
June 19, 1997 (Thursday)	Annual Meeting	Ellensburg
August 28, 1997 (Thursday)	Regular Meeting	Seattle
November 6-8, 1997 (Thursday-Saturday)	Regular Meeting (WCA Annual Convention)	Coeur d'Alene, Idaho

**WSR 97-03-077
POLICY STATEMENT
DEPARTMENT OF HEALTH**

[Filed January 15, 1997, 9:23 a.m.]

The Office of Shellfish Programs has issued a new office policy, *Policy and Procedure Number 015, Classification of Commercial Shellfish Growing Areas*, effective January 9, 1997. The policy states that all commercial shellfish areas must be classified as to their suitability for shellfish harvesting in accordance with the National Shellfish Sanitation Program Manual of Operations, Part I. The intent of this policy is to ensure that shellfish areas approved for direct harvest are not subject to contamination from human and/or animal fecal matter and/or poisonous or deleterious substances in amounts that may present an actual or potential hazard to public health.

Any questions regarding this policy can be directed to Robert Woolrich, Department of Health, Office of Shellfish Programs, P.O. Box 47824, Olympia, WA 98504-7824, phone (360) 753-5957, FAX (360) 586-4499.

Copies of this policy can be obtained by calling (360) 753-5992 during regular business hours, or by writing to the office address listed above.

Maryanne Guichard

**WSR 97-03-078
POLICY STATEMENT
DEPARTMENT OF HEALTH**

[Filed January 15, 1997, 9:25 a.m.]

The Department of Health has issued policy and procedure number **09.001, Use of Cellular Telephones and Pagers**. The effective date is November 1, 1996.

The policy was issued by the Office of Contracts, Properties and Procurement, within Management Services Division. Copies may be obtained from Kathie Mueller, (360) 586-1970, P.O. Box 47903, Olympia, WA 98504-7903. Questions can be answered by Suzette Frederick, Director, Contracts, Properties and Procurement, (360) 753-6063, P.O. Box 47905, Olympia, WA 98504-7905.

This policy sets the level of authority for approving use of cellular phones and pagers, as well as the process for procuring them and standards for their use.

Frank Hickey
Assistant Secretary
Management Services

**WSR 97-03-079
POLICY STATEMENT
DEPARTMENT OF HEALTH**

[Filed January 15, 1997, 9:26 a.m.]

The Department of Health has issued policy and procedure number **15.003, Security of Employees and Facilities**. The effective date is November 1, 1996.

The policy was issued by the Risk Management Office, within Management Services Division. Copies may be obtained from Kathie Mueller, (360) 586-1970, P.O. Box 47903, Olympia, WA 98504-7903. Questions can be answered by Tom Harmon, Risk Manager, (360) 705-6341, P.O. Box 47816, Olympia, WA 98504-7816.

This policy establishes responsibilities for providing a secure working environment for all employees, and preventing loss or theft of public property under the control of the agency. The policy defines three risk levels which meet criteria in guidelines provided by the Office of the Attorney General.

Frank Hickey
Assistant Secretary
Management Services

MISCELLANEOUS

WSR 97-03-088
NOTICE OF PUBLIC MEETINGS
HEALTH CARE POLICY BOARD
 [Memorandum—January 16, 1997]

1997 Revised Six-Month Meeting Schedule*

*All Health Care Policy Board meetings are scheduled for the third Thursday of every month beginning at 9 a.m. and normally end at noon. During session, meetings have been changed to begin at 5:00 p.m. and end at approximately 8:00 p.m. The board meets on an as needed basis. Times and location are subject to change, and the date is subject to cancellation upon proper notice.

Date	Starting Time	Location
January 16	5:00 p.m.	Olympia, Washington John A. Cherberg Building Conference Rooms B and C Capitol Campus Emergency (360) 786-7400
February 20	5:00 p.m.	Olympia, Washington John A. Cherberg Building Conference Rooms B and C Capitol Campus Emergency (360) 786-7400
March 20	5:00 p.m.	Olympia, Washington John A. Cherberg Building Conference Rooms B and C Capitol Campus Emergency (360) 786-7400
April 17	5:00 p.m.	Olympia, Washington John A. Cherberg Building Conference Rooms B and C Capitol Campus Emergency (360) 786-7400
May 15	9:00 a.m.	Yakima, Washington ESD 105 Center/Downtown 33 South 2nd Avenue Emergency (509) 575-2885
June 19	9:00 a.m.	Spokane, Washington Ag America FCB B1, 103b-104b Health Research Center Emergency (509) 838-9300

WSR 97-03-089
ATTORNEY GENERAL OPINION
Cite as: AGO 1997 No. 1
 [January 10, 1997]

CRIMES - COURTS - SENTENCES - PROSECUTING ATTORNEY
 - Effect of completion of terms and conditions of deferred imposition of sentence or of suspension of execution of sentence upon defendant's criminal history record.

