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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.

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DENNIS W. COOPER
Code Reviser

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

Documents are arranged within each issue 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 within an issue's material.

2. PROPOSED, ADOPTED, AND EMERGENCY RULES OF STATE AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION

The three types of rule-making actions taken under the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW) may be distinguished by the size and style of type in which they appear.

- (a) **Proposed rules** are those rules pending permanent adoption by an agency and set forth in eight point type.
- (b) **Adopted rules** have been permanently adopted and are set forth in ten point type.
- (c) **Emergency rules** *have been adopted on an emergency basis and are set forth in ten point oblique type.*

3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATTER

RCW 34.04.058 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 matter is new matter;
 - (ii) deleted matter is (~~lined out and bracketed 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.

4. EXECUTIVE ORDERS, COURT RULES, NOTICES OF PUBLIC MEETINGS

Material contained in the Register other than rule-making actions taken under the APA or the HEAPA 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.

5. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules take effect thirty days after the rules and the agency order adopting them are filed with the code reviser. This effective date may be delayed, but not advanced, and a delayed 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 and remain effective for a maximum of ninety days from that date.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

6. EDITORIAL CORRECTIONS

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

7. INDEX AND TABLES

A combined subject matter and agency index and a table of WAC sections affected may be found at the end of each issue.

1981 - 1982

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Action Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing/adoption on or after
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82-24	Nov 3	Nov 17	Dec 1	Dec 15	Jan 4, 1983

¹All documents are due at the Code Reviser's Office by 5:00 p.m. on the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-12-035 or 1-13-035.

²A filing of any length will be accepted on the closing dates of this column if it has been prepared by the Order Typing Service (OTS) of the Code Reviser's Office; see WAC 1-12-220 or 1-13-240. 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.

³"No proceeding may be held on any rule until twenty days have passed from the distribution date of the register in which notice thereof was contained." RCW 28B.19.030(4) and 34.04.025(4). These dates represent the twentieth day after the distribution date of the applicable Register.

will differ. These rules specify when a person must follow a procedure other than the general procedure.

(2) This chapter applies to:

(a) mobile homes, commercial coaches, and recreational vehicles manufactured after 1 January 1968, other than mobile homes labeled by the Department of Housing and Urban Development (HUD) after 15 June 1976. HUD-labeled mobile homes are governed by the federal mobile home standards in 24 CFR Part 3280 and 24 CFR Part 3282 until they are sold or leased to a dealer, distributor, or consumer;

(b) alterations to the plumbing, heating, or electrical systems, or to the body or frame of a mobile home not labeled by HUD, commercial coach, or recreational vehicle, regardless of the date of manufacture;

(c) alterations to the plumbing, heating, or electrical systems, or to the body or frame, of a HUD-labeled mobile home after the manufacturer has sold the mobile home to a dealer, distributor, or consumer;

(d) components; and

(f) equipment and installations intended to be used in mobile homes, commercial coaches, recreational vehicles, and components.

NEW SECTION

WAC 296-150B-010 ENFORCEMENT. The department administers and enforces the provisions of this chapter. Pursuant to approval by HUD, it also administers and enforces the federal mobile home law by acting as a production inspection primary inspection agency (IPIA) and as the state administrative agency (SAA).

An officer, agent, or employee of the department may enter any premises, during working hours or at other reasonable times, where structures or components are manufactured, sold, leased, or offered for sale or lease. He or she may examine a manufacturer's quality control and production records, and may inspect any construction, equipment, or installations to ensure that the manufacturer is complying with this chapter. If necessary to make a proper inspection, he or she may require a manufacturer, dealer, distributor, or consumer to remove part of the structure or component.

NEW SECTION

WAC 296-150B-015 DEFINITIONS. For the purposes of this chapter:

(1) "Alteration" means the replacement, addition, modification, or removal of any equipment or installations that affect the construction, structural members, fire safety, or occupancy classification, or the plumbing, heating, or electrical systems, of a structure or component.

The following are not alterations unless they are made to repair damage caused by fires, floods, or damage in transit or during installation.

(a) repairs with approved parts;

(b) modification of a listed fuel-burning appliance in accordance with the terms of its listing;

(c) replacement of equipment with similar equipment; and

(d) adjustment and maintenance of equipment.

(2) "Approved" means approved by the department.

(3) "Anchoring System" means a system of straps, cables, turnbuckles, bolts, fasteners, or other approved components that secures a mobile home to ground anchors or to other approved fastening devices.

(4) "Audit" means an inspection to examine for compliance a manufacturer's production and quality control procedures.

(5) "Building Site" means a tract, parcel, or subdivision of land, including a mobile home park, on which a structure other than a recreational vehicle is or will be installed.

(6) "Component" means a discrete element that is:

(a) designed to be installed in a structure;

(b) manufactured as a unit; and

(c) designed for a particular function or group of functions. "Component" includes service cores.

(7) "Consumer" means a person, firm, corporation, agency, or governmental body, other than a manufacturer or dealer, that buys or leases a structure for his, her, or its own use.

(8) "Custom Structure" means a one-of-a-kind structure.

(9) "Dealer" means a person, company, or corporation authorized to engage in the business of leasing, selling, offering for sale or lease, buying, or trading structures.

(10) "Department" means the department of labor and industries.

(11) "Design Option" means a design that a manufacturer may use as an option to its design plan.

(12) "Design Plan" means a plan for construction of a structure or component.

(13) "Equipment" means all materials, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, installation, or alteration of structures and components.

(14) "Footing" means the portion of a foundation system that transmits loads from a mobile home to the soil.

(15) "Foundation Facia" means the materials that enclose the entire perimeter of a mobile home and form a plane between the exterior wall of the mobile home and the ground.

(16) "Foundation System" means the footings, piers, caps, and shims that support a mobile home.

(17) "HUD" means the federal Department of Housing and Urban Development.

(18) "Independent Inspection Agency" means an organization that is in the business of inspecting structures, components, or equipment.

(19) "Insignia" means a label, stamp, or tag issued by the department to indicate that the structure or component bearing the insignia complies with this chapter or the HUD mobile home standards.

(20) "Install" means to erect, construct, assemble, or set in place a structure, component, or piece of equipment at a building site or in another structure or building.

(21) "Labeled" means bearing the department's insignia, HUD's insignia, or a label of approval from a testing or listing agency.

(22) "Lease" means an oral or written contract for the use, possession, or occupancy of property. It includes rent.

(23) "Listed" means that a piece of equipment, a component, or an installation appears in a list published by an approved testing or listing agency.

(24) "Listing Agency" means an organization that is in the business of approving equipment or installations.

(25) "Local Enforcement Agency" means a city or county agency that enforces laws or ordinances governing the construction and installation of structures and components.

(26) "Main Frame" means the structural component on which the structure may be mounted.

(27) "Manufacturing" means making, fabricating, forming, or assembling a structure, service core, component, equipment, or installation.

(28) "Mobile Home" means a structure, transportable in one or more sections, that, in the traveling mode, is eight body feet or more in width or thirty-two body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. "Mobile home" shall include any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by HUD and complies with the standards established by HUD.

(29) "Ordinance" means the part of a code adopted by this chapter that prescribes an item other than a method of construction, such as room sizes, floor plans, lighting, ventilation, ceiling heights, and exits.

(30) "Pier" means the part of the mobile home foundation system between the footing and the floor frame or floor joist, excluding caps and shims.

(31) "Quality Control" means the plan and method for ensuring that the manufacture, fabrication, assembly, or erection of structures, components, and installations, and the storing, handling, and use of materials, complies with this chapter.

(32) "Recreational Vehicle" means a motor home, travel trailer, truck camper, or camping trailer that is:

(a) with or without motive power;

(b) built on a single chassis;

(c) designed for human habitation in an emergency or for recreation; and

(d) has a living area of less than 220 square feet.

The living area excludes built-in spaces such as wardrobes, closets, cabinets, kitchen units and fixtures, and bath or toilet rooms.

(33) "Structure" means a mobile home, commercial coach, or recreational vehicle that is entirely or substantially prefabricated or assembled at a factory or a place other than the building site on which the structure will be installed.

(34) "System" means a part of a structure or component that is designed to serve a particular function, such

as a structural, plumbing, electrical, heating, or mechanical system.

(35) "Testing Agency" means an organization that is in the business of testing equipment, installations, or systems.

NEW SECTION

WAC 296-150B-020 INSIGNIA OF APPROVAL—IN GENERAL. (1)(a) A manufacturer of a structure or component that is intended to be sold, leased, or used in Washington must obtain an insignia for each structure or component before it sells, leases, or allows the use of the structure or component.

(b) A person who has altered or intends to alter a structure must obtain a new insignia before it offers for sale, sells, or leases the structure.

(c) A person who brought a structure or component into Washington from another state must obtain an insignia before he or she uses, sells, or leases the structure or component, unless the structure or component has been used outside the state for at least six months.

(2) A manufacturer need not obtain an insignia for a component or structure, except for HUD mobile homes, if:

(a) the structure or component is manufactured in Washington but the manufacturer has designated it for delivery, and delivered it to, a purchaser in another state;

(b) the structure or component is delivered in Washington, but is purchased by a common carrier, shipped by the seller via the purchaser, carried under a bill of lading, and the structure or component is transported to a destination in another state;

(c) the structure or component is delivered in Washington, but is purchased from a dealer or manufacturer in another state for use outside this state, and the purchaser transports the structure or component from Washington to a point outside Washington within 30 days of the date of delivery.

NEW SECTION

WAC 296-150B-025 APPLICATION FOR APPROVAL OF A DESIGN PLAN. (1)(a) A manufacturer of a component or structure, except for HUD mobile homes, must obtain the department's approval of a design plan for the structure or component. The department will not grant an insignia unless the design plan is approved.

(2)(a) The application must include:

(i) A completed application form. The manufacturer may obtain a form from the department.

(ii) An application for approval of a quality control manual, if necessary. (See WAC 296-150B-050).

(iii) One complete set of design plans, specifications, engineering data, and test results, plus one additional complete set for each location at which the manufacturer will manufacture the structure or component.

(iv) The filing fee and the minimum fee for examining the design plan (see WAC 296-150B-990).

(b) If a manufacturer is from out of state, the application must also include a statement from the manufacturer that it agrees to submit to the department annually the names and addresses of all Washington dealers and distributors for the manufacturer's product.

(3) A manufacturer of mobile homes, pursuant to HUD's rules, must have a Design Approval Primary Inspection Agency (DAPIA) check its design plan instead of applying for approval with the department.

NEW SECTION

WAC 296-150B-030 REQUIREMENTS FOR DESIGN PLANS. (1) General requirements. A design plan must include plan and elevation views of the structure or component, and the specifications, engineering data, and test results necessary for a complete evaluation of the design. A design plan for a recreational vehicle need not include an elevation view or structural data. A manufacturer may submit the specifications, engineering data, and test results separately from the drawings.

If the specifications, engineering data, and test reports are not included on the plan drawings, they must be fastened together. The cover sheet of the plan must note that the documents are part of the plan.

The plan and elevation views for the design plan must be drawn to scale on uniformly sized standard drawing sheets. The applicant must submit prints of the drawings; the department will not accept originals.

The applicant must provide, on the cover or face sheet of the design plan, information that describes the plan, including the plan designation, description of design options, sheet numbers, and titles. The cover sheet should also have space for the department to insert the plan number and the approval date.

The plan must indicate where the manufacturer will affix the insignia to the structure or component. A plan that covers three or more modules must have a "key" drawing to show the arrangement of the modules.

(2) If a manufacturer is applying for approval of a design plan for a commercial coach, the manufacturer must designate the occupancy class of the commercial coach pursuant to the occupancy classifications given in the uniform building code.

(3) Specific requirements. The department has numerous specific requirements for design plans. When an applicant asks for an application form for approval of its design plan, it should specify the kind of structure or component it intends to manufacture, and the kind of design plan it intends to submit. The department will send the applicant a copy of the specific requirements.

NEW SECTION

WAC 296-150B-035 ENGINEERING ANALYSIS AND TEST PROCEDURES. (1) When a manufacturer must show that a structural design, method of construction, installation, or piece of equipment is adequate to fulfill its intended function, the manufacturer must submit to the department information on and the results of an engineering analysis or a physical test.

(2) If the manufacturer does an engineering analysis of the design, method, installation, or equipment, the analysis must be made in accordance with generally established principles of engineering and must be signed by an architect or professional engineer licensed in Washington.

(3) If the manufacturer tests the design, method, installation, or equipment, the tests must be performed by

a testing agency or must be directed, witnessed, and evaluated by an approved architect or professional engineer licensed in Washington.

Test reports must contain the following items:

(a) a description of the method or standards that applied to the test;

(b) a description and drawings of the item tested;

(c) a description of the test set-up;

(d) a description of the procedure used to load the item for, and to measure, each condition;

(e) test data (and graphs, where applicable), including pertinent observations of the characteristics and behavior of the item tested;

(f) engineering data; and

(g) analysis, comments, and conclusion.

(4) The results of the tests or analyses must be in writing and must identify the design plan to which the results relate.

NEW SECTION

WAC 296-150B-040 DEPARTMENT APPROVAL OF THE DESIGN PLAN. (1) The department shall approve a design plan if it complies with this chapter. If the department approves a design plan, it will return an approved copy of the plan to the applicant. The applicant must keep a copy of the approved plan at each location at which it is building the structure or component described by the design plan.

(2) If the design plan does not comply with this chapter, the department shall notify the applicant in writing of the deficiencies in the plan. The applicant may resubmit a corrected design plan pursuant to WAC 296-150B-045.

NEW SECTION

WAC 296-150B-045 RESUBMITTAL OF CORRECTED DESIGN PLAN. An applicant who has been notified of deficiencies in its design plan may correct the plan and resubmit it within 90 days after it receives the notice. If the applicant does not meet this deadline, the department may treat the resubmittal as a new application for approval of the design plan.

Each resubmittal must include the minimum resubmittal fee set out in WAC 296-150B-990.

NEW SECTION

WAC 296-150B-050 APPLICATION FOR APPROVAL OF A QUALITY CONTROL MANUAL.

(1) A manufacturer of a recreational vehicle or commercial coach must apply, and a manufacturer of a component may apply, to the department for approval of a quality control manual. The application must include:

(a) A completed application form. The manufacturer may obtain a form from the department.

(b) One copy of the quality control manual plus one additional copy for each location at which the manufacturer will build the structure or component. The copies must be printed on substantial 8 1/2 by 11 inch paper and must be fastened together.

(c) An outline of the quality control procedure.

(d) The name of the corporate officer, partner, or manager who is responsible for the quality control program and for maintaining the inspection records for each unit.

(e) An application fee.

(2) If the department has previously approved a quality control manual for the manufacturer, the manufac-

turer need not submit copies of the manual with the application.

(3) When the manufacturer asks the department for an application form, it should inform the department of what kind of product it intends to manufacture. The department will send the manufacturer the specific requirements for the quality control manual.

NEW SECTION

WAC 296-150B-055 CHANGES TO AN APPROVED DESIGN PLAN OR QUALITY CONTROL MANUAL. If a manufacturer wants to change its design plan or quality control manual, or a change is required because the department has amended the rules in this chapter, the manufacturer must apply for approval of the new design plan pursuant to WAC 296-150B-025, or the new quality control manual pursuant to WAC 296-150B-050.

If the manufacturer must change the design plan or quality control manual to comply with changes in this chapter, the manufacturer may continue to manufacture its product under the old design plan or quality control manual for 90 days after the changes in this chapter become effective. The manufacturer should submit its new design plan or quality control manual within 30 days after the change takes effect to ensure that the department will have time to examine and approve the plan or manual.

NEW SECTION

WAC 296-150B-060 EXPIRATION OF DESIGN PLAN APPROVAL. (1) Approval of a design plan expires 12 months after the date the department approves the plan.

(2) A manufacturer must apply to the department for renewal of the design plan approval at least two months before the approval expires to ensure that the department will have time to examine and approve the application. The manufacturer may obtain an application for renewal of plan approval from the department. The manufacturer must submit:

- (a) a completed application form; and
- (b) the renewal fee required by WAC 296-150B-990.

The renewed plan must be identical to the original design plan, except that the manufacturer may change the model name or designation.

(3) If a manufacturer allows a design plan approval to expire, it must return all unused insignia issued to the manufacturer for the product covered by the expired design plan.

NEW SECTION

WAC 296-150B-065 TRADE SECRETS. The department will keep confidential all material, design plans, specifications, engineering data, test results, quality control manuals, and other design information that a manufacturer submits to the department. The department will release this information to public scrutiny only if ordered to do so by a court.

NEW SECTION

WAC 296-150B-070 APPLICATIONS FOR HUD INSIGNIA FOR MOBILE HOMES. A manufacturer of mobile homes may apply to the department for HUD insignias for its mobile homes. The manufacturer may obtain an application for insignia from the

department. The manufacturer must submit with the application a fee for the insignias. Upon receipt of the application and the fee, the department will send the insignias to the manufacturer. The manufacturer must notify the department immediately of any changes in the information it provided under this section.

NEW SECTION

WAC 296-150B-075 APPLICATIONS FOR INSPECTION AND INSIGNIA FOR COMMERCIAL COACHES, RECREATIONAL VEHICLES, AND COMPONENTS. (1) Inspections in general. A manufacturer of commercial coaches, recreational vehicles, or components must apply to the department for inspections of its products. The department will not issue an insignia for a unit until it has completed inspecting the unit.

The manufacturer may obtain an inspection application form from the department. It must submit the form and an application fee. The department must receive the application at least five days before the proposed date of inspection.

A manufacturer need not apply to the department for inspection if the department has approved an independent inspection agency, a local enforcement agency, or the manufacturer itself to inspect its products. See WAC 296-150B-085.

Each unit of the manufacturer's product must have a specific serial number to ensure that the department has inspected each unit. The manufacturer must have the approved design plan and, if applicable, the approved quality control manual at the location at which it is manufacturing the product. A manufacturer with a quality control manual must provide a control card or other quality control document for each unit.

(2) The department shall generally inspect each commercial coach and component twice. The department shall make an "ok to cover" inspection of a unit before the electrical, plumbing, mechanical, heating, and structural systems are covered or sealed during the construction. After the unit is completed, the department shall make a "final" inspection.

If a commercial coach is built to a simple design, the department may choose to make only a final inspection of the commercial coach.

(3) The department may inspect a recreational vehicle either before or after it has been completed.

NEW SECTION

WAC 296-150B-080 APPLICATIONS FOR INSIGNIA FOR COMMERCIAL COACHES, RECREATIONAL VEHICLES, AND COMPONENTS. The manufacturer of a commercial coach, recreational vehicle, or component must apply to the department for an insignia for each unit. The manufacturer may obtain an application form from the department. The manufacturer must submit with the application a fee for each insignia. The department will give an insignia to a manufacturer for installation on a unit if it has received the application and fees, and if the final inspection reveals that the unit complies with this chapter.

NEW SECTION

WAC 296-150B-085 INSPECTIONS AT A MANUFACTURER'S PLANT BY A LOCAL ENFORCEMENT AGENCY, AN INDEPENDENT INSPECTION AGENCY, OR THE

MANUFACTURER. (1) This section applies to manufacturers of components and factory-built structures.

(2) A manufacturer who wants to be inspected by a local enforcement agency or an independent inspection agency may ask the agency to inspect it. The local enforcement agency or independent inspection agency may do so if it obtains approval from the department.

If the department approves of the agency, it shall by contract allow the agency to perform the inspections. The contract shall require the agency to comply with and enforce the requirements of this chapter, and shall list all manufacturers that the agency may inspect. The parties may amend the contract at any time to add or delete a manufacturer. The manufacturer may obtain the departmental insignia from the agency instead of the department.

(3) A manufacturer may contract with the department to inspect its own products. The contract shall require the manufacturer to comply with and enforce the requirements of this chapter and the manufacturer's quality control manuals. The contract shall specify the management procedures by which the manufacturer will assure that the inspections are carried out, and shall designate the officer, partner, or owner who is responsible for the inspections.