1. By virtue of RCW 3.66.067, a criminal defendant whose imposition of sentence has been deferred may, after meeting such terms as the court may have established, apply to withdraw his or her plea and seek dismissal of

the charges, and the court may for good cause grant such application; however, where sentence is imposed but its execution is suspended pursuant to RCW 3.66.068, the law does not authorize withdrawal of a guilty plea or dismissal of charges.

2. Whether a criminal sentence is deferred pursuant to RCW 3.66.067, or imposed and suspended pursuant to RCW 3.66.068, courts lack authority to delete or expunge the record of conviction based on a defendant's fulfillment of conditions attached to the deferred or suspended sentence; RCW 10.97 defines these records as "conviction records" and requires that the record of conviction in either type of case be maintained and available to law enforcement agencies and others as defined therein.

Requested by:
 The Honorable John Knodell
 Prosecuting Attorney
 Grant County
 P.O. Box 37
 Ephrata, WA 98823

WSR 97-03-091
EXECUTIVE ORDER
OFFICE OF THE GOVERNOR
 [EO 97-01]

ACCESS TO GOVERNMENT ELECTRONIC RECORDS
FOR COMMERCIAL PURPOSES

WHEREAS, The constant evolution of technology presents a challenge for state agencies responsible for maintaining and releasing public records, especially in light of ever increasing demands for government records in electronic format for a wide range of commercial purposes; and

WHEREAS, Commercial use of personally identifiable information contained in electronic public records raises new concerns for individual privacy; and

WHEREAS, in recognition of these growing concerns and the unique responsibility of government of balancing individual protection and broad public access, in vetoing House Bills 2604 and 2790 upon the close of the 1996 Legislative Session, I created a joint Executive-Legislative Work Group on Access to Government Electronic Records; and

WHEREAS, I called on the Work Group to examine current practices and policies with a view toward bringing consistency to the circumstances under which the state releases government records for commercial or business purposes; and

WHEREAS, the Work Group held a series of public meetings to consider, discuss, and take public testimony on a number of issues related to commercial access to government records; and

WHEREAS, on December 9th, 1996, the Work Group presented its final report of findings and recommendations, including asking that the Governor issue an executive order

MISCELLANEOUS

instructing state agencies to adhere to a model contract for the release of information for commercial purposes; and

WHEREAS, the use of a contract in such instances serves to advance the legitimate use of government-held information for the benefit of the state and the public while protecting personally identifying information and other data from inappropriate or unwarranted dissemination or intrusion; and

WHEREAS, the use of such contracts in no way hampers or complicates access by the public or media to public records otherwise available for inspection and disclosure.

NOW THEREFORE, I, Mike Lowry, by virtue of the power vested in me as Governor of the State of Washington, hereby order and direct:

1. All state agencies, unless otherwise directed, specified or prohibited by 42.17 RCW or other state statutes, shall allow otherwise appropriate access to public records for commercial purposes only through means of a contractual agreement between the agency and the entity requesting such access (Contractor).

2. Such agreements for access to public records for commercial purposes shall require, at a minimum, the following limitations, provided herein as a general guide to be specifically crafted by each agency as necessary and appropriate for individual legal and contractual requirements:

A. The Contractor shall use the information provided by the Agency only in connection with the use for which the information was initially sought by the Contractor and approved by the Agency;

B. The Contractor agrees to protect the confidentiality of the information to which access has been provided under the agreement;

C. The Contractor, or any employee or agent of the Contractor, shall not furnish in any form, to any person, corporation, partnership, association, or organization, a copy of any information, in whole or in part, provided by the Agency, without the express written consent of the Agency for the specific provision of the information for a specific purpose;

D. The Contractor shall adhere to any current or subsequently amended statutory or administrative rules regulating privacy or confidentiality relating to the information provided by the agency;

E. Any exceptions, revisions or waivers to these limitations requested by the Contractor must be approved in writing by the Agency and received by the Contractor prior to the requested use or of the information which is otherwise limited;

F. No name or address of any individual furnished by the Agency to the Contractor shall be published or otherwise disclosed by the Contractor in any manner not otherwise approved by the Agency;

G. The Contractor, or any officer, employee or agent of the Contractor, shall not furnish in any form, to any person, corporation, partnership, association, or organization, any of the individual name, address, or otherwise identifying information provided by the agency under the agreement for the purpose of making unsolicited commercial contact with the individuals named or otherwise identified, unless specifically approved, in writing, by the agency;

H. The Contractor agrees that the Agency may provide "control" or "salted" data as a portion of provided information as a means to ensure that any personally identifiable information is utilized only for the specific purposes allowed under the terms of the agreement;

I. The Contractor shall not gain any proprietary right to or interest in any information provided by the Agency and shall not assign their interest in the agreement or any portion thereof to any person, corporation, partnership, association, or organization of any kind;

J. The Contractor accepts full responsibility and liability for any violations of the agreement by the Contractor or any officer, employee or agent of the Contractor and any such violation shall result in immediate termination by the Agency of all information provision to the Contractor or any officer, employee or agent of the Contractor in any form and immediate forfeiture to the Agency of any Agency provided information, in any form, held by the Contractor or any officer, employee or agent of the Contractor; and

K. The Agency reserves additional unrestricted financial remedies, on a per-record basis, for any violation of the agreement by the Contractor or any officer, employee or agent of the Contractor, in addition to any penalty allowed under state law.

3. This Order is meant to be prospective in its application and takes effect immediately.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the State of Washington to be Affixed at Olympia this 15th day of January A.D., Nineteen hundred and ninety-seven.

Mike Lowry
Governor of Washington

BY THE GOVERNOR

Ralph Munro
Secretary of State

WSR 97-03-103
NOTICE OF PUBLIC MEETINGS
ECONOMIC DEVELOPMENT
FINANCE AUTHORITY
[Memorandum—January 15, 1997]

The Washington Economic Development Finance Authority (WEDFA) is a separate agency within the executive branch of the state government. The authority has four regular board meetings each year. The authority's board meetings are open to the public, and access for persons with disabilities is provided for all meetings of the authority.

All meetings will be held in the World Trade Club, Sea-Tac International Airport, Main Terminal Building, Mezzanine Level, SeaTac, Washington. All meetings will begin at 9:00 a.m. The meeting dates are: Wednesday, April 9th; Wednesday, June 11th; Wednesday, September 10th; and Wednesday, December 10th.

WSR 97-03-104
NOTICE OF PUBLIC MEETINGS
BENTON COUNTY
CLEAN AIR AUTHORITY
 [Memorandum—January 13, 1997]

Following are the dates and times of our monthly board meetings.

The meetings are scheduled to be held as follows:

- January 16, 1997
- February 20, 1997
- March 20, 1997
- April 17, 1997
- May 15, 1997
- June 19, 1997
- July 17, 1997
- August 21, 1997
- September 18, 1997
- October 16, 1997
- November 20, 1997
- December 18, 1997

The meetings will be held at the Benton County Kennewick Annex located at 5600 Canal Place, Kennewick, WA 99336.

WSR 97-03-105
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—January 15, 1997]

In accordance with RCW 42.30.075, the University of Washington is providing the following meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the UW Public Records Office.

Speech and Hearing Sciences

Faculty Meeting

Meeting Dates	Location	Time
First Wednesday of each month	Eagleson Hall Room 211	3:00 p.m. to 5:00 p.m.
January - June		
October - December		

Executive Committee

Meeting Dates	Location	Time
First Wednesday of each month for winter quarter	Eagleson Hall Room 204	8:30 a.m. to 10:00 a.m.

To be announced for spring quarter

WSR 97-03-106
POLICY STATEMENT
WASHINGTON STATE LOTTERY
 [Filed January 21, 1997, 8:35 a.m.]

The Washington State Lottery has recently adopted or revised the following policies:

POL 110.002 - CODE OF ETHICS (revision)

Added that:

1. Lottery employees and the spouse, children, brothers, sisters or parents residing as a member of the same household in the employee's principal place of abode are prohibited from employment with a vendor or contractor that works in conjunction with the lottery. However, a family member may be employed by, or contract with, a firm that the lottery considers a supplier and does not conduct a lottery or other gambling activity.

2. Employees are prohibited from having: a) A beneficial interest in the conduct of a lottery or other gambling activity; b) a contract for the manufacture or sale of gambling devices, including but not limited to providing computing and closely-related services for the conduct of lottery games, as well as the production of lottery scratch tickets, the manufacturer of pull-tabs and punch boards, and the management of a casino; c) a financial interest (stock ownership, etc.) in a firm which conducts the activities or manufactures or sells gambling devices (any slot, video pull-tab, and video poker machine, as well as other electronic game of chance and any other device designed primarily for use in connection with professional gambling).

2a. Spouses, children, brothers, sisters, or parents residing as a member of the same household in the employee's principal place of abode are also prohibited from employment or a contractual relationship for compensation where the lottery employee is gaining a benefit from the employment of that family member.

Signed 12/5/96

POL 120.002 - NEPOTISM (revision)

The lottery will continue to not appoint or assign any relative of an employee, or any individual cohabiting with an employee, to a position where: a) One of the individuals has the authority to supervise, appoint, remove, or discipline the other; b) one of the individuals would be responsible for auditing the work of the other; or c) circumstances would put the parties in a situation of actual or perceived conflict between the lottery's interest and their own. (Cohabiting is defined as referring "...to persons who reside in the same home of a Lottery employee who have reciprocal and natural and/or moral duties to and do provide support for one another.")