(4) The department shall audit the agency's or manufacturer's inspections to ensure they are complying with the contract and this chapter. If the agency or manufacturer is not complying with the contract or this chapter, the department may require the agency or manufacturer to allow the department to perform the inspections.

NEW SECTION

WAC 296-150B-090 OTHER INSPECTIONS BY THE DEPARTMENT. (1) A person must ask the department to inspect a structure or component if:

NEW SECTION

WAC 296-150B-095 ACTION AFTER INSPECTION. After an inspection, if the structure or component meets the requirements of this chapter, and the applicant submits completed insignia application forms, insignia fees, and inspection fees, the department shall issue an insignia for the structure or component.

(a) the person is selling, leasing, or offering for sale or lease a structure or component that does not bear an insignia and is required to bear an insignia;

(b) the person is altering or has altered the structure or component; and

(c) the department has issued a correction notice and a reinspection is necessary.

(2) An applicant for an inspection must submit an application on forms supplied by the department at least five working days before the desired date of inspection. The applicant must submit with the application an application fee pursuant to WAC 296-150B-990.

(3) For any inspection, the applicant must provide to the department the design plans, specifications, engineering data, and test results on request.

NEW SECTION

WAC 296-150B-100 INSPECTION OF COMMERCIAL COACHES AFTER INSTALLATION AT THE BUILDING SITE. (1) A manufacturer, dealer, or owner must obtain the approval of the local enforcement agency for each installation of a commercial

coach at a building site. After the department performs a final inspection of a unit, it may send a notice to the local enforcement agency that specifies what connections, standards, and items the agency should check when the unit is installed.

(2) The local enforcement agency may require the manufacturer to provide a set of design plans and specifications for the unit, and to obtain all necessary permits, before it allows the manufacturer to transport the unit to the building site.

(3) The local enforcement agency may not open for inspection any commercial coach or component that bears the department's insignia.

(4) The local enforcement agency shall notify the department if a unit has been damaged en route to the building site, or during installation, so that the department can inspect the damage to the unit.

NEW SECTION

WAC 296-150B-105 COMPLAINT INVESTIGATIONS. A person may complain in writing to the department about a structure or component. The complaint should describe the items that the person feels do not comply with this chapter. The department will send a copy of the complaint to the manufacturer and the dealer. The manufacturer and dealer have 30 days to respond. The department shall base its actions on the response.

If the department decides an investigation is necessary and discovers that the unit inspected violates this chapter, the manufacturer or dealer shall pay the cost of the inspection. If the department does not discover any violations, the complainant must pay the fees.

NEW SECTION

WAC 296-150B-110 FEE REQUIRED IF A STRUCTURE OR COMPONENT IS NOT READY FOR INSPECTION. If a manufacturer or person applies to the department for an inspection of a structure or component, and the structure or component is not ready to be inspected at the time or place specified in the application, the manufacturer or person must pay the department the application fee and any travel and per diem expenses.

NEW SECTION

WAC 296-150B-115 ALTERATIONS. (1) No person may alter a mobile home, commercial coach, or recreational vehicle unless the person has first applied for and obtained the department's approval of the alteration. "Alteration" is defined in WAC 296-150B-015(1).

(2) If a person alters a structure in violation of subsection 1, the insignia affixed to the structure is void and may be confiscated by the department.

NEW SECTION

WAC 296-150B-120 APPLICATION FOR ALTERATION INSIGNIA AND APPROVAL OF ALTERATION. (1) If a person proposes to alter a structure, the person must file an application for an alteration insignia and an alteration fee with the department. The person may obtain an application form from the department.

(2) As a condition to approval of an alteration, the department may require inspections of the structure during the alteration to ensure that the alteration com-

plies with this chapter. If the department indicates that inspections are required, the person altering the structure must apply for inspections pursuant to WAC 296-150B-090.

After the final inspection of the alteration, if the alteration complies with this chapter and the applicant has paid the inspection and insignia fees, the department shall issue an insignia for the altered structure.

NEW SECTION

WAC 296-150B-125 IDENTIFICATION OF COMMERCIAL COACHES AND RECREATIONAL VEHICLES. (1) Each commercial coach or recreational vehicle manufactured, sold, leased, or offered for sale or lease in Washington shall bear a permanently affixed identification label that contains the following information:

- (a) the name of the manufacturer;
- (b) the month and year of manufacture;
- (c) the vehicle identification number;
- (d) the manufacturer's assigned identification number;

and

- (e) where applicable, the plan approval number.
- (2) The identification label shall be permanently attached either on the forward half of the left side of the exterior wall of the commercial coach or recreational vehicle, not less than six inches above the floor line, or in proximity to the insignia.

NEW SECTION

WAC 296-150B-130 LOST OR DAMAGED INSIGNIA. If an insignia is lost or damaged after it is affixed to a structure or component, the manufacturer, owner, or user must notify the department in writing immediately. The manufacturer or owner must specify the manufacturer, the vehicle identification number or serial number of the structure, and the insignia number if possible. The manufacturer, owner, or user must also return a damaged insignia if possible.

The department shall replace a damaged or lost insignia on payment of the insignia replacement fee pursuant to WAC 296-150B-990.

NEW SECTION

WAC 296-150B-135 NOTICE OF NONCOMPLIANCE. If an inspection or investigation reveals that a structure or component violates this chapter, the department shall give or mail a notice of violations to the owner, dealer, manufacturer, or other person responsible for the violation. The notice of violation shall describe how the structure or component violates this chapter.

A person who receives a notice of violations must, within ten days after receipt, notify the department in writing of the action he or she has taken or will take to correct the violation. If the person has not corrected the violation within ten days after receipt of the notice, or within any other period of time allowed by the department, the department may confiscate the insignia assigned to the structure or component.

No person who has received a notice of violations may move, cause to be moved, or allow another person to move the structure or component to which the notice refers until the violations have been corrected, the corrections have been inspected and approved by the department, and the person has paid the appropriate inspection and insignia fees.

NEW SECTION

WAC 296-150B-140 PROHIBITED SALE OR LEASE NOTICE. If an inspection or investigation reveals that a structure violates this chapter, the department may post the structure with a prohibited sale or lease notice. No person may sell or lease a structure that is posted with a prohibited sale or lease notice. No person may remove, cause to be removed, or allow to be removed a prohibited sale or lease notice until the violations have been corrected, the corrections have been inspected and approved by the department, and the person has paid the appropriate inspection and insignia fees.

The department may also prohibit the occupancy or use of a structure if it is not occupied or used at the time the violation is discovered.

NEW SECTION

WAC 296-150B-145 APPROVAL OF EQUIPMENT. Equipment used in the body and frame, or the fire safety, plumbing, heating, mechanical, and electrical systems of structures and components must comply with this chapter and must be approved by the department. The department may approve equipment that is listed or labeled by an approved testing or listing agency. The department may approve equipment that is not listed or labeled if it determines that the equipment is adequate to protect health and safety.

The department may refuse to approve equipment that is listed or labeled if it determines that the equipment is not adequate to protect health and safety.

NEW SECTION

WAC 296-150B-150 DEPARTMENT APPROVAL OF LISTING AND TESTING AGENCIES, LICENSED PROFESSIONAL ENGINEERS, AND LICENSED ARCHITECTS. (1) The department will consider the following information in determining whether to approve a listing or testing agency, professional engineer, or licensed architect:

- (a) the names of agents or officers;
- (b) the location of offices;
- (c) a description of services the agency, engineer, or architect furnishes or proposes to furnish;
- (d) a description of the employees' qualifications and responsibilities;
- (e) a summary of the agency's, engineer's, or architect's experience;
- (f) a description of the procedures and facilities the agency, engineer, or architect will use to evaluate a product, inspect the product manufacturer's operations and quality control, and label the units of a product;
- (g) a description of the specific information the agency, engineer, or architect will furnish with its listings;
- (h) a description of how the agency, engineer, or architect will deal with errors in its procedures that result in defective or unacceptable products;
- (i) proof of independence and absence of conflict of interest; and
- (j) a published directory that includes a list of product manufacturers and product information.

(2) To obtain departmental approval, a listing or testing agency, professional engineer, or licensed architect may not be under the control of a manufacturer, dealer, or supplier for the structures, components, equipment, or installations that it approves or lists.

A listing or testing agency must publish at least annually a list of the equipment, components, or installations it has approved. The listing must certify that the equipment, components, and installations have been tested and meet nationally approved standards and must specify the permissible uses for the equipment, components, and installations.

A listing agency must periodically inspect the manufacture of equipment, components, and installations that it has approved. A testing agency must test at least annually the equipment, components, and installations it has approved.

NEW SECTION

WAC 296-150B-155 APPROVAL OF ALTERNATES. The department may approve the use of an alternative design, material, appliance, system, device, arrangement, or method of construction if this chapter does not specifically proscribe the use of the alternative, and the alternative equals or betters the quality, strength, effectiveness, fire resistance, durability, and safety of the design, material, appliance, system, device, arrangement, or method of construction required by this chapter.

NEW SECTION

WAC 296-150B-160 MANUFACTURING IN MORE THAN ONE LOCATION. A manufacturer that is manufacturing its product at more than one location must notify the department in writing of each location. A manufacturer of structures must keep an approved design plan and an approved quality control manual at each location.

NEW SECTION

WAC 296-150B-165 CHANGE OF NAME OR ADDRESS. If a manufacturer changes its name or address, it must notify the department in writing of the change within ten days. The notice must be accompanied with the appropriate fee.

NEW SECTION

WAC 296-150B-175 CHANGE OF OWNERSHIP. If a manufacturer changes ownership, the new owner must notify the department in writing within ten days. The notice must be accompanied with the appropriate fee. The new owner need not submit a new application for design plan approval if it continues to manufacture the product in accordance with previously approved design plans.

NEW SECTION

WAC 296-150B-180 RECIPROCAL AGREEMENTS. In accordance with RCW 43.22.400, the director has examined the statutes and rules of several states and finds that the statutes and rules provide construction standards that are equal to those of Washington, and that the states enforce their statutes and rules. The department has entered into reciprocal agreements with those states. The department has all reciprocal agreements on file at the factory-assembled structures section. The public may inspect and copy the agreements during regular business hours.

NEW SECTION

WAC 296-150B-990 FEES.

- (1) Initial manufacturer filing fee:

\$25.00.

- (2) Fees for application for design plan approval. The fees listed in this subsection cover the application filing fee and one hour of examination time. The applicant will be required to pay for examination time beyond the base hours pursuant to the fees set in subsection (6).

- (a) Fee for application for commercial coach, recreational vehicle, or component design plan approval:

\$70.00

- (b) Fees for resubmittals of a design plan for a commercial coach, recreational vehicle, or component:

\$50.00

- (3) Design plan renewal fees.

- (a) Renewal of an unexpired and unrevoked commercial coach or recreational vehicle design plan or related group of plans:

\$30.00

- (b) Renewal of an expired or revoked design plan:

100% of fee for new design plan.

- (4) Fee for transfer of design plan approval to a different manufacturer:

\$100.00

- (5) Fee for filing a commercial coach, recreational vehicle, or component quality control manual:

\$10.00

- (6)(a) Fee for inspections, examinations of design plans, and other technical services performed by the department; other than inspections, examinations, and services for a HUD-labeled mobile home before it is sold or

leased to a consumer:

\$50.00 minimum plus \$25.00 for every half-hour or fraction of a half-hour over one hour.

employees on an estimated basis to be corrected after the inspections are completed. The department will not charge for travel expenses incurred for inspections or other services performed in Washington. The expenses shall be calculated pursuant to the following list:

(b) Fee for inspections, examinations, and other technical services performed by the department for a HUD-labeled mobile home before it is sold or leased to a consumer:

\$32.00 minimum plus \$16.00 for every half-hour or fraction of a half-hour over one hour.

- (a) Surface travel, per mile:
- (b) Air travel:
- (c) Hourly charge for travel time:

\$.185
Cost of air fare based on published rates.

\$25.00 per half-hour or fraction of a half-hour.

(7) Insignia fees.

(a) For each recreational vehicle: \$10.00

(b) For each single width commercial coach, or for the first section of a multiple section commercial coach: \$15.00

(c) For each additional section of a multiple section commercial coach: \$10.00

(d) For each service core: \$50.00

(e) For each component other than a service core: \$10.00

(f) For each reissuance of a mobile home, commercial coach, or recreational vehicle insignia: \$10.00

(8) Fee for each notification to a local enforcement agency: \$15.00

(9) Travel fees and expenses. If a manufacturer or other person requests an inspection or other technical service outside the state, the manufacturer must prepay the travel expenses of the department's

(d) Expenses: expenses include, but are not limited to, car rental, parking lot charges, and personal expenses. Personal expenses, including food, lodging, and per diem, shall be calculated pursuant to the allowances and costs set by the Washington State Office of Financial Management.

(10) Fee for change in manufacturer's or dealer's name, address, or ownership: \$15.00

(11) Alteration fee (includes insignia): \$25.00

REPEALER

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

(1) WAC 296-48-005 ADMINISTRATIVE—AUTHORITY FOR MOBILE HOME CODE.

(2) WAC 296-48-010 APPLICATION AND SCOPE.

(3) WAC 296-48-020 ALTERATION OF MOBILE HOMES.

(4) WAC 296-48-051 DEFINITIONS.

(5) WAC 296-48-600 ENFORCEMENT.

(6) WAC 296-48-602 STATE ENFORCEMENT OF FEDERAL RULES AND REGULATIONS.

(7) WAC 296-48-604 LIMITED APPLICATION OF REMAINING SECTIONS.

(8) WAC 296-48-605 EQUIPMENT AND INSTALLATIONS.

(9) WAC 296-48-610 DEPARTMENT DISAPPROVAL OF LISTED OR LABELED EQUIPMENT AND INSTALLATIONS.

(10) WAC 296-48-615 APPROVAL OF ALTERNATES AND EQUIVALENTS.

(11) WAC 296-48-620 MANUFACTURER'S APPROVAL.

(12) WAC 296-48-625 REQUIRED INSPECTION.

(13) WAC 296-48-630 INSPECTION APPROVAL.

(14) WAC 296-48-635 NOTICE OF VIOLATIONS.

(15) WAC 296-48-636 COMPLAINT INVESTIGATION.

(16) WAC 296-48-640 ACTION AFTER REQUESTED INSPECTION.

(17) WAC 296-48-645 FIELD TECHNICAL SERVICE.

(18) WAC 296-48-701 APPLICATION FOR STRUCTURAL SYSTEM APPROVAL.

(19) WAC 296-48-702 APPLICATION FOR ELECTRICAL, MECHANICAL AND PLUMBING SYSTEM APPROVAL.

(20) WAC 296-48-703 APPLICATION FOR MODEL PLAN APPROVAL.

(21) WAC 296-48-704 APPLICATION FOR IN-PLANT QUALITY CONTROL MANUAL APPROVAL.

(22) WAC 296-48-706 CALCULATIONS AND TEST PROCEDURE.

(23) WAC 296-48-710 MODEL MANUFACTURED IN MORE THAN ONE LOCATION.

(24) WAC 296-48-715 OUT-OF-STATE APPLICANT.

(25) WAC 296-48-720 NON-CONFIRMING APPLICATION AND PLANS.

(26) WAC 296-48-725 EVIDENCE OF DEPARTMENT'S APPROVAL.

(27) WAC 296-48-730 PLAN APPROVAL EXPIRATION.

(28) WAC 296-48-735 IN-PLANT QUALITY CONTROL.

(29) WAC 296-48-740 CHANGES TO APPROVED PLANS.

(30) WAC 296-48-745 CHANGE OF OWNERSHIP.

(31) WAC 296-48-750 CHANGE OF NAME OR ADDRESS.

(32) WAC 296-48-755 DISCONTINUANCE OF MANUFACTURE.

(33) WAC 296-48-760 VEHICLE IDENTIFICATION.

(34) WAC 296-48-761 LABELS FOR EXTERIOR LOCATIONS.

(35) WAC 296-48-765 INSIGNIA REQUIRED.

(36) WAC 296-48-770 INSIGNIA NOT REQUIRED.

(37) WAC 296-48-775 APPLICATION FOR INSIGNIA PURSUANT TO PLAN APPROVAL.

(38) WAC 296-48-776 APPLICATION FOR INSIGNIA PURSUANT TO REQUESTED INSPECTION.

(39) WAC 296-48-780 ALTERATION OR CONVERSION.

(40) WAC 296-48-781 NOT APPLICABLE.

(41) WAC 296-48-782 APPLICATION REQUIREMENTS.

(42) WAC 296-48-785 DENIAL OF INSIGNIA.

(43) WAC 296-48-790 INSIGNIA REMOVAL.

(44) WAC 296-48-795 LOST OR DAMAGED INSIGNIA.

(45) WAC 296-48-800 FEES.

(46) WAC 296-48-825 PUBLIC HEARING.

(47) WAC 296-48-830 AGGRIEVANCE HEARING REQUEST.

(48) WAC 296-48-890 APPENDIX—ANSI A119.1—COPIES.

(49) WAC 296-48A-001 STANDARDS FOR RECREATIONAL VEHICLES.

(50) WAC 296-48A-200 INDIVIDUAL VENTS.

(51) WAC 296-48A-400 SIZING AND CAPACITY OF GAS PIPING.

(52) WAC 296-48A-405 DESCRIPTION OF TABLES.

(53) WAC 296-48A-410 USE OF CAPACITY TABLES.

(54) WAC 296-48A-600 LOW-VOLTAGE WIRING MATERIALS.

(55) WAC 296-48A-605 POWER-SUPPLY ASSEMBLY.

(56) WAC 296-48A-610 GROUND-FAULT CIRCUIT PROTECTION.

(57) WAC 296-48A-615 LABELING AT THE ELECTRICAL ENTRANCE.

(58) WAC 296-48A-700 ADMINISTRATIVE—AUTHORITY FOR RECREATIONAL VEHICLE CODE.

(59) WAC 296-48A-750 CONDITIONS OF RECIPROCITY.

(60) WAC 296-48A-755 AGREEMENTS WITH OUT-OF-STATE JURISDICTIONS.

(61) WAC 296-48A-770 DEFINITIONS.

(62) WAC 296-48A-780 ENFORCEMENT.

(63) WAC 296-48A-800 APPROVALS, INSPECTIONS, QUALITY CONTROL, IDENTIFICATION.

(64) WAC 296-48A-990 APPENDIX.

WSR 82-09-071
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Filed April 21, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal

rules concerning Institutions for the mentally retarded (IMR)—Accounting and reimbursement system, new chapter 275-38 WAC.

It is the intention of the secretary to adopt these rules on an emergency basis effective May 1, 1982.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
Division of Administration
Department of Social and Health Services
Mailstop OB-33 C
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Washington, Phone (206) 753-7015, by June 9, 1982. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Wednesday, June 23, 1982, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, June 30, 1982, in William B. Pope's Office, 3rd Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.09.120.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 23, 1982, and/or orally at 10:00 a.m., Wednesday, June 23, 1982, Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: April 20, 1982

By: David A. Hogan

Director, Division of Administration

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Adoption of chapter 275-38 WAC, IMR Program and Reimbursement Regulations.

The purpose of the adoption is to promulgate regulations establishing a program and reimbursement system to purchase services for the department's developmentally disabled clients in institutions for the mentally retarded (IMR). Prior to the adoption of chapter 275-38 WAC, IMR's were reimbursed under the nursing home reimbursement system, chapter 388-96 WAC.

Statutory Authority: RCW 74.09.120.

Summary of the Rule: Establishes an accounting and reimbursement system for IMR's. This system parallels the nursing home accounting and reimbursement system, as defined in chapter 388-96 WAC, with the following changes: Pursuant to interpretive guidelines from the Department of Health and Human Services, incorporates regulations for IMR's serving 15 or fewer residents and modifies HB 760 reimbursement methodology so that IMR rates will not be reduced for resident care consultant costs in excess of the industry average. The 1981 redistribution pool will be adjusted to account for the additional costs of consultant funding. Reduces July

1982 and January 1983 inflation adjustments from 3.25 percent for each period to 1.625 percent for each period. Establishes basic program definitions for the IMR program.

Persons Responsible for the Drafting, Implementation and Enforcement of the Rules are: Frank Sanborn, Office Chief, 234-3906, and Roger Gantz, Section Manager, 234-4449, Division of Developmental Disabilities, Mailstop: OB-42 C.

These rules are not a result of federal law, federal court decisions or state court decisions.

NEW SECTION

WAC 275-38-001 TERMS. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth in this section when used in this chapter.

(1) "Accrual method of accounting" - A method of accounting where revenues are reported in the period when earned, regardless of when collected, and expenses are reported in the period incurred, regardless of when paid.

(2) "Active treatment in institutions for the mentally retarded" requires the following:

(a) The individual's regular participation, in accordance with an individual habilitation plan, in professionally developed and supervised activities, experiences, or therapies.

(b) A written individual habilitation plan setting forth measurable goals or objectives stated in terms of desirable behavior and prescribing an integrated program of activities, experiences or therapies necessary for the individual to reach the goals or objectives. The overall purpose of the plan is to help the individual function at the greatest physical, intellectual, social, or vocational level he or she can presently or potentially achieve.

(c) An interdisciplinary professional evaluation:

(i) Completed, for a recipient, before admission to the institution but not more than three months before, and for an individual applying for Medicaid after admission, before the institution requests payment;

(ii) Consisting of complete medical, social, psychological diagnosis and evaluations, and an evaluation of the individual's need for institutional care; and

(iii) Made by a physician, a social worker, and other professionals, at least one of whom is a qualified mental retardation professional.

(d) Reevaluation medically, socially, and psychologically at least annually by the staff involved in carrying out the resident's individual plan of care. The reevaluation must include review of the individual's progress toward meeting the plan objectives, the appropriateness of the individual plan of care, assessment of his or her continuing need for institutional care, and consideration of alternate methods of care.

(e) An individual postinstitutionalization plan, as part of the individual plan of care, developed before discharge by a qualified mental retardation professional and other appropriate professionals.

(3) "Allowable costs" - See WAC 275-38-680.

(4) "Appraisal" - The process of establishing the fair market value or reconstruction of the historical cost of an asset acquired in a past period as performed by an individual professionally designated either by the American institute of real estate appraisers as a member, appraisal institute (MAI), or by the society of real estate appraisers as a senior real estate analyst (SREA) or a senior real property appraiser (SRPA). The process includes a systematic, analytic determination, the recording and analyzing of property facts, rights, investments, and values based on a personal inspection and inventory of the property.

(5) "Arm's-length transaction" - A transaction resulting from good-faith bargaining between a buyer and seller, where neither party is legally related to the other party by blood or under law, and having adverse positions in the market place. Sales or exchanges of IMR or nursing home facilities among two or more parties where all parties subsequently continue to own one or more of the facilities involved in the transaction shall not be considered arm's-length transactions. Sale of a IMR facility subsequently leased back to the seller within five years of the date of sale shall not be considered an arm's-length transaction.

(6) "Assets" - Economic resources of the contractor, recognized, and measured in conformity with generally accepted accounting principles. Assets also include deferred charges, not resources, but assets

recognized and measured in accordance with generally accepted accounting principles.

(7) "Bad debts" – Amounts considered to be uncollectable from accounts and notes receivable.

(8) "Beds" – Unless otherwise specified, the number of set-up beds in the IMR facility, not to exceed the number of licensed beds.

(9) "Beneficial owner" – Any person:

(a) Directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power including the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power including the power to dispose, or to direct the disposition of such ownership interest.

(b) Directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter.

(c) Subject to subsection (9) of this section, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

Except, any person acquiring an ownership interest or power specified in subsection (9)(c)(i), (ii), or (iii) of this section with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest acquired through the exercise or conversion of such ownership interest or power.

(d) Any person in the ordinary course of business having a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest until the pledgee has taken all formal steps necessary required to declare a default and determine the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised: PROVIDED, That

(i) The pledge agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in subsection (9) of this section; and

(ii) The pledge agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or direct or to direct the vote of the pledged ownership interest; or

(B) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power(s) pursuant to a pledge agreement where credit is extended and where the pledgee is a broker or dealer.

(10) "Boarding home" – Means any home or other institution licensed in accordance with chapter 18.20 RCW.

(11) "Capitalization" – The recording of an expenditure as an asset.

(12) "Capitalized lease" – A lease required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

(13) "Cash method of accounting" – A method of accounting where revenues are recognized only when cash is received, and expenditures are expensed, and asset items are not recorded until cash is disbursed.

(14) "Change of ownership" – A change in the individual or legal organization responsible for the daily operation of an IMR facility.

(a) Events changing ownership include but are not limited to the following:

(i) The form of legal organization of the owner is changed (such as a sole proprietor forms a partnership or corporation);

(ii) Title to the IMR enterprise is transferred by the contractor to another party;

(iii) The IMR facility is leased, or an existing lease is terminated;

(iv) Where the contractor is a partnership, any event occurs dissolving the partnership;

(v) Where the contractor is a corporation, the corporation is dissolved, merges with another corporation which is the survivor, or consolidates with one or more other corporations to form a new corporation.

(b) Ownership does not change when the following occurs:

(i) A party contracts with the contractor to manage the enterprise as the contractor's agent, (i.e., subject to the contractor's general approval of daily operating decisions);

(ii) If the contractor is a corporation, some or all of the corporation's stock is transferred.

(15) "Charity allowances" – Reductions in charges made by the contractor because of the indigence or medical indigence of a resident.

(16) "Contract" – A contract between the department and a contractor for the delivery of IMR services to eligible medicaid recipients in a facility and an entity responsible for operational decisions.

(17) "Contractor" – An entity contracting with the department to deliver IMR services to eligible medicaid recipients.

(18) "Courtesy allowances" – Reductions in charges in the form of an allowance to physicians, clergy, and others, for services received from the contractor. Employee fringe benefits are not considered courtesy allowances.

(19) "CSO" – The local community services office of the department.

(20) "DDD" – The division of developmental disabilities of the department.

(21) "Department" – The department of social and health services (DSHS) and employees.

(22) "Depreciation" – The systematic distribution of the cost or other base of a tangible asset less salvage, over the estimated useful life of the asset.

(23) "Donated asset" – An asset the contractor acquired without making any payment in the form of cash, property, or services. An asset is not a donated asset if the contractor made even a nominal payment in acquiring the asset. An asset purchased using donated funds is not a donated asset.

(24) "Entity" – An individual, partnership, corporation, public institution established by law, or any other association of individuals, capable of entering enforceable contracts.

(25) "Equity capital" – Total tangible and other assets necessary, ordinary, and related to patient care from the most recent provider cost report minus related total long-term debt from the most recent provider cost report plus working capital as defined in this section.

(26) "Facility" – An IMR residential setting licensed in accordance with chapter 18.51 RCW as a nursing home, licensed in accordance with chapter 18.20 RCW as a boarding home for the aged, or certified as an IMR by the department in accordance with federal regulations.

(27) "Fair market value" – The price the asset would have been purchased for on the date of acquisition in an arm's-length transaction between a well-informed buyer and seller, neither being under any compulsion to buy or sell.

(28) "Fiscal year" – The operating or business year of a contractor. All contractors report on the basis of a twelve-month fiscal year, but provision is made in this chapter for reports covering abbreviated fiscal periods.

(29) "Generally accepted accounting principles" – Accounting principles currently approved by the financial accounting standard board (FASB).

(30) "Goodwill" – The excess of the price paid for a business over the fair market value of all other identifiable and tangible assets acquired. Also, the excess of the price paid for an asset over fair market value.

(31) "Habilitative services" – Those services required by the individual habilitation plan provided or directed by qualified therapists.

(32) "Historical cost" – The actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies.

(33) "Imprest fund" – A fund regularly replenished in exactly the amount expended from the fund.

(34) "IMR" – When referring to a facility, one certified to provide services to the mentally retarded or persons with related conditions. When referring to a level of care, IMR is a range of services required for the mentally retarded or persons with related conditions. When referring to a person, a recipient requiring IMR services.

(35) "Interest" – The cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

(36) "Joint facility costs" - Any costs representing expenses incurred benefiting more than one facility, or one facility and any other entity.

(37) "Levels of care" - The classification of levels of services provided to residents by a contractor, (e.g., levels A, B, C, D and E.)

(38) "Medicaid program" - The state medical assistance program provided under RCW 74.09.500 or authorized state medical services.

(39) "Medical assistance recipient" - An individual determined eligible for medical assistance by the department for the services provided in chapter 74.09 RCW.

(40) "Nonallowable costs" - Same as "unallowable costs".

(41) "Nonrestricted funds" - Donated funds not restricted to a specific use by the donor, (e.g., general operating funds).

(42) "Nursing home" - A home, place or institution, licensed in accordance with chapter 18.51 RCW, where skilled nursing, intermediate care and/or IMR services are delivered.

(43) "Operating lease" - A lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

(44) "Owner" - A sole proprietor, general or limited partner, or beneficial interest holder of five percent or more of a corporation's outstanding stock.

(45) "Ownership interest" - All interests beneficially owned by a person, calculated in the aggregate, regardless of the form such beneficial ownership takes.

(46) "Per diem (per resident day) costs" - Total allowable costs for a fiscal period divided by total resident days for the same period.

(47) "Prospective daily payment rate" - The daily amount assigned to each contractor, determined by the department to be reasonable to meet the costs of providing services required by law if the contractor provides those services in an economical and efficient manner. Such a rate is a budget for maximum expenditures necessary to provide services required by law.

(48) "Qualified mental retardation professional (QMRP)" - A therapist approved by the department having specialized training and one year's experience in working with the mentally retarded or developmentally disabled.

(49) "Qualified therapist" - Any of the following:

(a) An activities specialist having specialized education, training, or experience as specified by the department.

(b) An audiologist eligible for a certificate of clinical competence in audiology or having the equivalent education and clinical experience.

(c) A dental hygienist as defined by chapter 18.29 RCW.

(d) A dietitian: Eligible for registration by the American dietetic association under requirements in effect on January 17, 1974; or having a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management; having one year supervisory experience in the dietetic service of a health care institution; and participating annually in continuing dietetic education.

(e) An occupational therapist being a graduate of a program in occupational therapy, or having the equivalent of such education or training.

(f) A pharmacist as defined by chapter 18.64 RCW.

(g) A physical therapist as defined by chapter 18.74 RCW.

(h) A physician as defined by chapter 18.71 RCW or an osteopathic physician as defined by chapter 18.57 RCW.

(i) A psychologist as defined by chapter 18.83 RCW.

(j) A qualified mental retardation professional.

(k) A registered nurse as defined by chapter 18.88 RCW.

(l) A social worker who is a graduate of a school of social work.

(m) A speech pathologist eligible for a certificate of clinical competence in speech pathology or having the equivalent education and clinical experience.

(50) "Recipient" - An eligible medical care recipient.

(51) "Regression analysis" - A statistical technique through which one can analyze the relationship between a dependent or criterion variable and a set of independent or predictor variables.

(52) "Regional services" - Local office division of developmental disabilities.

(53) "Related organization" - An entity which is under common ownership and/or control with, or has control of or is controlled by, the contractor. An entity is deemed to "control" another entity if one entity has a five percent or greater ownership interest in the other, or if an entity has capacity, derived from any financial or other relationship, and whether or not exercised, to influence directly or indirectly the activities of the other.

(54) "Relative" - Spouse; natural parent, child, or sibling; adopted child or adoptive parent; step-parent, step-child, step-brother, step-sister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law; grandparent or grandchild; uncle, aunt, nephew, niece or cousin.

(55) "Resident day" - A calendar day of resident care. In computing calendar days of care, the day of admission is always counted. The day of discharge is counted only when the resident was admitted on the same day. A resident is admitted for purposes of this definition when he or she is assigned a bed and a resident record is opened.

(56) "Resident living staff" - Staff whose primary responsibility is the care and development of the residents, including:

(a) Resident activity program;

(b) Domiciliary services; and/or

(c) Habilitative services under the supervision of the QMRP.

(57) "Restricted fund" - A fund where the use of the principal and/or income is restricted by agreement with or direction by the donor to a specific purpose, in contrast to a fund over which the owner has complete control. These generally fall into three categories:

(a) Funds restricted by the donor to specific operating purposes;

(b) Funds restricted by the donor for additions to property, plant, and equipment; and

(c) Endowment funds.

(58) "Secretary" - The secretary of DSHS.

(59) "Start-up costs" - The one-time preopening costs incurred from the time preparation begins on a newly constructed or purchased building until the first resident is admitted. Start-up costs include administrative and nursing salaries, utility costs, taxes, insurance, repairs and maintenance, training costs, etc. Start-up costs do not include expenditures for capital assets.

(60) "Title XIX" - The 1965 amendments to the social security act, P.L. 89-07, as amended.

(61) "Unallowable costs" - Costs not meeting every test of an allowable cost, as determined in WAC 275-38-680.

(62) "Uniform chart of accounts" - A list of account titles identified by code numbers established by the department for contractors to use in reporting costs.

(63) "Vendor number" - A number assigned to each contractor delivering IMR services to IMR Medicaid recipients.

(64) "Working capital" - Total current assets necessary, ordinary, and related to resident care as reported in the most recent cost report minus total current liabilities necessary, ordinary, and related to resident care from the most recent cost report.

NEW SECTION

WAC 275-38-005 IMR CARE. (1) The department has the administrative and legal responsibility to purchase the services of an institution for the mentally retarded and persons with similar conditions (IMR), and IMR-based services for eligible developmentally disabled persons. The department has the responsibility to assure adequate care, service, and protection are provided through licensing and certification procedures.

(2) The intent of this chapter is to establish standards for habilitative training, health related care, supervision, and residential services to eligible persons.

(3) Each IMR facility shall be certified as a Title XIX IMR facility.

(4) Each IMR facility with a certified capacity of sixteen beds or more shall be certified and/or licensed as a nursing home in accordance with chapter 18.51 RCW.

(5) Each private IMR facility with a certified capacity of fifteen beds or less shall be licensed as a boarding home for the aged in accordance with chapter 18.20 RCW.

(6) Facilities certified to provide IMR services must comply with all applicable federal regulations under Title XIX, Section 1905 of the Social Security Act 42 U.S.C. as amended, as well as state regulations governing the licensing of nursing homes or boarding homes for the aged, and other relevant state regulations.

(7) The sections of this chapter will supersede and replace any and all sections affecting IMR facilities or programs in chapters 388-88 and 388-96 WAC except where specifically referenced in this chapter.

NEW SECTION

WAC 275-38-007 IMR FACILITIES. (1) Contracts with IMR facilities will specify one of five levels (A, B, C, D, and E) of service. Clients will be referred for admission to IMR facilities by the DDD regional services office. Admission will be verified and classification

determined by a qualified mental retardation professional employed by the department. This classification will specify one of these five levels of service.

(2) At least fifty percent of the licensed bed capacity of a facility will be occupied by persons with mental retardation or related conditions as of the date of application for certification.

(3) Facilities shall not admit any person as a resident except developmentally disabled persons after the date of certification.

NEW SECTION

WAC 275-38-015 NAME OF IMR. The division will recognize only the official name of an IMR as shown on the license.

NEW SECTION

WAC 275-38-020 CLOSURE OF AN IMR FACILITY. When a facility is due to cease operations, the facility has the responsibility of notifying the department in writing, giving sixty days notice. Upon receipt of notice of closure of a facility, the department shall cease referral of clients to the facility and proceed in the orderly relocation of the residents.

NEW SECTION

WAC 275-38-025 ADEQUATE IMR CARE. Care and services rendered must be justified as essential to the resident's habilitation and health care needs, with the overall goal of the resident attaining the highest level of independence. Each IMR is obligated to assure the provision of adequate habilitative training and health care to include but not limited to:

- (1) Active treatment as defined in WAC 275-38-001.
- (2) Services to the resident by or under the supervision of qualified therapists in accordance with the identified needs of the individual resident.
- (3) Provide routine items and supplies uniformly used for all residents.
- (4) Surgical appliances, prosthetic devices, and aids to mobility required for the exclusive use of an individual resident are available to the recipient pursuant to WAC 388-86-100.
- (5) Nonreusable supplies not usually provided for all residents may be individually ordered in accordance with WAC 388-86-005(2). Requests for such supplies must be authorized by a department representative.
- (6) Each IMR facility is responsible for providing transportation to and from the day training programs. Responsibility for transportation may include assurance of resident's use of public transportation.

NEW SECTION

WAC 275-38-030 CONTINUITY OF RESIDENT CARE. When a resident is transferred from one IMR facility to another, from an IMR facility to the hospital, from the hospital to an IMR facility, or to alternative community placement, essential information concerning the resident, his or her condition, regimen of care and training must be transmitted in writing by the sending facility to the receiving facility at the time of the resident's transfer.

NEW SECTION

WAC 275-38-035 IMR CONTRACT—NONCOMPLIANCE.

(1) When a facility is in violation of the terms of the contract, the department may temporarily suspend the referral of residents to the facility. Whenever referral is suspended under this section, the facility will immediately be notified in writing of the suspension and of the basis for the department's action. Suspension may continue until the department determines the infraction has been corrected.

(2) Failure of a facility to provide staffing commensurate with the terms of the contract shall necessitate the suspension of referral of recipients who require the level of care and supervision not provided by the facility. No facility shall accept or retain recipients whose unique needs cannot be met by that facility. See WAC 275-38-025. Violations creating a health or safety hazard to individual residents shall constitute grounds for termination of the contract by the department.

(3) The occupancy of each resident room in any licensed IMR facility is designated by the licensing authority and the occupancy of each room must be limited to the number of residents for which the room is licensed. The location of any resident in such a manner as to exceed the licensed capacity of any resident room constitutes a violation of the

contract for IMR care whether or not the total licensed capacity of the facility has been reached. The location of a resident in any unlicensed area of the facility is also a violation of the contract.

(4) When the department terminates a contract, the facility will be notified in writing of the contract termination and the basis for the department's action. The department will be responsible for the relocation of residents.

NEW SECTION

WAC 275-38-040 CLASSIFICATION OF IMR RESIDENTS.

(1) For IMR residents the level of care determinations are made by a qualified mental retardation professional employed by the department, in accordance with his or her best professional judgment. Each IMR resident shall be classified by the level of care the resident may individually need. The levels of care are A, B, C, D, or E.

(2) In making IMR classification decisions, the departmental representative shall utilize the following guidelines:

- (a) Level A: Residents:
 - (i) Requiring twenty-four hour licensed nursing supervision; and
 - (ii) May attend day training in community based programs; and
 - (iii) Manifesting behaviors requiring highly structured behavioral management programs; or
 - (iv) Not able to receive adequate care or services in a lesser level of IMR.
 - (b) Level B: Clients:
 - (i) Requiring licensed nursing supervision for at least eight hours each day; and
 - (ii) May attend day training in community based program; and
 - (iii) Manifesting behaviors requiring highly structured behavioral management programs; or
 - (iv) Not able to receive adequate care or services in a lesser level of IMR.
 - (c) Level C: Residents:
 - (i) Requiring twenty-four hours of licensed nursing supervision; and
 - (ii) Capable of participating in off-premises day training programs; or
 - (iii) Cannot receive adequate care or services in a lesser level of IMR.
 - (d) Level D: Residents:
 - (i) Requiring licensed nursing supervision for at least eight hours each day; and
 - (ii) Capable of participating in off-premises day training programs; or
 - (iii) Not able to receive adequate care or services at a lesser level of IMR.
 - (e) Level E: Residents:
 - (i) Requiring health-related supervision but not requiring licensed nursing supervision. The facility must provide for licensed consultation to supervise the health care needs of the residents;
 - (ii) Capable of attending an off-premises day training program; and
 - (iii) Not able to receive adequate care or services at a less restrictive level of residential setting.
- (3) The classification of IMR residents shall be periodically reviewed by a qualified mental retardation professional employed by the department for the purposes of:
- (a) Determining the need for continued stay; and
 - (b) Identify the level of care required to meet the needs of the resident.
- (4) Classification changes shall be made in accordance with the needs of the resident and in accord with appeal and relocation procedures outlined in WAC 275-27-500 and 275-38-060 as applicable.