In the past, this policy has said that if a relationship described above is identified after the original appointment, one of the employees would be transferred to another position within the agency. This has been modified to say that the director will "attempt to" transfer an employee within the agency. If a position cannot be found, the personnel manager will assist in locating positions within the state system.

Eliminated the director's ability to make exceptions to this policy.

Signed 12/19/96

MISCELLANEOUS

POL 120.006 - PERSONNEL RECORDS ACCESS AND RETENTION (revision)

Added the following: "When a Lottery employee transfers to another state agency, the Lottery's Personnel office will forward all state employment information in the employee's personnel file to the Personnel office of the employee's new agency. The information will be sent via a confidential envelope and will include, but is not limited to: verification of employment, performance evaluations, applications, and resumes."

Signed 12/16/96

POL 120.010 - AFFIRMATIVE ACTION/EQUAL EMPLOYMENT OPPORTUNITY (revision)

Added "career development, retention, reclassification, corrective/disciplinary action, termination, reversion, and non-permanent appointments" to the list of personnel decisions made without regard to race, color, sex, religion, creed, age, marital status, national origin, sexual orientation, disabled and Vietnam-era veteran's status, or the presence of any physical, sensory, or mental disability.

Added "religion and marital status" to the list of persons not discriminated against.

Added a section spelling out employee, director, personnel manager and supervisor/manager responsibilities in ensuring compliance with this policy.

Specified that complaints must be submitted within ten working days of the incident. Added that if the grievant is not satisfied with the outcome of a hearing, he/she can request a Step Two hearing within ten working days of the reply to the first hearing.

Signed 12/19/96

POL 120.012 - OUTSIDE EMPLOYMENT/BUSINESS (revision)

Added that, in addition to lottery employees, "family members of Lottery employees are also prohibited from employment with a vendor or contractor that works in conjunction with the Lottery." (The reader is referred to POL 110.002 - Code of Ethics for more specific information on "family members," etc. — see also the summary of changes to POL 110.002 above.)

Signed 12/19/96

POL 120.024 - REASONABLE ACCOMMODATIONS FOR PERSONS OF DISABILITY (revision)

Clarified that reasonable accommodations are also made for lottery job applicants. Added that: a) The person of disability has the right to refuse an accommodation, b) employees have the right to provide an accommodation that the lottery's director has denied because it would create an undue financial hardship, and c) job descriptions for positions where an accommodation has been made are reviewed annually to ensure essential functions for the positions have not substantially changed.

Signed 11/25/96

POL 140.001 - RETAILER CRIMINAL HISTORY AND CREDIT CRITERIA FOR APPLICANTS AND LICENSEES (revision)

A lottery retailer whose credit rating becomes rated as "marginal" and who has not had a retailer-caused EFT rejection and no other lottery payment problems or disputes in at least three years, will no longer be required to obtain a financial guarantee. Also clarified that the lottery will perform a credit update annually of retailers who have

posted financial guarantees to determine whether to require renewal.

Signed 12/5/96

POL 320.039 - CRUISE OF YOUR LIFE RETAILER PROMOTION (new)

Retailers who increase their December 1996 scratch sales by at least 20% over their December 1995 scratch sales will be entered into a drawing to win a cruise for two to the Mexican Riviera. Twenty-four 7-day, 6-night cruises, and one 4-day, 3-night cruise will be awarded. There will be four winners per each of the lottery's six regions for the 7-day cruises; the 4-day cruise winner will be selected from the state-wide entries. Retailers will receive one entry for an increase of at least 20%, two entries for a 30% increase, four entries for a 40% increase, and eight entries for a 50% increase. Retailers who were not selling lottery tickets in December 1995 will be compared to the average December 1996 sales for all businesses in that region within the same class (convenience stores, supermarkets, and other trade styles).

Signed 12/2/96

To receive a copy of any of these policy statements, contact Becky Zopolis, Washington State Lottery, P.O. Box 43000, Olympia, WA 98504-3000, phone (360) 586-1051, FAX (360) 586-6586.

January 13, 1997
Evelyn P. Yenson
Director

WSR 97-03-107**NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY**

[Memorandum—January 21, 1997]

BOARD OF TRUSTEES
January 24, 1997, 9:00 a.m.
Cheney Campus
Pence Union Building
Room 263-65

Breakfast, which is open to the public, will be served to board members prior to the meeting at 8:00 a.m. in the PUB Board Room.

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling President's Office, 359-2371.

WSR 97-03-108**NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON**

[Memorandum—January 15, 1997]

In accordance with RCW 42.30.075, the University of Washington is providing the following meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the UW Public Records Office.