NEW SECTION

WAC 275-38-045 MINIMUM STAFF REQUIREMENTS. (1) Each level of IMR must provide staff adequate in numbers and qualifications to meet the need of the residents.

(2) Specifically, the IMR must provide at least the following:

- (a) Level A:
 - (i) Facility-based physician staff to provide for twenty-four hour medical supervision to include examination, diagnosis, planning, implementation, and review of appropriate medical regimen for each resident;
 - (ii) One full-time registered nurse as director of nursing services with sufficient additional licensed nurses to provide twenty-four hour nursing supervision;

- (iii) Facility-based qualified therapist staff in accordance with WAC 275-38-025;
- (iv) Sufficient resident living staff to meet the needs of the residents in care level A;
- (v) Sufficient qualified mental retardation professional staff to meet the needs of the residents.
- (b) Level B:
 - (i) Facility-based physician staff sufficient to provide for medical supervision to include examination, diagnosis, planning, implementation, and review of an appropriate medical regimen for each resident;
 - (ii) At least one registered nurse responsible as the director of nursing services and in addition sufficient licensed nurses to provide nursing supervision of the facility for at least eight hours per day;
 - (iii) Facility-based qualified therapist staff in accordance with WAC 275-38-025;
 - (iv) Sufficient resident living staff to meet the needs of the residents in care level B;
 - (v) Sufficient qualified mental retardation professional staff to meet the needs of the residents.
- (c) Level C:
 - (i) A physician as a consultant medical director to the facility;
 - (ii) One full-time registered nurse as director of nursing services with additional licensed nurses to provide twenty-four hour nursing supervision of the facility;
 - (iii) Sufficient resident living staff to meet the needs of the residents in care level C;
 - (iv) Sufficient qualified mental retardation professional staff to meet the needs of the residents;
 - (v) Consultant qualified therapist staff in accordance with WAC 275-38-025.
- (d) Level D:
 - (i) A physician as a consultant medical director to the facility;
 - (ii) A licensed nurse responsible as the director of nursing services with additional licensed nurses to provide nursing supervision of the facility for at least eight hours per day;
 - (iii) Sufficient resident living staff to meet the needs of the residents in care level D;
 - (iv) Sufficient qualified mental retardation professional staff to meet the needs of the residents;
 - (v) Consultant qualified therapist staff in accordance with WAC 275-38-025.
- (e) Level E:
 - (i) A physician as a consultant medical director to the facility;
 - (ii) A registered nurse as a consultant to the facility, responsible for the health care needs of the residents;
 - (iii) Sufficient resident living staff must be provided to assure at least one staff is on duty in the facility when residents are present;
 - (iv) Sufficient qualified mental retardation professional staff to meet the needs of the residents;
 - (v) Qualified consultant therapists in accordance with WAC 275-38-025.

NEW SECTION

WAC 275-38-050 PLACEMENT OF IMR CLIENT. Placement into an IMR facility is the responsibility of the division of developmental disabilities and shall be accomplished in accordance with the applicable federal and state regulations. The client's classification and eligibility for IMR services shall be determined by representatives of the department before payment can be approved: PROVIDED, That a facility may not admit a client requiring services the facility is not able to provide.

NEW SECTION

WAC 275-38-055 TRANSFER OF IMR CLIENT—RELOCATION. (1) The department is responsible for assuring individual client's health care and habilitative training needs are identified and met, as provided by state and federal regulations. The department is therefore responsible for assuring that each client is placed in a facility certified as capable of meeting the needs of the client.

(2) Each client admitted to a facility may be transferred or discharged only for medical reasons, or for his or her welfare or the welfare of other residents of the facility. This determination shall be made by the department based on an assessment of the resident, consultation with the service provider, and a review of the relevant records.

(3) If the services being provided to a resident are not commensurate with the resident's needs, the department is responsible for initiating and facilitating the resident's relocation.

A circumstance where the department would enforce immediate movement of a resident from an IMR facility is the revocation or suspension of the IMR certification and/or license.

(4) Upon the determination by the department that a facility will no longer operate or be allowed to operate an IMR, because of any violation of the facility's contract or these regulations or state or federal law, the department will provide notice to the resident and the guardian, next-of-kin, or responsible party that thirty days following the mailing date of the letter, the resident will be required to relocate: PROVIDED, That nothing in this section shall require a pretransfer notice be given when the secretary or his or her designee determines an immediate threat to health and/or safety exists or moves may be accomplished sooner at the request of the resident or with the resident's consent.

(5) Decertification, termination, or nonrenewal of contract actions require a stop payment of Title XIX funds. Such actions do not affect the facility's right to operate as a nursing home or boarding home, but does disqualify the facility from operating as an IMR facility and receiving federal funds. When termination of federal funds is contemplated, residents must be informed.

(6) When relocation is required, a designated representative of the department will conduct a review and assessment for the classification. Thirty days prior to any implementation of a change in the level of care, resulting in the change of the services required and provided, or because of the transfer, the department shall notify, in writing, the resident and guardian, next-of-kin, or responsible party pursuant to WAC 275-38-060.

(7) Grounds for the request by a facility to have a resident relocated or discharged are limited to the following:

- (a) Medical reasons;
- (b) Resident's welfare;
- (c) The welfare of the other residents; or
- (d) Nonpayment of services provided to the resident during his or her stay at the facility.

The facility shall follow the following procedure:

(i) The facility shall send a request in writing to the department, for relocation or discharge of a resident. This request shall include the grounds for the request and substantiation of concurrence by the interdisciplinary team in the development of an appropriate individual habilitation plan.

(ii) The department shall approve or deny the request for relocation or discharge based on an on-site visit with the resident and a review of his or her records, within fifteen working days following the receipt of the request.

(iii) The facility administrator shall be informed of the department's approval or denial of the request.

(iv) If the facility's request is approved, the department shall notify, in writing, the resident or the resident's guardian, or next-of-kin, or responsible party, of the decision pursuant to WAC 275-38-060.

(v) The resident and the department will be allowed thirty days from the date that the resident is notified of relocation or discharge by the department in order to facilitate relocation.

(e) The resident has a right to request relocation and to select the IMR he or she desires for placement. If this selection is available and appropriate to the habilitation and health care needs of the resident, all reasonable attempts to accomplish relocation shall be made by the department.

(i) The resident or the resident's guardian must request such a move in writing.

(ii) Arrangements for relocation will be the responsibility of the division of developmental disabilities.

NEW SECTION

WAC 275-38-060 IMR RESIDENT RIGHTS—RELOCATION. (1) Except in the cases specified in WAC 275-38-060(2), the resident (or guardian, next-of-kin, or responsible party of the resident if the resident has been adjudicated to be incompetent or under age eighteen) must be informed in writing thirty days prior to any relocation or reclassification to ensure orderly transfer or discharge. Such notice must include:

- (a) The grounds for the proposed change and/or transfer;

(b) A statement that the resident or any other individual designated by the resident has a right to a conference with a division of developmental disabilities representative within thirty days of receipt of the notice;

(c) The right to request a fair hearing within thirty days of the notice to contest the department's decision;

(d) The method by which a fair hearing may be obtained;

(e) The right to be represented at the fair hearing by an authorized representative;

(f) The existence and locations of any legal services in the community that are available.

(2) A fair hearing request form shall be sent with the notice of relocation and/or reclassification.

(a) If the resident requests a fair hearing within the thirty day time period, the department shall not change the level of care or transfer the resident pending fair hearing decision or appeal rights, unless such action is warranted by the health or safety needs of the resident.

(b) If the secretary or his or her designee finds a change in the level of care is not appropriate, no further action shall be taken to change the level of care or transfer the resident, unless there is a change in the situation or circumstances at which time the request may be resubmitted.

(c) If the secretary or his or her designee affirms the determination to change the resident's level of care and/or transfer, and no judicial review is filed within thirty days of the receipt of notice of determination, the department shall proceed with the planned action.

(d) If the secretary or his or her designee affirms the determination to change the resident's level of care and/or transfer and a request for judicial review has been filed, any proposed change and/or transfer shall be delayed pending the outcome of the process, unless such action is warranted by the health or safety needs of the resident.

(3) Advance notice is not required:

(a) If the resident or the resident's guardian requests a transfer in writing and waives the right to a period notice.

(b) In the event of an immediate threat to the resident's life or health, or life or health of others.

(4) Advance notice and planning does not include a right to a fair hearing for a resident when the department judges the facility where the resident resides is no longer able to provide Title XIX services due to:

(a) Termination of the facility's contract.

(b) Decertification of the facility.

(c) Nonrenewal of the facility's contract.

(d) Revocation of the facility's license.

(e) Emergency license suspension.

NEW SECTION

WAC 275-38-065 TRANSFER OR DISCHARGE PLANNING. A suitable discharge and/or transfer plan must be prepared by the division of developmental disabilities for each resident to be transferred or discharged. Transfers shall be dependent on the best interests of the resident. The plan shall include the location of available settings at the appropriate level of care consistent with the needs of the resident. The plan shall include:

(1) Coordination of communication between the staffs of the old and new facilities;

(2) Pretransfer visit, when the resident's condition permits, to the new facility, familiarizing the resident with the new surroundings, and other residents;

(3) Coordination of active participation by the resident's guardian or family in the transfer preparation;

(4) Coordination with staff members of the old and new facilities to discuss expectations and provide consultation on request;

(5) Posttransfer follow-up by the division of developmental disabilities to monitor the effects of the change.

NEW SECTION

WAC 275-38-075 DISCHARGE OR LEAVE OF AN IMR RESIDENT. (1) A certified IMR facility having an IMR contract with the department shall contact the regional services office, division of developmental disabilities giving immediate notification of unauthorized leave, disappearance, serious accident, or other traumatic incident effecting a resident or the resident's health or welfare.

(2) Discharge and readmission is required for all residents who are admitted as hospital inpatients.

NEW SECTION

WAC 275-38-080 SOCIAL LEAVE FOR IMR RESIDENTS. (1) Social leaves should be consistent with goals and objectives of the resident's individual habilitation plan.

(2) Facility vacancies due to social leave of a resident will be reimbursed if such social leave complies with the individual habilitation plan and the following conditions:

(a) The facility shall notify the director of the division of developmental disabilities or his or her designee, of social leaves exceeding fifty-three hours.

(b) Social leaves over seven consecutive days require prior written approval by the director, division of developmental disabilities or his or her designee.

(c) Social leave in excess of seventeen days per year requires prior written approval by the director, division of developmental disabilities or his or her designee.

NEW SECTION

WAC 275-38-510 PROSPECTIVE COST-RELATED REIMBURSEMENT. The prospective cost-related reimbursement system is the system used by the department to pay for IMR services provided to IMR residents. Reimbursement rates for such services will be determined in accordance with the principles, methods, and standards contained in this chapter.

NEW SECTION

WAC 275-38-515 CONDITIONS OF PARTICIPATION. In order to participate in the prospective cost-related reimbursement system, the person or legal organization responsible for operation of an IMR facility shall:

(1) Obtain a state certificate of need pursuant to chapter 70.38 RCW;

(2) Hold the appropriate current license (e.g., nursing home license, boarding home);

(3) Hold current Title XIX certification to provide IMR services;

(4) Hold a current contract to provide IMR services; and

(5) Comply with all provisions of the contract and all applicable regulations, including but not limited to the provisions of chapter 275-38 WAC.

NEW SECTION

WAC 275-38-520 PROJECTED BUDGET FOR NEW CONTRACTORS. (1) Each new contractor shall submit a one-year projected budget to the department at least sixty days before the contract will become effective. For purposes of this section, a "new contractor" is one:

(a) Operating a new facility;

(b) Acquiring or assuming responsibility for operating an existing facility;

(c) Obtaining a certificate of need approval due to an addition to or renovation of a facility.

(2) The projected budget shall cover the twelve months immediately following the date the contractor will enter the program. The projected budget shall be prepared on forms and in accordance with instructions provided by the department.

NEW SECTION

WAC 275-38-525 CHANGE OF OWNERSHIP. (1) On the effective date of a change of ownership, as defined in WAC 275-38-001, the department's contract with the former owner shall be terminated. The former owner shall give the department thirty days written notice of such termination in accordance with the terms of the contract. When certificate of need is required for the new owner to acquire the facility, and the new owner wishes to continue to provide service to recipients without interruption, certificate of need shall be obtained before the former owner submits a notice of termination.

(2) If the new contractor desires to participate in the cost-related reimbursement system, the contractor shall meet the conditions specified in WAC 275-38-515, and shall submit a projected budget in accordance with WAC 275-38-520 no later than sixty days before the date of the change of ownership. The IMR contract with the new owner shall be effective as of the date of the change of ownership.

NEW SECTION

WAC 275-38-530 TERMINATION OF CONTRACT. (1) When a contract is terminated for any reason, the former contractor shall submit final reports in accordance with WAC 275-38-575. Payment for care provided during the final thirty days of service under a contract will be held until the contractor has filed a properly completed final annual report, and final settlement has been determined.

(2) Following final settlement, a payment withheld pursuant to subsection (1) of this section will be sent to the contractor, after any overpayment determined in connection with final settlement has been deducted. If the contractor contests the settlement determination in accordance with WAC 275-38-940, the department will hold the amount in dispute pending completion of the appeal process, but will release the balance of such payment to the contractor.

(3) The department will release a payment which would be withheld pursuant to subsection (1) of this section, provided a bond issued by a reputable bonding company and acceptable to the department is filed by the contractor. The bond shall:

- (a) Be in an amount equal to the released payment;
- (b) Be for a term sufficient to ensure effectiveness after final settlement and the exhaustion of administrative and judicial remedies;
- (c) Provide the full amount of the bond shall be paid to the department if a properly completed final annual report is not filed in accordance with this chapter, or if financial records supporting this report are not preserved and made available to the department's auditors; and
- (d) Provide an amount equal to any recovery the department determines is due from the contractor at settlement, but not exceeding the amount of the bond, shall be paid to the department in the event the contractor does not pay the refund within sixty days following receipt of written demand or the conclusion of administrative or judicial proceedings to contest settlement issues.

(4) If a contract is terminated solely in order for the same owner to contract with the department to deliver IMR services to a different class of medical care recipients at the same IMR facility, the contractor is not required to submit final reports, and payment for the final thirty days will not be withheld.

(5) When a contract is terminated, any accumulated liabilities assumed by a new owner shall be reversed against the appropriate accounts by the contractor.

NEW SECTION

WAC 275-38-535 DUE DATES FOR REPORTS. Annual reports covering the complete fiscal year shall be submitted within ninety days after the end of the fiscal year.

NEW SECTION

WAC 275-38-540 REQUESTS FOR EXTENSIONS. The department, upon a written request setting forth reasons for the necessity of an extension, may grant a thirty day extension of time for filing any required report, if the written request is received prior to the expiration of the relevant time period.

NEW SECTION

WAC 275-38-545 REPORTS. (1) In order for a contractor to receive payments under the cost-related reimbursement system for providing care to IMR residents, an annual report based on the contractor's fiscal year shall be submitted to the department.

(2) Each contractor's fiscal year for federal tax and cost reporting purposes shall coincide with the calendar year, except for state-owned and operated IMR facilities whose reporting form shall coincide with the facility's fiscal year.

NEW SECTION

WAC 275-38-550 IMPROPERLY COMPLETED OR LATE REPORTS. (1) For 1981 and subsequent annual cost reporting periods, an annual report, including the proposed settlement computed by cost center pursuant to WAC 275-38-630, must be completed in accordance with applicable statutes, departmental regulations and instructions. An annual cost report deficient in any of these respects may be returned in whole or in part to the contractor for proper completion. Annual reports must be submitted by the due date determined in accordance with WAC 275-38-535.

(2) For purposes of establishing rates effective July 1, 1982, if a contractor has not corrected errors in an annual cost report, including

the proposed settlement, according to subsection (1) of this section by May 15, 1982, such report shall be excluded from computation of the redistribution pool established pursuant to WAC 275-38-855(5) and the contractor shall be subject to the provisions of subsection (3) of this section.

(3) If a report is not properly completed or is not received by the department on or before the due date of the report, including any approved extensions, all or a part of any payments due under the contract may be held by the department until the improperly completed or delinquent report is properly completed and received by the department.

NEW SECTION

WAC 275-38-555 COMPLETING REPORTS AND MAINTAINING RECORDS. (1) All reports shall be legible and reproducible. It is recommended all entries be typed or in black ink.

(2) Reports shall be completed in accordance with instructions provided by the department. If no specific instruction covers a situation, generally accepted accounting principles shall be followed.

(3) The accrual method of accounting shall be used, except for governmental institutions operated on a cash method of accounting, data based on this method of accounting will be acceptable. All revenue and expense accruals shall be reversed against the appropriate accounts if not received or paid within one hundred twenty days after the accrual is made, unless special circumstances are documented justifying continuing to carry all or part of the accrual (e.g., contested billings). Accruals for vacation, holiday, sick pay, and taxes may be carried for longer periods, provided the contractor's usual policy is followed.

(4) Methods of allocating costs shall be consistently applied. Written approval must be obtained from the department if a contractor wishes to change an allocation method. Contractors operating multi-service facilities or facilities incurring joint facility costs shall allocate costs using the methods approved by the department under WAC 275-38-735.

(5) The contractor's records relating to an IMR facility shall be maintained so reported data can be audited for compliance with generally accepted accounting principles, the department's reimbursement principles, and reporting instructions. These records shall be available for review by authorized personnel of the department and of the United States department of health and human services during normal business hours at a location in the state of Washington specified by the contractor.

(6) If a contractor fails to maintain records adequate for audit purposes or fails to allow inspection of such records by authorized personnel as provided in subsection (5) of this section, the department may suspend all or part of subsequent reimbursement payments due under the contract until compliance is forthcoming. Upon compliance, the department shall resume current contract payments and shall release payments suspended pursuant to subsection (5) of this section.

NEW SECTION

WAC 275-38-560 CERTIFICATION REQUIREMENT. Each required report shall be accompanied by a certification signed on behalf of the contractor responsible to the department during the report period. If the contractor files a federal income tax return, the certification shall be executed by the person normally signing this return. The certification shall also be signed by the licensed administrator of the IMR facility. If the report is prepared by someone other than an employee of the contractor, a separate statement shall be included with the certification signed by the individual preparing the report and indicating his or her status with the contractor.

NEW SECTION

WAC 275-38-565 REPORTS—FALSE INFORMATION. (1) If a contractor knowingly or with reason to know files a report containing false information, such action constitutes cause for termination of the contractor's contract with the department.

(2) Adjustments to reimbursement rates required because a false report was filed will be made in accordance with WAC 275-38-885.

(3) Contractors filing false reports may be referred for prosecution under applicable statutes.

NEW SECTION

WAC 275-38-570 AMENDMENTS TO REPORTS. (1) For purposes of computing settlements, an amendment to an annual report shall be filed if significant errors or omissions are discovered prior to

the commencement of the department's field audit. Errors or omissions shall be deemed "significant" if errors or omissions would mean a net difference of two cents or more per resident day or one thousand dollars or more in reported costs, whichever is higher, in any cost area. To file an amendment, only pages where changes are required need to be filed, together with the certification required by WAC 275-38-560. Adjustments to reimbursement rates resulting from an amended report will be made in accordance with WAC 275-38-885.