Meeting Dates	Location	Time
January 21, 1997	221 More Hall	12:30
February 11, 1997	221 More Hall	12:30
February 25, 1997	221 More Hall	12:30
March 11, 1997	221 More Hall	12:30
April 15, 1997	221 More Hall	12:30
May 13, 1997	221 More Hall	12:30
June 10, 1997	221 More Hall	12:30
October 14, 1997	221 More Hall	12:30
November 4, 1997	221 More Hall	12:30
December 9, 1997	221 More Hall	12:30

Meeting Dates	Location	Time
April 8, 1997	Wright Auditorium CHMC	4:30 p.m.
May 13, 1997	Wright Auditorium CHMC	4:30 p.m.
June 10, 1997	Wright Auditorium CHMC	4:30 p.m.
July 8, 1997	Wright Auditorium CHMC	4:30 p.m.
August 12, 1997	Wright Auditorium CHMC	4:30 p.m.
September 9, 1997	Wright Auditorium CHMC	4:30 p.m.
October 14, 1997	Wright Auditorium CHMC	4:30 p.m.
November 18, 1997	Wright Auditorium CHMC	4:30 p.m.
December 9, 1997	Wright Auditorium CHMC	4:30 p.m.

WSR 97-03-109
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—January 16, 1997]

In accordance with RCW 42.30.075, the University of Washington is providing the following meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the UW Public Records Office.

Center for Bioengineering
Faculty

Meeting Dates	Location	Time
Second Tuesdays January-June October-December	322 Harris	8:30

Materials Science and Engineering
Faculty Committee

Meeting Dates	Location	Time
January 17	243 Wilcox	2:30
February 7 and 21	243 Wilcox	2:30
March 7	243 Wilcox	2:30
April 4 and 18	243 Wilcox	2:30
May 2 and 16	243 Wilcox	2:30
June 6	243 Wilcox	2:30
September 24	Waterfront Act Center	9:00
October 3 and 17	243 Wilcox	2:30
November 7 and 21	243 Wilcox	2:30
December 5	243 Wilcox	2:30

Pediatrics

Faculty Department Meeting

Meeting Dates	Location	Time
January 14, 1997	Wright Auditorium CHMC	4:30 p.m.
February 11, 1997	Wright Auditorium CHMC	4:30 p.m.
March 11, 1997	Wright Auditorium CHMC	4:30 p.m.

WSR 97-03-110
NOTICE OF PUBLIC MEETINGS
PIERCE COLLEGE
 [Memorandum—January 14, 1997]

The board of trustees of Community College District Number Eleven (Pierce College) would like to make the following change to an upcoming regular board meeting:

Meeting Date/Location	Time	Change Date to:
April 9, 1997 Ft. Lewis Campus	12:30	April 16, 1997 (Same time and location)

WSR 97-03-111
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
 (Asparagus Commission)
 [Memorandum—January 16, 1997]

The quarterly meeting of the Washington Asparagus Commission which was scheduled for Tuesday, January 21, 1997, has been rescheduled to Tuesday, February 25, 1997. Time and location, 9:00 a.m. - Red Lion Inn, Pasco, remain the same.

WSR 97-03-114
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
NATURAL RESOURCES
 (Natural Heritage Advisory Council)
 [Memorandum—January 21, 1997]

NOTICE OF MEETING
FOR THE
NATURAL HERITAGE ADVISORY COUNCIL
 1997

The Natural Heritage Advisory Council will meet on March 12, 1997, 9:30 a.m. to 5:00 p.m. at the Longhouse Building,

MISCELLANEOUS

North Wing, Room 1007A at The Evergreen State College, Olympia, Washington.

Regular council business will include consideration of natural area preserve proposals, site proposals for the registry program and NAP management activities.

For further information contact Department of Natural Resources, Washington Natural Heritage Program, Forest Resource Division, 1111 Washington Street S.E., P.O. Box 47016, Olympia, WA 98504-7016, (360) 902-1340.

WSR 97-03-115
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
NATURAL RESOURCES
 (Natural Heritage Advisory Council)
 [Memorandum—January 16, 1997]

NOTICE OF MEETING
FOR THE
NATURAL HERITAGE ADVISORY COUNCIL
 1997

The Natural Heritage Advisory Council will meet on June 12-13, 1997, 9:30 a.m. to 5:00 p.m. Location to be announced.

Regular council business will include consideration of natural area preserve proposals, site proposals for the registry program and NAP management activities.

For further information contact Department of Natural Resources, Washington Natural Heritage Program, Forest Resource Division, 1111 Washington Street S.E., P.O. Box 47016, Olympia, WA 98504-7016, (360) 902-1340.