(2) If an amendment is filed, a contractor shall also submit with the amendment an account of the circumstances relating to and the reasons for the amendment, along with supporting documentation. The department may refuse to consider an amendment resulting in a more favorable settlement to a contractor if the amendment is not the result of circumstances beyond the control of the contractor or the result of good-faith error under the system of cost allocation and accounting in effect during the reporting period in question. Amendments may be submitted for purposes of adjusting reimbursement rates in accordance with WAC 275-38-900; however, use in this regard does not mean an amendment will be used for settlement purposes in the absence of conditions specified in subsection (2) of this section.

(3) Acceptance or use by the department of an amendment to a cost report shall in no way be construed as a release of applicable civil or criminal liability.

NEW SECTION

WAC 275-38-575 REPORTING FOR AN ABBREVIATED PERIOD. (1) Reports shall be filed as required by the department when a contractor or IMR facility enters the prospective cost-related reimbursement system.

(2) If the contractor changes during a fiscal year, the former contractor shall submit a final annual report covering the period the contract was in effect during the fiscal year. The new contractor shall submit an annual report covering the period the contract is in effect during the fiscal year.

(3) An annual report shall be submitted within sixty days after the end of the abbreviated period.

NEW SECTION

WAC 275-38-580 REQUIREMENTS FOR RETENTION OF RECORDS BY THE CONTRACTOR. All financial and statistical data supporting the required reports shall be retained for a period of three years subsequent to filing at a location in the state of Washington specified by the contractor. If at the end of three years there are unresolved audit questions, the records shall be retained until these questions are resolved. All such data shall be made available upon demand to authorized representatives of the department and of the United States department of health and human services. When a contract is terminated, final settlement will not be made until accessibility and preservation of the records within the state of Washington are assured.

NEW SECTION

WAC 275-38-585 REQUIREMENT FOR RETENTION OF REPORTS BY THE DEPARTMENT. The department will retain each required report for a period of three years following the date the report was submitted. If at the end of three years there are unresolved audit questions, the report will be retained until such questions are resolved.

NEW SECTION

WAC 275-38-590 DISCLOSURE OF IMR FACILITY REPORTS. Pursuant to chapter 388-320 WAC, all required financial and statistical reports submitted by IMR facilities to the department will be available for public disclosure.

NEW SECTION

WAC 275-38-595 DESK REVIEW. (1) The department will analyze each annual cost report within six months after the annual cost is properly completed and filed.

(2) If it appears from the analysis a contractor has not correctly determined or reported costs, the department may request additional information from the contractor. If the department deems it necessary in order to ensure correct reporting, the department may schedule a special field audit of the contractor.

NEW SECTION

WAC 275-38-600 FIELD AUDITS. Each annual cost report will be field audited by auditors employed by or under contract with the department.

NEW SECTION

WAC 275-38-605 PREPARATION FOR AUDIT BY THE CONTRACTOR. (1) The department will normally notify the contractor at least two weeks in advance of a field audit.

(2) The contractor shall provide the auditors with access to the IMR and to all financial, statistical records, and work papers supporting the data in the cost report. Such records shall be made available at a location in the state of Washington specified by the contractor, as agreed by the department.

(3) The contractor shall reconcile reported data with applicable federal income and payroll tax returns and with the financial statement as of the end of the period covered by the report. Such reconciliation shall be in suitable form for verification by the auditors.

NEW SECTION

WAC 275-38-610 SCOPE OF FIELD AUDITS. (1) Auditors will review the contractor's record-keeping and accounting practices and, where appropriate, make written recommendations for improvements.

(2) Auditors will examine the contractor's financial and statistical records to verify:

- (a) Supporting records are in agreement with reported data;
- (b) Only expense items the department has specified as allowable costs have been included by the contractor in computing the costs of services provided under the contract;
- (c) Allowable costs have been accurately determined and are reasonable, necessary, ordinary, and related to resident care; and
- (d) Resident trust funds have been properly maintained.

(3) Auditors will prepare and provide draft audit narratives and summaries to the contractor before final narratives and summaries are prepared.

NEW SECTION

WAC 275-38-615 INADEQUATE DOCUMENTATION. The auditors will disallow any expenses reported as allowable costs not supported by adequate documentation in the contractor's financial records. Documentation must show the costs were incurred and were related to resident care and training.

NEW SECTION

WAC 275-38-620 DEADLINE FOR COMPLETION OF AUDITS. (1) Field audits will be completed within one year after a properly completed annual cost report is received by the department, provided field auditors are given timely access to the IMR facility and to all financial and statistical records necessary to audit the report.

(2) The department will give priority to field audits of final annual reports and whenever possible will begin such field audits within sixty days after a properly completed final annual report is received.

NEW SECTION

WAC 275-38-625 DISCLOSURE OF AUDIT NARRATIVES AND SUMMARIES. Final audit narratives and summaries prepared by the auditor will be available for public disclosure.

NEW SECTION

WAC 275-38-630 SETTLEMENT. (1) Beginning with calendar year 1981, the contractor shall submit a preliminary settlement report together with the contractor's annual cost report. This report shall compare the prospective rates paid to the contractor during the report period, weighted according to the number of resident days each rate was in effect, with the contractor's allowable costs for the period, taking into account all authorized shifting (WAC 275-38-635) and the upper rate limits set out in WAC 275-38-885.

(2) Settlement shall be in accordance with the following principles:

- (a) In the resident care and food cost areas, the contractor shall refund all portions of payments received for residents in excess of allowable resident care and food costs, respectively, for residents;

(b) In the administration, operations, and property cost areas, the contractor shall refund all portions of payments received for recipients in excess of administration, operations, and property costs, respectively, for recipients;

(c) In the property cost area, the contractor shall refund amounts determined under WAC 275-38-815 and for settlement periods prior to January 1, 1981, amounts determined under WAC 275-38-810;

(d) In the return on equity cost area, the contractor shall refund amounts determined under WAC 275-38-880(4).

(3) The department will either accept or reject the preliminary settlement reported within ninety days after the preliminary settlement report's receipt. If the department accepts the preliminary settlement report, the preliminary settlement report will become the proposed settlement report. If the department rejects the preliminary settlement report, the department will submit a proposed settlement report to the contractor.

(4) The contractor shall pay the refund, or shall commence repayment in accordance with a schedule determined by the department, within sixty days after receiving the proposed settlement report, unless the contractor's preliminary settlement report was rejected by the department and the contractor contests settlement issues in good faith in accordance with the procedures set out in WAC 275-38-960. If the settlement determination is contested, the contractor shall pay or commence repayment in accordance with a schedule determined by the department within sixty days after such proceedings are concluded. The department will pay any amount due the contractor as the result of errors in billing or payment disclosed on the proposed settlement report within thirty days after the settlement report is received by the contractor or within thirty days after proceedings to contest the settlement are concluded.

(5) If the contractor does not refund the overpayment and interest or any installment when due, the department may withhold payments from current billings until the overpayment is refunded. Payments will only be withheld under this subsection up to the underfunded amount of the overpayment.

(6) A proposed settlement may be revised by the department on the basis of audit findings. Payments of amounts determined to be due on revised settlement to either contractor or the department shall be made within the time limits specified in subsections (4) and (5) of this section.

NEW SECTION

WAC 275-38-635 SHIFTING. (1) For calendar year 1981 and subsequent years, in determining a contractor's settlement, if allowable costs were less than the rate in any cost area, savings will be shifted (or "transferred") to cover any deficit in another cost area.

(2) The amount shifted may not exceed twenty percent of the rate in the cost area into which the shift is made.

(3) No saving may be shifted into the property or return on equity cost areas.

NEW SECTION

WAC 275-38-640 DATE SETTLEMENT BECOMES FINAL. (1) A settlement will become final thirty days after the date the revised settlement is received by the contractor unless the contractor contests this determination in accordance with the procedures set out in WAC 275-38-960. In the event the settlement determination is contested, the settlement determination will be final as of the date these proceedings are concluded.

(2) A settlement for calendar year 1981 or subsequent years will become final one hundred twenty days after the final audit narrative and summary is sent to the contractor, if no revised settlement is sent to the contractor prior to that date.

(3) A settlement for a settlement period prior to January 1, 1981, will be reopened if necessary to make adjustments in accordance with WAC 275-38-810(4).

NEW SECTION

WAC 275-38-642 INTEREST ON SETTLEMENTS. (1) In any settlement for calendar year 1981 or a subsequent year, where an amount is determined to be due the department, that amount will bear interest at a rate of one percent per month from the date the settlement is sent to the contractor to the date of payment, unless the contractor establishes the overpayment was the result of errors made by the department.

(2) The contractor may, by payment of a disputed settlement in whole, or where approved by the department, in part, stop accrual on the amount paid. Such payment will be without prejudice to any right to obtain review of a settlement determination.

NEW SECTION

WAC 275-38-643 STATEMENT PROVIDED AT TIME OF ADMISSION. The facility must provide each patient and representative with a written statement, at the time of admission:

(1) Listing all services provided by the facility, distinguishing between those services included in the facility's basic rate and those services not included in the facility's basic rate, that can be charged to the patient's personal funds;

(2) Stating there is no obligation for the patient to deposit funds with the facility;

(3) Describing the patient's right to select how personal funds will be handled. The following alternatives must be included:

(a) The patient's right to receive, retain, and manage his or her personal funds or have this done by a legal guardian, if any;

(b) The patient's right to apply to the social security administration to have a representative payee designated for purposes of federal or state benefits he or she may be entitled;

(c) Except when subdivision (b) of this section applies, the patient's right to designate, in writing, another person to act for the purpose of managing his or her personal funds; and

(d) The facility's obligation, upon written authorization by the patient, to hold, safeguard, and account for the patient's personal funds in accordance with subsection (3)(d) of this section.

(4) Stating any charge for this service is included in the facility's basic rate;

(5) Stating the facility is permitted to accept a patient's funds to hold, safeguard, and account for, only upon the written authorization of the patient or representative;

(6) Stating if the patient becomes incapable of managing his or her personal funds and does not have a representative, the facility is required to arrange for the management of his or her personal funds in accordance with WAC 275-38-660.

NEW SECTION

WAC 275-38-645 RESIDENT TRUST ACCOUNTS. (1) The provider shall establish and maintain, as a service to the recipient, a bookkeeping system, incorporated in the business records, adequate for audit, for all resident moneys entrusted to and received by the facility for the resident.

(2) The system will apply to the resident:

(a) Incapable of handling his or her own money and whose guardian, relative, developmental disabilities regional service office administrator, or physician makes written request of the facility to accept this responsibility; if the social security form SSA-780, "certificate of applicant for benefits on behalf of another," is utilized as documentation, the form must be signed by one of the persons designated in this subsection.

(b) Capable of handling his or her own money, but requests the facility in writing to accept this responsibility.

(3) It shall be the responsibility of the provider to maintain such written authorization in the resident's file.

(4) The resident must be given at least a quarterly reporting of all financial transactions in his or her trust account. The representative payee, the guardian and/or other designated agents of the recipient must be sent a copy of the quarterly accounting report.

NEW SECTION

WAC 275-38-650 ACCOUNTING PROCEDURES FOR RESIDENT TRUST ACCOUNTS. (1) The provider shall maintain a subsidiary ledger with an account for each resident for whom the provider holds money in trust. Each account and related supporting information shall:

(a) Be maintained at the facility;

(b) Be kept current;

(c) Be balanced each month, and;

(d) Show in detail, with supporting verification, all moneys received on behalf of the individual resident and the disposition of all moneys so received.

(2) Each account shall be available for audit and inspection by a department representative and be maintained for a minimum of three

years. The provider further agrees to notify the division of developmental disabilities, regional services office of the department when:

(a) The account of any individual certified on or before December 31, 1973, having an award letter limit of two hundred dollars cash, reaches the sum of one hundred seventy-five dollars.

The regional services office will re-evaluate the status of each recipient certified under the eligibility criteria prior to January 1, 1974, having an award letter specifying a two hundred dollar cash limit.

(b) The account of any individual certified on or after January 1, 1974, having an award letter limit of one thousand five hundred dollars, reaches the sum of one thousand four hundred fifty dollars.

(c) For both groups, the accumulation toward the limit, after admission to the facility, is permitted only from savings from the clothing and personal incidentals allowance and other income the department specifically designates as exempt income from time-to-time.

(d) No resident account may be overdrawn (show a debit balance). If a resident wants to spend an amount greater than in such resident's trust account, the IMR may provide money from the IMR's own funds and collect the debt by installments from the portion of the resident's allowance remaining at the end of each month. No interest may be charged to residents for such loans.

(3) In order to ensure the resident trust accounts are not charged for services provided under the Title XIX program, any charge for medical services otherwise properly made to a resident's trust account must be supported by a written denial from the department.

(a) A request for additional equipment such as a walker, wheelchair or crutches must have a written denial from the department of social and health services before a resident's trust account can be charged.

(b) Except as otherwise provided below, a request for physical therapy, drugs, or other medical services must have a written denial from the local CSO before a resident trust account can be charged.

A written denial from the local CSO is not required when the pharmacist verifies a drug is not covered by the program (e.g., items on the FDA list of ineffective or possible effective drugs, nonformulary over-the-counter (OTC) medications such as vitamins, laxatives, nose drops, etc.). The pharmacist's notation to this effect is sufficient.

NEW SECTION

WAC 275-38-655 TRUST MONEYS—IMPREST FUND. (1) The provider may maintain a petty cash fund originating from trust moneys of an amount reasonable and necessary for the size of the facility and the needs of the residents, not to exceed five hundred dollars. This petty cash fund shall be an imprest fund. All moneys over and above the trust fund petty cash amount shall be deposited intact in a trust fund checking account, separate and apart from any other bank account(s) of the facility or other facilities.

(2) Cash deposits of resident allowances must be made intact to the trust account within one week from the time payment is received from the department, social security administration, or other payor.

(3) Any related bankbooks, bank statements, checkbook, check register, and all voided and cancelled checks, shall be made available for audit and inspection by a department representative, and shall be maintained by the IMR for not less than three years.

(4) No service charges for such checking account shall be paid by resident trust moneys.

(5) The trust account per bank shall be reconciled monthly to the trust account per resident ledgers.

NEW SECTION

WAC 275-38-660 TRUST MONEYS CONTROL OR DISBURSEMENT. Trust moneys shall be held in trust and are not to be turned over to anyone other than the resident or his or her guardian without the written consent of the resident, his or her designated agent as appointed by power-of-attorney, or appropriate department of social and health services personnel as designated by the DDD regional services administrator.

(1) When moneys are received, a receipt should be filled out in duplicate; one copy should be given to the person making payment or deposit, and the other copy should be retained in the receipt book for easy reference.

(2) Checks received by residents must be endorsed by the resident. Each resident receiving a check or state warrant is responsible for endorsement by his or her own signature. Only when the resident is incapable of signing his or her name may the provider assume the responsibility of securing the resident's mark "X" followed by the name of the resident and the signature of two witnesses.

(3) If both the general fund account and the trust fund account are at the same bank, the trust portion of checks including care payments can be deposited directly to trust by including a trust account deposit slip for the correct amount with the checks and the general account deposit slip.

(4) The resident's trust account ledger sheet must be credited with the allowance received. This should be referenced with the receipt number and must be supported by a copy of the deposit slip (one copy for all deposits made).

NEW SECTION

WAC 275-38-665 TRUST MONEYS AVAILABILITY. Moneys so held in trust for any resident shall be available for his or her personal and incidental needs when requested by the resident or one of the individuals designated in WAC 275-38-660.

NEW SECTION

WAC 275-38-667 ACCOUNTING UPON CHANGE OF OWNERSHIP. (1) Upon sale of the facility or other transfer of ownership, the facility must provide the new owner with a written accounting, in accordance with generally accepted auditing procedures, of all patient funds being transferred, and obtain a written receipt for the funds from the new owner.

(2) The facility must give each patient or representative a written accounting of any personal funds held by the facility before any transfer of ownership occurs.

(3) In the event of a disagreement with the accounting provided by the facility, the patient retains all rights and remedies provided under state law.

NEW SECTION

WAC 275-38-670 PROCEDURE FOR REFUNDING TRUST MONEY. When a recipient is discharged and/or transferred, the balance of the resident's trust account will be returned to the individual designated in WAC 275-38-660, within thirty days, and a receipt obtained. In certain cases it may be advisable to mail the refund to the resident's new residence.

NEW SECTION

WAC 275-38-675 LIQUIDATION OF TRUST FUND. (1) Expired resident. The provider will obtain a receipt from next-of-kin, guardian, or duly qualified agent when releasing the balance of money held in trust. If there is no identified next-of-kin, guardian, or duly qualified agent, the DDD regional service office is to be contacted in writing within seven days for assistance in the release of the money held in trust. A check or other document showing payment to such next-of-kin, guardian, or duly qualified agent will serve as a receipt.

(2) Resident, unable to locate. In situations where the resident leaves the IMR facility without authorization and his or her whereabouts are unknown:

(a) The IMR will make a reasonable attempt to locate the missing resident. This includes: Contacting friends, relatives, police, the guardian, and the DDD in the area.

(b) If the resident cannot be located after ninety days, the IMR must notify the department of revenue of the existence of "abandoned property", outlined in chapter 63.28 RCW. The IMR will be required to deliver to the department of revenue the balance of the resident's trust fund account within twenty days following such notification.

NEW SECTION

WAC 275-38-678 RESIDENT PROPERTY RECORDS. (1) The facility must maintain a current, written record for each resident including written receipts for all personal possessions deposited with the facility by the resident.

(2) The property record must be available to the resident and resident representative as designated in WAC 275-38-645(2)(a).

NEW SECTION

WAC 275-38-680 ALLOWABLE COSTS. Allowable costs are documented costs necessary, ordinary, and related to the provision of IMR services to IMR residents, and are not expressly declared nonallowable by applicable statutes or regulations. Costs are ordinary if

costs are of the nature and magnitude a prudent and cost-conscious management would pay.

NEW SECTION

WAC 275-38-685 SUBSTANCE PREVAILS OVER FORM.

(1) In determining allowable costs, the substance of a transaction will prevail over the transaction's form. Accordingly, allowable costs will not include increased costs resulting from transactions or the application of accounting methods circumventing the principles of the prospective cost-related reimbursement system.

(2) Increased costs resulting from a series of transactions between the same parties and involving the same assets (e.g., sale and lease-back, successive sales or leases of a single facility or piece of equipment) will not be allowed.

NEW SECTION

WAC 275-38-690 OFFSET OF MISCELLANEOUS REVENUES. (1) Allowable costs shall be reduced by the contractor whenever the item, service, or activity covered by such costs generates revenue or financial benefits (e.g., purchase discounts or rebates) other than through the contractor's normal billing for IMR services: Except, unrestricted grants, gifts, endowments, and interest therefrom, will not be deducted from the allowable costs of a nonprofit facility.

(2) Where goods or services are sold, the amount of the reduction shall be the actual cost relating to the item, service, or activity. In the absence of adequate documentation of cost, the amount of the reduction shall be the full amount of the revenue received. Where financial benefits such as purchase discounts or rebates are received, the amount of the reduction shall be the amount of the discount or rebate.

(3) Only allowable costs shall be recovered under this section. Costs allocable to activities or services not included in IMR services (e.g., costs of vending machines, residents' personal laundry, and services specified in chapter 388-86 WAC not included in IMR services) are nonallowable costs.

NEW SECTION

WAC 275-38-695 COSTS OF MEETING STANDARDS. All categories of necessary and ordinary expenses a contractor incurs in providing IMR services meeting all applicable standards will be allowable costs.

NEW SECTION

WAC 275-38-700 LIMIT ON COSTS TO RELATED ORGANIZATIONS. (1) Costs applicable to services, facilities, and supplies furnished by organizations related to the contractor shall be allowable only to the extent the costs do not exceed the lower of the cost to the related organization or the price of comparable services, facilities or supplies purchased elsewhere. The term "related organization" is defined in WAC 275-38-001.

(2) Documentation of costs to related organizations shall be made available to the auditors at the time and place the financial records relating to the entity are audited. Payments to or for the benefit of the related organization will be disallowed where the cost to the related organization cannot be documented.