WSR 97-03-116
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
NATURAL RESOURCES
 (Natural Heritage Advisory Council)
 [Memorandum—January 16, 1997]

NOTICE OF MEETING
FOR THE
NATURAL HERITAGE ADVISORY COUNCIL
 1997

The Natural Heritage Advisory Council will meet on October 8, 1997, 9:30 a.m. to 5:00 p.m. at the Natural Resources Building, Room 175B, 1111 Washington Street S.E., Olympia, WA.

Regular council business will include consideration of natural area preserve proposals, site proposals for the registry program and NAP management activities.

For further information contact Department of Natural Resources, Washington Natural Heritage Program, Forest Resource Division, 1111 Washington Street S.E., P.O. Box 47016, Olympia, WA 98504-7016, (360) 902-1340.

WSR 97-03-119
OFFICE OF MARINE SAFETY

[Filed January 21, 1997, 3:55 p.m.]

The following accepted industry standards for fishing vessels were developed and approved by the Fishing Vessel Inspection Advisory Council. The advisory council was convened by the Washington State Office of Marine Safety in October 1996 in accordance with WAC 317-31-230. The council met monthly from October 1996 through January 1997. Council members represented the fishing industry, environmental organizations, Native American tribes, the public at large, and state government.

The accepted industry standards form the basis for the Office of Marine Safety fishing vessel inspection program. The inspection program is designed to identify vessels that pose a substantial risk to the environment, and public health and safety. When a vessel has been identified as a substantial risk, the accepted industry standards serve as guidelines for the vessel owner or operator to help reduce that risk to an acceptable level.

The Office of Marine Safety will accept public comment on the following standards until March 7, 1997. The office intends to incorporate the standards into the fishing vessel inspection program beginning in April 1997. Comments may be sent to:

Office of Marine Safety
 Attn: Stan Norman
 P.O. Box 42407
 Olympia, WA 98504-2407

The following standards apply to all fishing vessels 300 gross registered tons and larger operating in state waters:

I. OPERATING PROCEDURES

Navigation Watch Composition

Owners and/or operators should require that each navigation watch on a fishing vessel 300-1600 gross tons consist of at least one licensed deck officer and one lookout.

In addition, the navigation watch on fishing vessels larger than 1600 gross tons should include a helmsman. Vessels larger than 1600 gross tons that are designed and equipped with an integrated bridge system which allows a licensed deck officer to adequately perform the functions of safe navigation, collision avoidance, and communications do not require a helmsman as part of the navigation watch. Integrated bridge systems meeting this criteria will be approved by the Office of Marine Safety.

Lookouts may be assigned no other duties that would interfere with the maintenance of a proper lookout in accordance with the International Regulations for Preventing Collisions at Sea (COLREGS).

Navigation Watch Procedures

Owners and/or operators should require each vessel master to have written procedures or standing orders for safe navigation practices and operating in restricted visibility conditions.

MISCELLANEOUS

Gyrocompass and magnetic compass courses should be logged at least once every 6 hours, or more often if necessary.

Daily vessel logs and records should be maintained that include vessel position, weather observations, and gyrocompass and magnetic compass courses, at least once every six hours.

Navigational Readiness

Owners and/or operators should require a documented voyage planning and readiness system that includes the following preparations by vessel licensed officers prior to commencing a voyage:

1. Review of general waterway characteristics as described on current charts, navigational publications, and notices to mariners.
2. Review of navigational aids available, including buoys, lights, ranges, and the Global Positioning System (GPS).
3. Review of expected environmental conditions (weather and currents).
4. Review of expected vessel traffic and vessel traffic services (VTS) procedures and communications.
5. Tests or inspections of all navigation, communications, bridge control equipment and alarm systems in accordance with 33 CFR 164.25 no more than 12 hours prior to entering or operating in state waters. Tests or inspections should be logged.
6. Comparison of the gyrocompass and magnetic compass and comparison of the master gyrocompass and all repeaters. Determination of radar range error if practicable. Errors should be logged and posted for the use of navigation watchstanders.
7. Procedures for response to loss of propulsion, steering, and electrical power should be reviewed.

Ground Tackle Readiness

Owners and/or operators should require vessel anchors to be operational and ready to drop at all times. A crew member should be available to drop the anchor immediately if required.

Anchor Watch

Owners and/or operators should require a properly trained crew member to be standing watch and monitoring nearby traffic, communications, the vessel's position, and ground tackle while anchored in state waters.

Security Rounds

Owners and/or operators should require security rounds of vessels to be conducted and documented at least once every six hours while underway or anchored in state waters. Security rounds should be conducted at least daily when moored. Vessels in lay-up status are not affected by this standard, if adequate monitoring for fires and flooding is provided.

Vessel masters should designate spaces on the vessel to be visited during security rounds. Steering gear should be checked during each security round when underway. The primary purpose of security rounds is to detect and report fires, flooding, or other emergency conditions.

Engineering Watch Composition and Procedures

Owners and/or operators should require that a licensed engineer or properly trained engineer be on watch in the engine room or immediately available to respond to machinery space problems while operating in state waters.

Daily vessel logs and records should be maintained that include major equipment operating conditions, such as pressures and temperatures, at least once every six hours.

Engineering Readiness

Owners and/or operators should require all critical vessel propulsion, steering and electrical systems, to be tested or inspected in accordance with 33 CFR 164.25 no more than 12 hours prior to entering or operating in state waters. All machinery tests and inspections should be logged. Procedures for response to loss of propulsion, steering, and electrical power should be reviewed.

Fuel and oil tank levels should be determined and recorded no more than 12 hours prior to entering or operating in state waters.

Stability

Owners and/or operators should require a stability information system complying with 46 CFR 28.530, regardless of the date the vessel keel was laid or date of conversion.

Stability information books and documents should be easy to read and understand, and include samples of various loading conditions.

Emergency Procedures

Owners and/or operators should require emergency instructions outlining crew member responsibilities for firefighting, flooding, abandon ship, heavy weather and man overboard in accordance with 46 CFR 28.265. Fire plans containing the general arrangement of the vessel and the location of all firefighting equipment should be posted on board.

In addition, written procedures should be required for responding to:

1. Oil spills.
2. Loss of propulsion.
3. Loss of steering.
4. Loss of electrical power.
5. Being towed in an emergency. The emergency towing procedures should clearly indicate the specific equipment on board the vessel that will be used for being towed.

Emergency Equipment

Owners and/or operators should require vessels to have a damage control kit or locker with sufficient equipment to control unintentional minor flooding. Each vessel should carry at least two complete fireman's outfits, including Self Contained Breathing Apparatus (SCBAs) and two spare cylinders as described in 46 CFR 28.205.

Vessel engine rooms and interior passageways should have installed emergency lighting.

All personnel assigned to emergency duties should be trained for the operation of all emergency equipment.

Vessel Access

Owners and/or operators should require safe access, with appropriate lighting, to be provided while vessels are moored alongside a dock or pier, or moored outboard of another vessel, in accordance with 29 CFR 1915.74 and 1918.21. Where practical, a gangway or accommodation ladder should be provided.

Fire plans containing the general arrangement of the vessel and the location of all firefighting equipment should be located at or near the access point(s) for vessels in port.

II. PERSONNEL POLICIES

Fatigue

Owners and/or operators should require vessel navigation and engineering watchstanders to be off watch at least 10 hours per day, except in an emergency or to participate in a drill, while operating in state waters. At least 6 hours of off watch time each day should be consecutive and uninterrupted.

In addition, owners and/or operators should require a system for documenting off watch periods in order to monitor and reduce fatigue.

Alcohol and Drug Policy

Owners and/or operators should require policies prohibiting the use of alcohol and/or dangerous drugs by vessel crew members and document compliance with federal regulations for testing programs, training, and employee assistance programs.

Orientation Training

Owners and/or operators should require orientation training to be conducted and recorded for each crew member that has not received previous orientation training on that specific vessel prior to getting underway. Training should include the provisions outlined in 46 CFR 28.265 and 270(a), plus the applicable provisions of the international convention for Prevention of Pollution from Ships (MARPOL).

Position-specific orientation training should be required for navigation and engineering watchstanders for the proper operation of navigation, propulsion, steering, and electrical power equipment.

Drills and Instructions

Owners and/or operators should require a drills and instructions program that complies with 46 CFR 28.265 and 270 and includes semi-annual drills and instruction in oil spill response and being towed in an emergency.

English Proficiency

Owners and/or operators should require all navigation watch officers and crew members standing anchor watch to be sufficiently proficient in the English language to accomplish their duties safely.

III. MANAGEMENT PRACTICES

Management System

The owner and/or operator's management system should include the company-wide exchange of environmental

protection and public health and safety information, and participation by vessel and corporate management.

In addition, the management system should include management oversight that requires vessel visits by a management representative at least semi-annually. The management representative should review operating and management issues, and consult with the officers on the vessel.

Pollution Prevention

Owners and/or operators should equip vessels with spill containment and clean-up equipment to respond to a one-half barrel on-deck spill. The equipment should be adequate for preventing the spill from entering the water.

Each vessel master should require that an oil record book and garbage logs be maintained in accordance with MARPOL.

Maintenance Program

Owners and/or operators should require a documented maintenance program for vessels. The program should include planned maintenance and periodic equipment tests or inspections, as appropriate, for all propulsion, steering, electrical, dewatering, and firefighting systems.

Vessels should also be inspected by a third party surveyor or an operator representative at least annually.