NEW SECTION

WAC 275-38-705 START-UP COSTS. Necessary and ordinary start-up costs, as defined in WAC 275-38-001, will be allowable if start-up costs are amortized over not less than sixty consecutive months beginning with the month the first resident is admitted for care.

NEW SECTION

WAC 275-38-715 EDUCATION AND TRAINING. (1) Ordinary expenses of on-the-job training and in-service training required for employee orientation and certification training directly related to the performance of duties assigned will be allowable costs.

(2) Ordinary expenses of resident life staff training will be allowable costs.

(3) Necessary and ordinary expenses of recreational and social activity training conducted by the contractor for volunteers will be allowable costs. Expenses of training programs for other nonemployees will not be allowable costs.

NEW SECTION

WAC 275-38-720 TOTAL COMPENSATION—OWNERS, RELATIVES, AND CERTAIN ADMINISTRATIVE PERSONNEL. For purposes of the tests in WAC 275-38-725 and 275-38-730, total compensation includes gross salary or wages and fringe benefits (e.g., health insurance) made available to all employees but excludes payroll taxes paid by the contractor.

NEW SECTION

WAC 275-38-725 OWNER OR RELATIVE—COMPENSATION. (1) Total compensation of an owner or relative of an owner shall be limited to ordinary compensation for necessary services actually performed.

(a) Compensation is ordinary if the compensation is the amount usually paid for comparable services in a comparable facility to an unrelated employee, and does not exceed limits set out in this chapter.

(b) A service is necessary if the service is related to resident care and training and would have had to be performed by another person if the owner or relative had not performed the service.

(2) The contractor, in maintaining customary time records adequate for audit shall include such records for owners and relatives receiving compensation.

(3) For purposes of this section, if the contractor with the department is a corporation, "owner" includes all corporate officers and directors.

NEW SECTION

WAC 275-38-730 MAXIMUM ALLOWABLE COMPENSATION OF CERTAIN ADMINISTRATIVE PERSONNEL. (1) Compensation for administrative personnel shall be an allowable cost, subject to the limits contained in this section.

(2) Total compensation of the licensed administrator for services actually rendered to an IMR facility on a full-time basis (at least forty hours per week, including reasonable vacation, holiday, and sick time) will be allowable at the lower of (a) actual compensation received, or (b) the amount in the table in subsection (5) of this section corresponding to the number of set-up beds in the IMR facility. Compensation of the licensed administrator will only be allowable if the department is given written notice of his or her employment within ten days after the employment begins.

(3) Total compensation of not more than one full-time licensed assistant administrator will be allowable if there are at least eighty set-up beds in the IMR, at the lower of (a) actual compensation received, or (b) seventy-five percent of the appropriate amount in the table in subsection (5) of this section.

(4) Total compensation of not more than one full-time registered administrator-in-training will be allowable at the lower of (a) actual compensation received, or (b) sixty percent of the appropriate amount in the table in subsection (5) of this section.

(5)

TABLE

Maximum Allowable Total Compensation for Licensed Administrators—Calendar Year 1982

SET-UP BEDS

16 - 39	\$27,000
40 - 79	\$29,700
80 - 119	\$32,800
120 - 159	\$35,900
160 - 239	\$39,500
240 - 319	\$43,500
320 - 399	\$47,800
400 and up	\$52,600

(6) If the licensed administrator, licensed assistant administrator or registered administrator-in-training regularly works fewer than forty hours per week, allowable compensation shall be the lower of:

(a) Actual compensation received, or

(b) The appropriate amount in the table in subsection (5) of this section multiplied by the percentage derived from the division of the actual hours worked by forty hours. Further discounting is required if the person was licensed or registered and/or worked for less than the entire report period.

(7) The contractor shall maintain time records for the licensed administrator and for an assistant administrator, administrator-in-training or QMRP, if any.

(8) The cost of a licensed administrator, assistant administrator or administrator-in-training is not an allowable expense in IMR facilities of fifteen beds or less. Administrative services will be provided by the QMRP in these facilities. Total compensation of wages and salaries for the QMRP will be allowable at the lower of:

- (a) Actual compensation received; or
- (b) The hourly cost of wages and salaries of QMRP in level C and D IMR contracting with the department multiplied by the QMRP regularly worked hours per week, not to exceed forty hours per week.

NEW SECTION

WAC 275-38-735 DISCLOSURE AND APPROVAL OF JOINT FACILITY COST ALLOCATION. (1) The contractor shall disclose to the department:

- (a) The nature and purpose of all costs which represent allocations of joint facility costs; and
 - (b) The methodology of the allocation utilized.
- (2) Such disclosure shall be made not later than September 30, 1980, for the following year and not later than September 30th for each year thereafter; except a new contractor shall submit the first year's disclosure together with the submissions required by WAC 275-38-520.

(3) The contractor shall demonstrate and certify:

- (a) The services involved are necessary, ordinary, related to resident care, and nonduplicative; and
 - (b) Costs are allocated in accordance with the resident care related benefits and services received from the specific resources represented by those costs.
- (4) The department shall approve such methodology not later than December 31, 1980, and not later than December 31 for each year thereafter.

(5) An amendment or revision to an approved methodology shall be submitted to the department for approval at least ninety days prior to the effective date of the amendment or revision.

(6) Where a contractor will begin to incur joint facility costs at some time other than the beginning of the calendar year, the contractor shall provide the information required in subsections (1) and (3) of this section at least ninety days prior to the date the cost will first be incurred.

(7) Joint facility costs not disclosed, allocated, and reported in conformance with this section are nonallowable costs.

NEW SECTION

WAC 275-38-740 MANAGEMENT AGREEMENTS, MANAGEMENT FEES, AND CENTRAL OFFICE SERVICES. (1) If a contractor intends to enter into a management agreement with an individual or firm which will manage the IMR facility as agent of the contractor, a copy of the agreement must be received by the department at least ninety days before the agreement is to become effective. A copy of any amendment to a management agreement must also be received by the department at least ninety days in advance of the date the amendment is to become effective. No management fees for periods prior to the time the department receives a copy of the applicable agreement will be allowable. When necessary for the health and safety of facility residents, the ninety-day notice requirement may be waived, in writing, by the department.

(2) Management fees will be allowed only if:

(a) A written management agreement both creates a principal or agent relationship between the contractor and the manager, and sets forth the items, services, and activities to be provided by the manager; and

(b) Documentation demonstrates the services contracted for were actually delivered.

(3) To be allowable, fees must be for necessary, nonduplicative services. Allowable fees for general management services, including the portion of a management fee not allocated to specific services such as accounting, are limited to:

(a) The maximum allowable compensation under WAC 275-38-730 of the licensed administrator and, if the facility has at least eighty set-up beds, of an assistant administrator; less

(b) Actual compensation received by the licensed administrator and by the assistant administrator, if any. In computing maximum allowable compensation under WAC 275-38-730 for a facility with at least

eighty set-up beds, include the maximum compensation of an assistant administrator even if no assistant administrator is employed;

(c) For IMR facilities of fifteen or fewer beds, the maximum allowable compensation will be the cost of forty hours per week of wages and salaries of PMRP in level C and D IMR contracting with the department, less the actual compensation received by the QMRP.

(4) A management fee paid to or for the benefit of a related organization will be allowable to the extent the fee does not exceed the lesser of (a) the limits set out in subsection (3) of this section, or (b) the lower of the actual cost to the related organization of providing necessary services related to resident care and training under the agreement, or the cost of comparable services purchased elsewhere. Where costs to the related organization represents joint facility costs, the measurement of such costs shall comply with WAC 275-38-735.

(5) Central office joint facility costs for general management services, including the portion of a management expense not allocated to specific services, shall be subject to the management fee limits determined in subsections (3) and (4) of this section.

NEW SECTION

WAC 275-38-745 ALLOWABLE INTEREST. (1) The contractor's necessary and ordinary interest for working capital and capital indebtedness will be allowable.

(a) To be necessary, interest must be incurred in connection with a loan satisfying a financial need of the contractor and be for a purpose related to resident care and training. Interest expense relating to business opportunity or goodwill will not be allowed.

(b) To be ordinary, interest must be at a rate not in excess of what a prudent borrower would have to pay at the time of the loan in an arm's-length transaction in the money market.

(c) Interest expense shall include amortization of bond discounts and expenses related to the bond issue. Amortization shall be over the period from the date of sale to the date of maturity or, if earlier, the date of extinguishment of the bonds.

(2) Interest paid to or for the benefit of a related organization will be allowed only to the extent the actual interest does not exceed the cost to the related organization of obtaining the use of the funds.

NEW SECTION

WAC 275-38-750 OFFSET OF INTEREST INCOME. (1) In computing allowable costs, interest income from the investment or lending of nonrestricted funds shall be deducted from allowable interest expense.

(2) Interest income from the investment or lending of restricted funds shall not be deducted from allowable interest expense.

NEW SECTION

WAC 275-38-760 OPERATING LEASES OF FACILITIES AND EQUIPMENT. Rental or lease costs under arm's-length operating leases of facilities and/or equipment shall be allowable to the extent the cost is not in excess of arm's-length rental or lease costs of comparable facilities or equipment.

NEW SECTION

WAC 275-38-765 RENTAL EXPENSE PAID TO RELATED ORGANIZATIONS. The expense of renting facilities or equipment from a related organization shall be allowable to the extent the rental does not exceed the related organization's costs of owning (e.g., depreciation, interest on a mortgage) or leasing the assets, computed in accordance with this chapter.

NEW SECTION

WAC 275-38-770 CAPITALIZATION. The following costs shall be capitalized:

(1) Expenses for equipment with historical cost in excess of one hundred fifty dollars per unit and a useful life of more than one year from the date of purchase.

(2) Expenses for equipment with historical cost of one hundred fifty dollars or less per unit if either:

(a) The item was acquired in a group purchase where the total cost exceeded one hundred fifty dollars; or

(b) The item was part of the initial stock of the IMR facility.

(3) Effective January 1, 1981, for settlement purposes for periods subsequent to that date, and for purposes of setting rates for periods

beginning July 1, 1982, and subsequently, subsection (1) of this section shall be applied with the sum "five hundred dollars" replacing the sum "one hundred fifty dollars."

(4) Expenditures for building improvements and leasehold improvements, if required or authorized by the lease agreement, in excess of five hundred dollars and involving one or more of the following:

- (a) Increase the interior floor space of the structure;
- (b) Increase paved areas outside the structure adjacent to or providing access to the structure;
- (c) Modification of the exterior or interior walls of the structure;
- (d) Installation of additional heating, cooling, electrical or water-related equipment;
- (e) Remodeling or redecorating enhancing the value of the structure sufficiently to justify an increase in service charges to residents;
- (f) Increase the useful life of the structure by two years or more;
- (g) For a leasehold improvement, the asset shall be amortized over the asset's useful life in accordance with American hospital association guidelines.

NEW SECTION

WAC 275-38-775 DEPRECIATION EXPENSE. Depreciation expense on depreciable assets required in the regular course of providing resident care and training will be an allowable cost. The depreciation expense shall be:

- (1) Identifiable and recorded in the contractor's accounting records, and
- (2) Computed using the depreciation base, lives and methods specified in WAC 275-38-780.

NEW SECTION

WAC 275-38-780 DEPRECIABLE ASSETS. (1) Tangible assets of the following types where a contractor has an economic interest through ownership are subject to depreciation:

- (a) Building - The basic structure or shell and additions thereto.
- (b) Building Fixed Equipment - Attachments to buildings, such as wiring, electrical fixtures, plumbing, elevators, heating system, and air conditioning system. The general characteristics of this equipment are:
 - (i) Affixed to the building and not subject to transfer; and
 - (ii) An estimated life longer than ten years, but shorter than the life of the building where affixed.
- (c) Major Movable Equipment - Such items as beds, wheelchairs, desks, and x-ray machines. The general characteristics of this equipment are:
 - (i) A relatively fixed location in the building;
 - (ii) Capable of being moved as distinguished from building equipment;
 - (iii) A unit cost sufficient to justify ledger control;
 - (iv) Sufficient size and identity to make control feasible by means of identification tags; and
 - (v) A minimum life of approximately three years. Effective January 1, 1981, for settlement purposes for periods subsequent to that date, and for purposes of setting rates for periods beginning July 1, 1982, and subsequently, this equipment shall be characterized by a minimum life of greater than one year.
- (d) Minor Equipment - Such items as waste baskets, bed pans, syringes, catheters, silverware, mops, and buckets properly capitalized. No depreciation shall be taken on items not properly capitalized (see WAC 275-38-770). The general characteristics of minor equipment are:
 - (i) In general, no fixed location and subject to use by various departments;
 - (ii) Small in size and unit cost;
 - (iii) Subject to inventory control;
 - (iv) Fairly large number in use; and
 - (v) Generally, a useful life of one to three years.
- (e) Land Improvements - Such items as paving, tunnels, underpasses, on-site sewer and water lines, parking lots, shrubbery, fences, walls, etc., where replacement is the responsibility of the contractor.
- (f) Leasehold Improvements - Betterments and additions made by the lessee to the leased property, which become the property of the lessor after the expiration of the lease.

(2) Land is not depreciable. The cost of land includes the cost of such items as off-site sewer and water lines, public utility charges necessary to service the land, governmental assessments for street paving

and sewers, the cost of permanent roadways and grading of a nondepreciable nature, and the cost of curbs and sidewalks, replacement of which is not the responsibility of the contractor.

NEW SECTION

WAC 275-38-785 DEPRECIATION BASE. (1) The depreciation base shall be the historical cost of the contractor in acquiring the asset from an unrelated organization and preparing depreciation base for use, less goodwill and less accumulated depreciation incurred during periods the assets have been used in or as a facility by the contractor, such accumulated depreciation to be measured in accordance with subsection (4) of this section and WAC 275-38-790, 275-38-795, and 275-38-800. If the department challenges the historical cost of an asset or a contractor is not able to provide adequate documentation of the historical cost of an asset, the department may have the fair market value of the asset at the time of purchase established by appraisal. The fair market value of items of equipment will be established by appraisals performed by vendors of the particular type of equipment. When these appraisals are conducted, the depreciation base of the asset will not exceed fair market value. Estimated salvage value shall be deducted from historical cost where the straight-line or sum-of-the-years digits method of depreciation is used.

(2) Effective January 1, 1981, for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently, subsection (1) of this section shall be applied with the phrase "in an arm's-length transaction" replacing the phrase "from an unrelated organization."

(3) Effective July 1, 1982, in all cases subsection (1) of this section shall be applied with the phrase "in an arm's-length transaction" replacing the phrase "from an unrelated organization."

(4) Where depreciable assets are acquired from a related organization, the contractor's depreciation base shall not exceed the base the related organization had or would have had under a contract with the department.

NEW SECTION

WAC 275-38-790 DEPRECIATION BASE—DONATED OR INHERITED ASSETS. (1) The depreciation base of donated assets, as defined in WAC 275-38-001, or of assets received through testate or intestate distribution, shall be the lesser of:

- (a) Fair market value at the date of donation or death, less goodwill. Estimated salvage value shall be deducted from fair market value where the straight-line or sum-of-the-years digits method of depreciation is used; or
 - (b) The depreciation base under the cost-related reimbursement program of the owner last contracting with the department, if any.
- (2) If the donation or distribution is between related organizations, the base shall be the lesser of:
- (a) Fair market value, less goodwill and, where appropriate, salvage value, or
 - (b) The depreciation base the related organization had or would have had for the asset under a contract with the department.

NEW SECTION

WAC 275-38-795 LIVES. (1) The contractor shall use lives no shorter than guideline lives contained in the internal revenue service class life ADR system or published by the American hospital association in computing allowable depreciation. The shortest life which may be used for buildings is thirty years.

(2) Lives shall be measured from the date of the most recent arm's-length acquisition of the asset.

(3) Building improvements shall be depreciated over the remaining useful life of the building, as modified by the improvement, but not less than fifteen years.

(4) Improvements to leased property which are the responsibility of the contractor under the terms of the lease shall be depreciated over the useful life of the improvement.

(5) A contractor may change the estimate of an asset's useful life to a longer life for purposes of depreciation.

NEW SECTION

WAC 275-38-800 METHODS OF DEPRECIATION. (1) Buildings, land improvements, and fixed equipment shall be depreciated using the straight-line method. Major-minor equipment shall be depreciated using either the straight-line method, the sum-of-the-years digits method, or declining balance method not to exceed one

hundred fifty percent of the straight-line rate. Contractors electing to take either the sum-of-the-years digits method or the declining balance method of depreciation on major-minor equipment may change to the straight-line method without permission of the department.

(2) The annual provision for depreciation shall be reduced by the portion allocable to use of the asset for purposes not both necessary and related to resident care and training.

(3) No further depreciation shall be claimed after an asset has been fully depreciated unless a new depreciation base is established pursuant to WAC 275-38-785.

NEW SECTION

WAC 275-38-805 RETIREMENT OF DEPRECIABLE ASSETS. (1) Where depreciable assets are disposed of through sale, trade-in, scrapping, exchange, theft, wrecking, or fire or other casualty, depreciation shall no longer be taken on the assets. No further depreciation shall be taken on permanently abandoned assets.

(2) Where an asset has been retired from active use but is being held for stand-by or emergency service, and the department has determined that the asset is needed and can be effectively used in the future, depreciation may be taken, as prescribed in WAC 275-38-775 through 275-38-800.

NEW SECTION

WAC 275-38-810 HANDLING OF GAINS AND LOSSES UPON RETIREMENT OF DEPRECIABLE ASSETS. Settlement periods prior to January 1, 1981, and rate periods prior to July 1, 1982.

(1) For settlement purposes for periods prior to January 1, 1981, and for rate-setting purposes for periods prior to July 1, 1982, gains and losses on the retirement of depreciable assets either during the period of participation in the program or within twelve months following termination, shall be treated in accordance with this section.

(2) A gain or loss on the retirement of an asset shall be the difference between the remaining undepreciated base and any proceeds received for, or to compensate for loss of, the asset. For purposes of subsections (3) and (4) of this section, the total gain shall be reduced by one percent for each month of ownership of an asset with an expected useful life of one hundred months or longer. For an asset with an expected useful life of less than one hundred months, total gain shall be reduced by the portion thereof equal to the ratio of the actual life of the asset from the most recent arm's-length acquisition up to the date of retirement to the assets expected useful life.

(3) If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset.

(4) If the retired asset is not replaced, or if the contractor is terminating the contract, the gain or loss shall be spread over the actual life of the asset up to the date of retirement, provided a loss will only be so spread if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset. The difference between reimbursement actually paid for depreciation in any period beginning on or after January 1, 1978, and the reimbursement for depreciation having been paid with the base adjusted to reflect the gain or loss, will be computed. Where the difference results from a gain, the difference shall be recovered by the department. Where the difference results from a loss, the difference will be added to allowable costs for purposes of determining settlement.

NEW SECTION

WAC 275-38-812 HANDLING OF GAINS AND LOSSES UPON RETIREMENT OF DEPRECIABLE ASSETS—OTHER PERIODS. (1) This section shall apply in the place of WAC 275-38-810 effective January 1, 1981, for purposes of settlement for settlement periods prior to that date, and for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently.

(2) A gain or loss on the retirement of an asset shall be the difference between the remaining undepreciated base and any proceeds received for, or to compensate for loss of, the asset.

(3) If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset.

NEW SECTION

WAC 275-38-815 RECOVERY OF EXCESS OVER STRAIGHT-LINE DEPRECIATION. If a contractor terminates the contract without selling or otherwise retiring equipment which was depreciated using an accelerated method, depreciation schedules relating to these assets for periods the contractor participated in the program shall be adjusted. The difference between reimbursement actually paid for depreciation in any period beginning on or after January 1, 1978, and the reimbursement which would have been paid for depreciation if the straight-line method had been used, will be recovered by the department.

NEW SECTION

WAC 275-38-820 UNALLOWABLE COSTS. (1) Costs will be unallowable if not documented, necessary, ordinary, and related to the provision of services to IMR residents.