Structural Integrity

Owners and/or operators should require vessel structural modifications to be evaluated and approved in advance by qualified management personnel. Watertight bulkheads and fire separators should be maintained as originally constructed or per the most recent major conversion. Bulkhead, deck, and hull penetrations should be properly sealed.

WSR 97-03-125

NOTICE OF PUBLIC MEETINGS PENINSULA COLLEGE

[Memorandum—January 21, 1997]

The board of trustees of Community College District # 1, Peninsula College will cancel their regular meeting for February 11, 1997, and reschedule the November 11, 1997, meeting for November 18, 1997.



Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule

Suffixes:

- C = Continuance of previous proposal
- E = Emergency action
- P = Proposed action
- S = Supplemental notice
- W = Withdrawal of proposed action
- X = Expedited repeal

Note: These filings will appear in a special section of Issue 96-14

No suffix means permanent action

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

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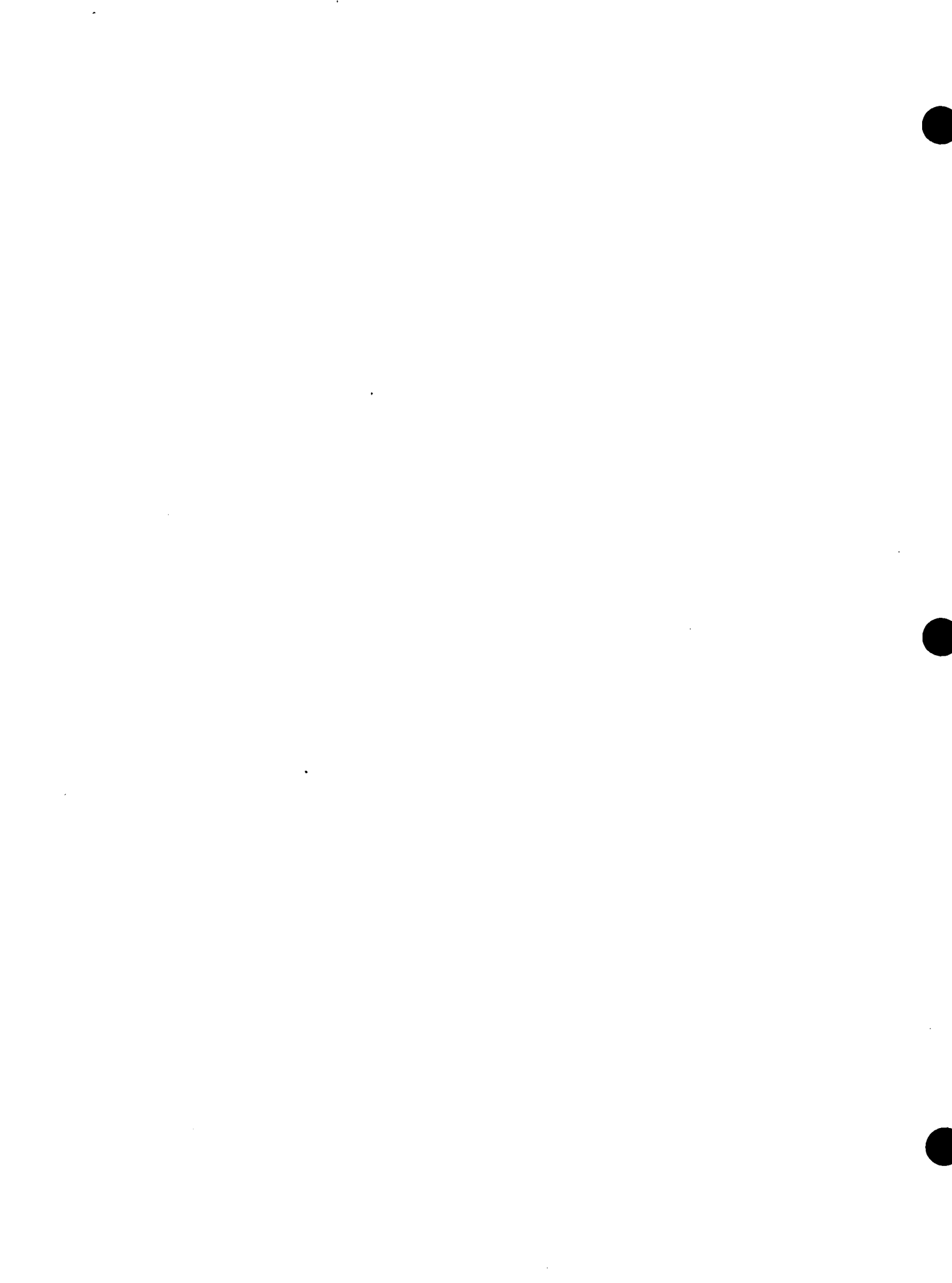
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