(2) Unallowable costs include, but are not limited to, the following:

(a) Costs of items or services not covered by the medicaid program. Costs of nonprogram items or services will be unallowable even if indirectly reimbursed by the department as the result of an authorized reduction in resident contribution.

(b) Costs of services and items provided to IMR residents covered by the department's medical care program but not included in IMR services respectively. Items and services covered by the medical care program are listed in chapter 388-86 WAC.

(c) Costs associated with a capital expenditure subject to Section 1122 approval (part 100, Title 42 C.F.R.) if the department found the capital expenditure was not consistent with applicable standards, criteria or plans. If the department was not given timely notice of a proposed capital expenditure, all associated costs will be nonallowable as of the date the costs are determined not to be reimbursable under applicable federal regulations.

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained.

(e) Costs of outside activities (e.g., costs allocable to the use of a vehicle for personal purposes, or related to the part of a facility leased out for office space).

(f) Salaries or other compensation of officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to resident care and training.

(g) Costs in excess of limits or violating principles set forth in this chapter.

(h) Costs resulting from transactions or the application of accounting methods circumventing the principles of the prospective cost-related reimbursement system.

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities or supplies purchased elsewhere.

(j) Bad debts.

(k) Charity and courtesy allowances.

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and cost incurred to improve community or public relations.

(m) Vending machine expenses.

(n) Expenses for barber or beautician services not included in routine care.

(o) Funeral and burial expenses.

(p) Costs of gift shop operations and inventory.

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except those used in resident activity programs or in IMR programs where clothing is a part of routine care.

(r) Fund-raising expenses, except those directly related to the resident activity program.

(s) Penalties and fines.

(t) Expenses related to telephones, televisions, radios, and similar appliances in residents' private accommodations.

(u) Federal, state, and other income taxes.

(v) Costs of special care services, except where authorized by the department.

(w) Expenses of key-man insurance and other insurance or retirement plans not in fact made available to all employees.

(x) Expenses of profit-sharing plans.

(y) Expenses related to the purchase and/or use of private or commercial airplanes in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to resident care.

(z) Personal expenses and allowances of owners or relatives.

(aa) All expenses of maintaining professional licenses or membership in professional organizations.

(bb) Costs related to agreements not to compete.

(cc) Goodwill and amortization of goodwill.

(dd) Expenses related to vehicles in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to resident care.

(ee) Legal and consultant fees in connection with a fair hearing against the department where a decision is rendered in favor of the department or where otherwise the determination of the department stands.

(ff) Legal and consultant fees in connection with a lawsuit against the department are nonallowable.

(gg) Lease acquisition costs and other intangibles not related to resident care and training.

(hh) Interest charges assessed by the state of Washington for failure to make timely refund of overpayments and interest expenses incurred for loans obtained to make such refunds.

NEW SECTION

WAC 275-38-830 PROSPECTIVE REIMBURSEMENT RATES. The department will determine prospective reimbursement rates for IMR services provided to residents. Each rate represents the contractor's maximum compensation for one resident day of care and training of a resident determined by the department to require IMR care and training.

NEW SECTION

WAC 275-38-835 PROGRAM SERVICES NOT COVERED BY THE REIMBURSEMENT RATE. Medical services which are part of the department's medical care program but not included in IMR services are not covered by the prospective reimbursement rate. Payment is made directly to the provider of service in accordance with chapter 388-87 WAC. Items and services covered by the medical care program are listed in chapter 388-86 WAC.

NEW SECTION

WAC 275-38-840 PROSPECTIVE REIMBURSEMENT RATE FOR NEW CONTRACTORS. (1) A prospective reimbursement rate for a new contractor will be established within sixty days following receipt by the department of a properly completed projected budget (see WAC 275-38-520). The reimbursement rate will be effective as of the effective date of the contract.

(2) The prospective reimbursement rate will be based on the contractor's projected cost of operations, and on costs and payment rates of the prior contractor, if any, and/or of other contractors in comparable circumstances.

(3) If a properly completed projected budget is not received at least sixty days prior to the effective date of the contract, the department will establish a preliminary rate based on the other factors specified in subsection (2) of this section. The preliminary prospective rate will remain in effect until an initial prospective rate can be set.

(4) Where a change of ownership is involved which is not an arm's-length transaction as defined in WAC 275-38-001, the new contractor's prospective rates in the administration and operation and property cost areas will be no higher than the rates of the old contractor, adjusted if necessary to take into account economic trends.

NEW SECTION

WAC 275-38-845 RATE DETERMINATION. (1) Each contractor's reimbursement rate will be determined prospectively at least once each calendar year to be effective July 1, and will be adjusted for inflation January 1, using factors specified in WAC 275-38-855(3). Rates may be adjusted more frequently to take into account program changes, as specified in WAC 275-38-855(4).

(2) Where the contractor participated in the program during all or part of the prior fiscal period, the property and return on equity rates, and the nonwage component of administration and operations rate, will be determined based on the contractor's allowable costs in the prior period.

NEW SECTION

WAC 275-38-850 COST CENTERS. A contractor's overall reimbursement rate for IMR residents consists of the total of five component rates, each covering one cost center. The five cost centers are:

- (1) Residential care and habilitative services;
- (2) Food;
- (3) Administration and operations;
- (4) Property; and
- (5) Return on equity.

NEW SECTION

WAC 275-38-855 METHOD OF RATE DETERMINATION. (1) Data used in determining rates will be taken from the most recent complete, desk-reviewed annual cost report, and other documents submitted by each contractor.

(2) Data containing obvious errors, data for facilities out of compliance with any condition at any time during the reporting period, and data for facilities with average occupancy ratios of less than eighty-five percent for the report period, will be excluded from the determination of predicted costs and rate upper limits for WAC 275-38-870 and 275-38-875.

(3)(a) Semiannual adjustments for inflation will be:

(i) 5.0 percent for rates effective July 1, 1981, through December 31, 1981.

(ii) 4.25 percent for rates effective January 1, 1982, through June 30, 1982.

(iii) 1.625 percent for rates effective July 1, 1982, through December 31, 1982.

(iv) 1.625 percent for rates effective January 1, 1983, through June 30, 1983.

(b) Property and return on equity rates will not be adjusted for inflation.

(4) Where new standards are imposed, or the department wishes to encourage additional services or otherwise change the program, a cost-related adjustment will be made to the appropriate cost area rates of each contractor affected by the program change. Adjustments will be made until reported costs used in setting rates reflect the new standards or program changes.

(5) For rate determinations effective July 1, 1982, through June 30, 1983, the department shall establish a redistribution pool consisting of overpayments to contractors for 1981, indicated by preliminary settlements, less one hundred twenty thousand dollars. This pool shall be distributed to contractors pursuant to WAC 275-38-860 and 275-38-870.

NEW SECTION

WAC 275-38-860 RESIDENT CARE AND HABILITATIVE SERVICES COST CENTER RATE. (1) The resident care and habilitative services cost center reimbursement rate will reimburse for the necessary and ordinary costs of providing routine nursing, residential and habilitative services to residents in accordance with WAC 275-38-040 and 275-38-045; accordingly, the department has established five levels of care. These levels are: Level A, level B, level C, level D, and level E.

(2) Effective July 1, 1982, through June 30, 1983, the residential care and habilitative services cost center rate will be computed according to this section.

(a) As used in this section, "desk-reviewed residential care and habilitative services cost" shall be allowable residential care and habilitative services costs as determined by desk reviews conducted in accordance with WAC 275-38-595.

(b) If a contractor's weighted residential care and habilitative services rate for 1981 as computed in accordance with department regulations and instructions is equal to or greater than the contractor's desk-reviewed 1981 residential care and habilitative services costs, the department shall reimburse the residential care and habilitative services cost center at the desk-reviewed 1981 residential care and habilitative services costs plus any residential care and habilitative services funds shifted to other cost centers pursuant to WAC 275-38-635, as adjusted for inflation.

(c) If a contractor's residential care and habilitative services rate for 1981 is less than the contractor's desk-reviewed 1981 residential care and habilitative services costs, the department shall reimburse the contractor's residential care and habilitative services cost at the contractor's January 1, 1982 residential care and habilitative services

reimbursement rate, less one and one-half percent, as adjusted for inflation, plus an allowance from the redistribution pool. The total reimbursement paid to a contractor for residential care and habilitative services, including any allowance from the redistribution pool, shall not exceed the contractor's 1981 desk-reviewed residential care and habilitative services costs, as adjusted for inflation. The total of allowances distributed pursuant to subsection (2)(c) of this section shall not exceed the total amount in the redistribution pool. If the total of funds in the redistribution pool is equal to or exceeds the total amount of underfunding for residential care and habilitative services for all contractors, each contractor's allowance shall be the amount the contractor was underfunded for residential care and habilitative services, if any, where underfunding is defined as any excess of 1981 desk-reviewed cost over the 1981 rate in this cost center, as adjusted for inflation. If the total of funds in the redistribution pool is less than the total residential care and habilitative services underfunding for all contractors, the allowance distributed to each contractor shall be a percentage of the amount a contractor was underfunded, as defined in subsection (2)(c) of this section, for residential care and habilitative services, if any was experienced by the contractor. The percentage shall be computed by dividing the total of funds in the pool by the total amount of underfunding for all contractors.

(3) To residential care and habilitative services cost center rates determined in accordance with subsections (2)(b) and (c) of this section, a residential care and habilitative services enhancement shall be added. The enhancement shall be distributed among facilities proportionately based upon residential care and habilitative services cost center rates and shall not be adjusted for inflation. The total of enhancements distributed to contractors shall be six hundred thousand dollars.

(4) In addition to the reimbursement rate, each contractor may be assigned a range of residential care and habilitative services hours representing the maximum and minimum number of hours the department will purchase. The range will depend on the assigned level of care in each facility. For purposes of establishing an hourly range of service hours the calculation of hours will include resident life direct care staff, licensed nursing personnel, qualified mental retardation professionals, staff training, and staff responsible for activities. The range by level is:

3.1-6.1 for IMR level A residents, 2.7-5.4 for IMR level B residents, 2.1-3.6 for IMR level C residents, 1.2-2.4 for IMR level D residents, and a maximum of 5.0 for level E residents. Standard hours for each facility will be calculated based upon staffing data annual cost reports or other certified documents as required in the above ranges. The standard hours for each level will not fall below the minimum staffing levels as established in WAC 275-38-045. When the department requires new standards or makes program changes requiring more or less residential care and habilitative services, the range will be adjusted as of the effective date of the new standard or program change.

NEW SECTION

WAC 275-38-865 FOOD COST CENTER RATE. (1) The food cost center rate will reimburse for the necessary and ordinary costs of procuring food, dietary supplements, and beverages for meals and between-meal nourishment for residents.

(2) Effective July 1, 1982, through June 30, 1983, food reimbursement will be at the January 1, 1982 rate, adjusted for inflation.

NEW SECTION

WAC 275-38-870 ADMINISTRATION AND OPERATIONS COST CENTER RATE. (1) The administration and operations cost center reimbursement rate will include reimbursement for the necessary and ordinary costs of overall management of the facility, operation and maintenance of the physical plant, resident transportation, dietary service (other than the cost of food and beverages), laundry service, medical and habilitative supplies, taxes, and insurance.

(2) For rates effective July 1, 1982, through June 30, 1983, a contractor's administration and operations wage component reimbursement rate will be set pursuant to subsection (2) of this section.

(a) If a contractor's administration and operations wage component rate for 1981, is greater than or equal to the contractor's desk-reviewed 1981 wage component costs, the department shall reimburse the contractor's wage component at the desk-reviewed 1981 administration and operations wage component costs, as adjusted for inflation.

(b) If a contractor's administration and operations wage component rate for 1981 is less than the contractor's desk-reviewed 1981 wage

component costs, the department shall reimburse the contractor's wage component costs at the January 1, 1982, reimbursement rate, as adjusted for inflation.

(c) It is further provided, if any funds remain in the redistribution pool established pursuant to WAC 275-38-855(5) after distribution to contractors pursuant to WAC 275-38-860, the department shall distribute the funds to contractors underfunded in the wage component area, as determined by subsection (2)(b) of this section, according to the following rules:

(i) If the amount remaining in the redistribution pool exceeds or is equal to the total amount the contractors were underfunded in the wage component center, each contractor's allowance shall be the amount the contractor was underfunded for costs in this component, if any, where underfunding is defined as any excess of 1981 desk-reviewed cost over the 1981 rate in this component, as adjusted for inflation.

(ii) If the amount remaining in the redistribution pool is less than the total amount the contractors were underfunded in the wage component area, each contractor shall receive an allowance which shall be a percentage of the amount the contractor was underfunded as defined in subsection (2)(c)(i) of this section. The percentage shall be computed by dividing the amount remaining in the redistribution pool by the total amount of underfunding in the wage component center for all contractors.

(iii) The distribution shall not exceed the total amount of underfunded wage component costs for all contractors nor the amount remaining in the redistribution pool, if any.

(3) For rates effective July 1, 1982, through June 30, 1983, a contractor's administration and operations nonwage component reimbursement rate will be calculated as follows:

(a) Allowable administration and operations costs, including wages of administrators, assistant administrators, and administrators-in-training, but excluding wages of other support staff, will be taken from the most recent desk-reviewed annual cost report.

(b) Effective July 1, 1982, through June 30, 1983, if any amounts were shifted into the administration and operations cost area during the period covered by the most recent annual cost report, an annualized amount will be subtracted from administration and operations nonwage costs determined by the following formula:

$$AS = SS \times DR$$

(i) "AS" is the amount to be subtracted from administration and operations nonwage costs;

(ii) "SS" is the amount of the savings shifted into the administration and operations cost area; and

(iii) "DR" is the deficiency ratio, defined as the ratio of:

(A) Administration and operations nonwage costs minus the nonwage component of the administration and operations prospective rate; to

(B) Total administration and operations costs minus the total administration and operations prospective rate;

(C) This ratio may not be less than zero nor more than one.

(c) Adjusted costs will be updated using factors specified in WAC 275-38-855(3).

(d) Reimbursement for this portion of administration and operations will be limited to the eighty-fifth percentile of costs, adjusted as described in subsection (3)(b) of this section, of all reporting facilities, except facilities may be grouped by factors other than ownership or legal organization characteristics, which could reasonably influence cost requirements for administration and operations.

NEW SECTION

WAC 275-38-875 PROPERTY COST CENTER RATE. Property reimbursement for both leased and owner-operated facilities will not exceed the predicted cost plus one standard deviation of the necessary and ordinary costs of depreciation, and interest, of owner-operated facilities utilizing a multiple regression formula developed by the bureau of nursing home affairs pursuant to WAC 388-96-743. Effective July 1, 1982, through June 30, 1983, depreciation and interest costs of owner-operated facilities, for mortgages entered into prior to July 1, 1979, will be reimbursed to the extent the depreciation and interest costs do not exceed the reimbursement rate payable for the property cost center as of June 30, 1979, or July 1, 1979, whichever is higher, adjusted to meet any discrepancies as determined by the federal government between the reimbursements made and the approved state medicaid plan, and adjusted for any approved capitalized additions or replacements. Any leased facility operated as an intermediate

care facility for the mentally retarded prior to July 1, 1979, will be reimbursed to the extent that the property cost exceed the upper limit of the multiple regression formula.

NEW SECTION

WAC 275-38-880 RETURN ON INVESTMENT. (1) Effective July 1, 1982, through June 30, 1983, the department will pay a return on equity to proprietary contractors utilizing applicable medicare rules and regulations as of July 1, 1979, with the following modifications:

(a) Monthly equity calculations will not be used. A desk review of reported equity will be conducted pursuant to WAC 275-38-595. The average ratio among proprietary contractors of current assets to expenses will be computed by the bureau of nursing home affairs pursuant to WAC 388-96-750. The standard deviation of the ratio and the average ratio plus one standard deviation will also be computed. Current assets in excess of the average ratio plus one standard deviation will not be allowed unless the contractor can document the excess is ordinary, necessary, and related to resident care and training. No adjustments will be made to reported equity insofar as changes reflect additions to fixed assets which are ordinary, necessary, and related to resident care and training.

(b) Goodwill is not includable in the determination of net equity.

(c) Net equity and the payment for net equity shall be calculated as described in subsections (2) and (3) of this section.

(2) A contractor's net equity will be calculated using the appropriate items from the contractor's most recent desk reviewed cost report utilizing the definition of equity capital in WAC 275-38-001 and applying relevant medicare rules and regulations as of July 1, 1979, with the modifications described in subsection (1) of this section.

(3) The contractor's net equity will be multiplied by the medicare rate of return on equity capital for the twelve-month period ending on the date of the closing date of the contractor's cost report. The amount will be divided by the contractor's annual resident days for the cost report period to determine a rate per resident day. Where a contractor's cost report covers less than a twelve-month period, annual resident days will be estimated using the contractor's reported resident days.

(4) The information on which the return on equity is calculated is subject to field audit. If a field audit determines the desk-reviewed reported equity exceeds the equity documented and calculated in conformance with medicare rules and regulations as modified by this section, the contractor's return on equity rate for the rate period a return on equity rate calculated on the basis of the cost report was in effect shall be recalculated using the determinations of the field audit. Any payments in excess of the rate shall be refunded to the department as part of the settlement procedure established by WAC 275-38-630. In particular, subsections (4), (5), and (6) of WAC 275-38-630 shall apply.

NEW SECTION

WAC 275-38-885 UPPER LIMITS TO REIMBURSEMENT RATE. The reimbursement rate shall not exceed the contractor's customary charges to the general public for the services covered by the rate, except that public facilities rendering such services free of charge or at a nominal charge will be reimbursed according to the methods and standards set out in this chapter. The contractor shall immediately inform the department if the department's reimbursement rate does exceed customary charges for comparable services. If necessary, the rate will be adjusted in accordance with WAC 275-38-900. Rates will not exceed the limits set in 42 CFR 447.316.

NEW SECTION

WAC 275-38-895 NOTIFICATION OF RATES. The department will notify each contractor in writing of the department's prospective reimbursement rate. Unless otherwise specified at the time the reimbursement rate is issued, the rate will be effective from the first day of the month the rate is issued until a new rate becomes effective. If a rate is changed as the result of an appeal in accordance with WAC 275-38-960, the rate will be effective as of the date the rate appealed from became effective.

NEW SECTION

WAC 275-38-900 ADJUSTMENTS REQUIRED DUE TO ERRORS OR OMISSIONS. (1) Prospective rates are subject to adjustment by the department as a result of errors or omissions by the

department or by the contractor. The department will notify the contractor in writing of each adjustment and of the effective date, and of any amount due to the department or to the contractor as a result of the rate adjustment. Rates adjusted in accordance with this section will be effective as of the effective date of the original rate.

(2) If a contractor claims an error or omission based upon incorrect cost reporting, amended cost report pages shall be prepared and submitted by the contractor. Amended pages shall be accompanied by the certification required by WAC 275-38-560 and a written justification explaining why the amendment is necessary. Such amendments shall not be accepted for settlement purposes unless the amendments meet the requirements of WAC 275-38-570, but may be used for purposes of revising a prospective rate. If changes made by the amendments are determined to be material by the department according to standards established by the department, such amended pages shall be subject to field audit. If a field audit determines the amendments are incorrect or otherwise unacceptable, any rate adjustment based on the amendment shall be null and void. Payments based upon the rate adjustment shall be subject to repayment as provided in subsection (3) of this section.

(3) The contractor shall pay an amount he or she owes the department resulting from an error or omission, or commence repayment in accordance with a schedule determined by the department, within sixty days after receipt of notification of the rate adjustment, unless the contractor contests the department's determination in accordance with the procedures set forth in WAC 275-38-960. If the determination is contested, the contractor shall pay or commence repayment within sixty days after completion of these proceedings. If a refund is not paid when due, the amount thereof may be deducted from current payments by the department.

(4) The department shall pay any amount owed the contractor as a result of a rate adjustment within thirty days after the department notifies the contractor of the rate adjustment.

(5) No adjustments will be made to a rate after the annual settlement for the period the rate was effective has become final.

NEW SECTION

WAC 275-38-905 REQUESTS FOR REVISION OF A PROSPECTIVE RATE. (1) A contractor may at any time request in writing a revision of the current rate. Each request shall include a detailed explanation of significant changes in the factors used to establish the rate, or of significant changes in actual costs incurred or anticipated.

(2) The department will inform a contractor of the disposition of a request within sixty days after receipt of the request and of any documentation necessary to support the request. Unless otherwise specified, a revised rate shall be effective as of the first day of the month in which the rate is issued.

(3) A formal request is not required for a rate increase granted to all contractors to cover the cost of meeting new federal or state requirements.

NEW SECTION

WAC 275-38-910 PUBLIC REVIEW OF RATE-SETTING METHODS AND STANDARDS. The department will provide all interested members of the public with an opportunity to review and comment on proposed rate-setting methods and standards each year before setting rates.

NEW SECTION

WAC 275-38-915 PUBLIC DISCLOSURE OF RATE-SETTING METHODOLOGY. Without identifying individual IMR facilities, the department will make available to the public full information regarding the department's rate-setting methodology.

NEW SECTION

WAC 275-38-920 BILLING PERIOD. A contractor shall bill the department for care provided to medical care recipients from the first through the last day of each calendar month.

NEW SECTION

WAC 275-38-925 BILLING PROCEDURES. (1) A contractor shall bill the department each month by completing and returning the IMR statement provided by the department. The IMR statement shall be completed and filed in accordance with instructions issued by the department.

(2) A contractor shall not bill the department for service provided to a resident until an award letter relating to the resident has been received. At that time the contractor may bill for service provided back through the date the resident was admitted or became eligible.

(3) Billing shall not cover the day of a resident's death, discharge, or transfer from the IMR facility.

NEW SECTION

WAC 275-38-930 CHARGES TO RESIDENTS. (1) The department will notify a contractor of the amount each resident is required to pay for care provided under the contract and the effective date of such required contribution. It is the contractor's responsibility to collect that portion of the cost of care from the resident, and to account for any authorized reduction from his or her contribution in accordance with procedures established by the department.

(2) If a contractor receives documentation showing a change in the income or resources of a resident which will mean a change in his or her contribution toward the cost of care, this shall be reported in writing to the regional services office, DDD, within seventy-two hours. If necessary, appropriate corrections shall be made in the next IMR statement, and a copy of documentation supporting the change shall be attached. If increased funds for a resident are received by a contractor, the normal amount shall be allowed for clothing, personal, and incidental expense, and the balance applied to the cost of care.

(3) The contractor shall accept the reimbursement rate established by the department as full compensation for all services the contractor is obligated to provide under the contract. The contractor shall not seek or accept additional compensation from or on behalf of a resident for any or all such services.

NEW SECTION

WAC 275-38-935 PAYMENT. (1) The department will reimburse a contractor for service rendered under the IMR contract and billed for in accordance with WAC 275-38-925.

(2) The amount paid will be computed using the appropriate rate assigned to the contractor.

(3) For each resident, the department will pay an amount equal to the appropriate rate or rates, multiplied by the number of resident days each rate was in effect, less the amount the resident is required to pay for his or her care (see WAC 275-38-930).

NEW SECTION

WAC 275-38-940 SUSPENSION OF PAYMENT. (1) Payments to a contractor may be withheld by the department in each of the following circumstances:

(a) A required report is not properly completed and filed by the contractor within the appropriate time period, including any approved extensions. Payments will be released as soon as a properly completed report is received.

(b) Auditors or other authorized department personnel in the course of his or her duties are refused access to an IMR or are not provided with existing appropriate records. Payments will be released as soon as such access or records are provided.

(c) A refund in connection with an annual settlement or rate adjustment is not paid by the contractor when due. The amount withheld will be limited to the unpaid amount of the refund.

(d) Payment for the final thirty days of service under a contract will be held pending final settlement when the contract is terminated.

(2) No payment will be withheld until written notification of the suspension is given to the contractor, stating the reason therefor.

NEW SECTION

WAC 275-38-945 TERMINATION OF PAYMENTS. All payments to a contractor will end no later than thirty days after any of the following occurs:

- (1) A contract expires, is terminated or is not renewed;
- (2) A facility license is revoked; or
- (3) A facility is decertified as a Title XIX facility.

NEW SECTION

WAC 275-38-950 DISPUTES. (1) If a contractor wishes to contest the way a rule, contract provision, or policy statement relating to the prospective cost-related reimbursement system was applied to the contractor by the department, (e.g., in setting a reimbursement rate or

determining a disallowance at audit), the contractor shall first pursue the administrative review process set out in WAC 275-38-960.

(2) The administrative review process in WAC 275-38-960 need not be exhausted if a contractor wishes to challenge the legal validity of a statute, rule, contract provision or policy statement.

NEW SECTION

WAC 275-38-955 RECOUPMENT OF UNDISPUTED OVERPAYMENTS. The department is authorized to withhold from the IMR current payment all amounts found by proposed or final settlement to be overpayments not identified by the IMR and challenged as overpayments as part of a good-faith administrative or judicial review. Contested amounts retained by the IMR pursuant to this section may be subject to recoupment by the department from the IMR current payment upon completion of judicial and administrative review procedures to the extent the department's position or claims are upheld.

NEW SECTION

WAC 275-38-960 ADMINISTRATIVE REVIEW PROCESS.

(1) Within thirty days after a contractor is notified of an action or determination the contractor wishes to challenge, the contractor shall request in writing the director of the division of developmental disabilities or his or her designee review such determination. The request shall be signed by the contractor or the licensed administrator of the facility, shall identify the challenged determination and the date thereof, and shall state as specifically as practicable the grounds for the contractor's or licensed administrator's contention the determination was erroneous. Copies of any documentation the contractor intends to rely on to support the contractor's position shall be included with the request.

(2) After receiving a request meeting the criteria in subsection (1) of this section, the director of the division of developmental disabilities will contact the contractor to schedule a conference for the earliest mutually convenient time. The conference shall be scheduled for no later than thirty days after a properly completed request is received unless both parties agree in writing to a specific later date.

(3) The contractor and appropriate representatives of the department shall attend the conference. In addition, representatives selected by the contractor may attend and participate. The contractor shall bring to the conference, or provide to the department in advance of the conference, any documentation the contractor intends to rely on to support the contractor's contentions. The parties shall clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than thirty days after the initial session unless both parties agree in writing to a specific later date.

(4) Unless informal agreement has been reached at the conference, a written decision by the director of the division of developmental disabilities will be furnished to the contractor within sixty days after the conclusion of the conference.

(5) If the contractor desires review of an adverse decision of the director of the division of developmental disabilities, the contractor shall within thirty days following receipt of such decision request a fair hearing in writing in accordance with the administrative procedure act, chapter 34.04 RCW.

WSR 82-10-001

ADOPTED RULES

DEPARTMENT OF ECOLOGY

[Order DE 82-05—Filed April 23, 1982]

I, Donald W. Moos, director of the Department of Ecology, do promulgate and adopt at the Department of Ecology, Lacey, Washington, the annexed rules relating to Blaine, City of, amending WAC 173-19-4502.

This action is taken pursuant to Notice No. WSR 82-05-056 filed with the code reviser on February 17, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 90.58.120 and 90.58.200 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 6, 1982.

By Donald W. Moos
Director

AMENDATORY SECTION (Amending Order DE 80-25, filed 6/30/80)

WAC 173-19-4502 BLAINE, CITY OF. City of Blaine master program approved September 29, 1975. Revision approved August 30, 1977. Revision approved December 28, 1978. Revision approved June 26, 1980. Revision approved April 6, 1982.

WSR 82-10-002

ADOPTED RULES

DEPARTMENT OF ECOLOGY

[Order DE 82-06—Filed April 23, 1982]

I, Donald W. Moos, director of the Department of Ecology, do promulgate and adopt at the Department of Ecology, Lacey, Washington, the annexed rules relating to Tacoma, City of, amending WAC 173-19-3514.

This action is taken pursuant to Notice No. WSR 82-05-056 filed with the code reviser on February 17, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 90.58.120 and 90.58.200 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 6, 1982.

By Donald W. Moos
Director

AMENDATORY SECTION (Amending Order DE 81-37, filed 12/2/81)

WAC 173-19-3514 TACOMA, CITY OF. City of Tacoma master program approved April 5, 1977. Revision approved December 5, 1979. Revision approved March 17, 1981. Revision approved November 23, 1981. Revision approved April 6, 1982.

WSR 82-10-003
PROPOSED RULES
GAMBLING COMMISSION

[Filed April 23, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Gambling Commission intends to adopt, amend, or repeal rules concerning adding new sections WAC 230-20-605 types of amusement games authorized and WAC 230-30-065 punchboard/pull tab price per play be posted;

that such agency will at 10:00 a.m., Friday, June 11, 1982, in the City Hall Council Chambers, 8th and Plum, Olympia, Washington, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 10:00 a.m., Friday, June 11, 1982, in the City Hall Council Chambers, 8th and Plum, Olympia, Washington.

WAC 230-20-605 is promulgated pursuant to RCW 9.46.070(11) and WAC 230-30-065 is promulgated pursuant to RCW 9.46.070(11) and is intended to administratively implement that statute.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 11, 1982, and/or orally at 10:00 a.m., Friday, June 11, 1982, City Hall Council Chambers, 8th and Plum, Olympia, Washington.

Dated: April 23, 1982

By: Richard A. Finnigan
for Keith Kisor
Director

STATEMENT OF PURPOSE

Title: New sections WAC 230-20-605, Types of amusement games authorized and WAC 230-30-065, Punchboard/pull tab price per play be posted.

Description of Purpose: New WAC 230-20-605, the purpose of this proposed new section is to set forth types of amusement games which may be played by persons operating amusement games under the authority of chapter 9.46 RCW and new WAC 230-30-065, the purpose of this proposed new rule is to set out that the cost to the player for each play of a punchboard or pull tab must be posted and that once the price per play is established it may not be modified.

Statutory Authority: The statutory authority for the proposed new section WAC 230-20-605 is RCW 9.46.070(11). The statutory authority for the proposed new section WAC 230-30-065 is RCW 9.46.070(11).

Summary of Proposed New Sections and Reasons Supporting Action: New WAC 230-20-605, this proposed new rule sets forth a description of the type and scope of amusement games which may be played and the manner in which those games may be conducted. Included within the rule are fish pond games, hoop or ring toss games, dart games of various types, ball toss games of various types, shooting games of various types, coin pitch games, coin operated games, and miscellaneous games. The miscellaneous games include "Tip-Em-Up Bottle, Hi-Striker, Rope Ladder, Whac-a-Mole, Dip

Bowling Game, Speedball Radar Game, Horse Race Derby, Shuffleboard and Bean Bag." The proposed new section further provides that additional games or modifications of the games authorized by the rule must be submitted to the commission in writing and authorizes the director to temporarily approve additional games or modification of games subject to final approval by the commission. The proposed new rule provides that no other games or variations of games may be played. The reason for adopting this rule is to set forth standards establishing the type and scope and manner of conducting amusement games so that both those operating amusement games and those playing amusement games will have an idea of what games may be properly conducted and how they may be conducted. New WAC 230-08-065, this proposed new rule requires that when a punchboard or pull tab series is placed out for play the cost to the player for each punch or pull tab be clearly posted on the flare for that board or series and that once placed out for play the board or series flare may not be modified or changed in any way except for the deletion of prizes valued at \$5 or more as required by WAC 230-30-070. The reason for this proposed rule is to prevent the occasional practice of operators changing the price per play on boards or series. This has sometimes occurred in the past with merchandise boards or series.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Keith Kisor, Director, Capital Plaza Building, 1025 East Union, Olympia, WA, 234-0865 Scan, 753-0865 Comm.

Proponents and Opponents: These proposed new rules are proposed by the staff of the Washington State Gambling Commission.

Agency Comments: The agency believes the proposed rules are self-explanatory and need no further comment.

These rules were not made necessary as a result of a federal law or federal or state court action.

NEW SECTION

WAC 230-20-605 TYPES OF AMUSEMENT GAMES AUTHORIZED. The Commission hereby authorizes the following amusement games to be operated by persons possessing a Special Location Amusement Games License, or bonafide charitable or nonprofit organizations possessing a license issued by the gambling commission or when conducted as authorized by RCW 9.46.030(3) at an authorized location:

(1) **FISH POND (DUCK POND).** The player "catches" a fish or other object floating in a pond of water by using a pole, hand, net or string. All fish or objects are marked on the bottom indicating the size of prize the player wins. The player is awarded a prize every time and the player must be allowed to continue playing until a prize is won.

When played at school carnivals, the game may be played without the pond of water and the operator of the game may assist the player by attaching a prize to the pole, hand, net or string.

(2) **HOOP OR RING TOSS.** The player must toss a hoop(s) or ring(s) over a target which may consist of bottles, pegs, blocks, or prizes. The operator must specifically advise the player as to the degree that the hoop(s) or ring(s) must go over the target. All hoops of the same color used at an individual stand must be the same size. All targets used at an individual booth must be the same size or the operator must advise the player by posting signs or using color codes denoting the different sizes.

(3) **DART GAMES.** The target area for all dart games must be of a material capable of being penetrated and retaining a metal tip dart. The target area will be in the rear of the stand and will be at least three feet but not more than fifteen feet from the foul line. Target must be stationary at all times.

(a) **BALLOON (POPAROO) (BALLOON SMASH).** The targets are inflated balloons. The player throws one or more darts to burst a predetermined number of balloons. If the predetermined number of balloons are burst by the dart(s), the player receives the prize indicated.

(b) **DART THROW.** The targets are various sizes and shapes located on the target area. The player must throw dart(s) individually at the target. The player must hit and the dart must stick in a predetermined target to win the prize as designated.

(c) **TIC TAC TOE DART.** The target is a tick tac toe board located in the target area. The player throws darts at the target and wins a designated prize when the thrown darts line up in a row in the target. The darts may line up vertically, horizontally or diagonally to win.

(d) **ADD UM UP DARTS.** The target consists of numbered squares located in the target area. Prizes are awarded based on the total score obtained by the player by throwing and sticking the darts in the numbered squares. All darts stuck on lines will receive a rethrow. The player has the right to add up the score of the darts thrown.

(4) **BALL TOSSES.** In all ball toss games, the balls used at a specific stand must be of the same weight and size. Targets must be of the same weight and size or the operator must color code the targets and advise the player of the difference in targets by posting a sign or providing a duplicate of the target showing the limitations or restrictions readily visible to the player.

(a) **MILK BOTTLE TOSS.** The player tosses or throws ball(s) at simulated milk bottles. The player wins by either tipping over or knocking bottles off the raised platform as designated by the operator. The bottles may be constructed of wood, metal or plastic or a combination of the above three. Operators may vary the number of bottles and balls used in each game. No floating or loose weights in bottles shall be allowed.

(b) **MILK CAN (MEXICAN HAT).** The player tosses a ball(s) into the opening of a milk can or a fiber glassed Mexican Hat turned upside down to win.

(c) **FOOTBALL TOSS (TIRE TOSS).** The player tosses or throws a football(s) through a stationary tire or hoop to win.

(d) **BASKETBALL TOSS/THROW.** The player tosses or throws a basketball(s) through a basketball type hoop to win.

(e) **BUSCHEL BASKETS.** The player tosses a ball(s) into a bushel type basket mounted on a stationary backdrop at a fixed angle. The ball(s) must stay in the basket to win. All rim shots will be allowed except the operator may designate the top 6 inches of the basket rim by color and disallow ball(s) striking this area as winning tosses.

(f) **CAT-BALL-TOSS (STAR/DIAMOND TOSS).** The player tosses a ball(s) into a simulated cat's mouth or a round, diamond or star shaped hole to win.

(g) **PING PONG TOSS.** The player tosses ping pong balls into dishes, saucers, cups or ashtrays floating in water. A predetermined number of balls must remain in the dishes, saucers, cups or ashtrays for the player to win. The dishes, saucers, cups or ashtrays must have water covering the bottom of the surface which is facing up.

(h) **FISH BOWL GAME.** The player tosses ping pong balls into a water-filled fish bowl to win.

(i) **VOLLEY BALL TOSS (SOCCER BALL).** The player tosses a volley or soccer ball(s) into a keg type container mounted on a stationary backdrop at a fixed angle. The ball(s) must stay in the keg to win a prize. Rim shots are authorized as stated in Paragraph (e) above for bushel baskets.

(j) **GOBLET BALL (WHIFFLE BALL).** The player tosses a whiffle ball(s) into a target area of glass or plastic goblets. Located in the target area are colored goblets which determine the type of prize the player wins. At least 33 percent of the goblets in the target area must be winners. The ball(s) must stay in the goblet to win a prize.

(k) **BREAK THE PLATE/BOTTLE.** The player tosses or throws a ball(s) at a plate, phonograph record or bottle. The type of prize won is determined by the number of targets broken by the player.

(l) **PUNK RACK.** The targets for this game are rows of dolls or cats on a ledge at the rear of the stand. The dolls or cats must be filled with sawdust, styrofoam, cotton or other like material which provides a firm base for the ball to strike. The hair protruding from the side of the dolls or cats shall not exceed three inches. The prize is determined by how many dolls or cats the player knocks over or off the ledge as posted by the operator.

(m) **TEETH GAME.** The target consists of a large face with wooden teeth. The prize is determined by how many teeth the player knocks down by throwing a ball(s).

(n) **TOILET GAME (DONIKER).** The player tosses or throws a ball or other object through a toilet seat, which is located at the rear of the stand, to win.

(o) **(COKE ROLL).** The player rolls a ball(s) down an alley with the object of knocking over two coke bottles standing at the end of the alley. The player must tip over both bottles to win. Bottles shall be placed on predetermined spots painted on the surface of the alley.

(p) **ROLLDOWN.** The player rolls ball(s) down an alley with the object of putting the ball(s) in numbered slots at the end of the alley. The scores represented by the balls in each numbered slot are added up at the conclusion of the game. Scores above or below a predetermined score win. The alley surface shall at all times be smooth and free from defects.

(q) **FASCINATION (I GOT IT).** A group game which involves competition among the players. The target area consists of twenty-five holes and the player tosses or rolls a ball into one of the holes. The object of the game is to get five balls in a row either vertically, horizontally or diagonally. The first player to accomplish this is the winner. Prize size is determined by the number of players participating in each game.

(r) **POKERENO.** The target area consists of twenty five squares with each square given the value of a poker card. The player rolls or tosses five balls to land in the squares. The operator has predetermined winning poker hands and the player wins when balls land in the squares that duplicate the operators selection.

(s) **SHOOTING GAMES.** These games are conducted by the player using a weapon of some type to shoot at a target in the rear of the stand. The safety requirement of the local city or county ordinances must be observed by the operator and player. The target may be stationary or mobile.

(a) **SHORT RANGE (SHOOTING GALLERY).**

(i) The player is given four (4) rounds to shoot at a spot target 1/4 inches or less in diameter. The player wins when the spot target is completely shot out.

(ii) The player is given five (5) rounds to shoot one round each at five triangular, round or square targets, 1/2 square inch. The prize is determined by the number of targets struck by the player.

(iii) The player is given five (5) rounds to shoot one round each at five triangular, round or square targets, 1/2 square inch. Within each target is a bull's eye and the player must hit the bull's eye without touching outer surface of the target. The prize won is determined by the number of bull's eyes correctly hit.

(b) **SHOOT-OUT-THE-STAR (MACHINE GUN).** The player, using an automatic air pellet gun, is given 100 pellets to shoot at a star shaped target. The player must shoot out all of the target to win. The star cannot be more than one and one quarter inch from point to point.

(c) **WATER RACER.** This group game involves competition with the player winning a prize based on the number of players competing. The player, using a water pistol, shoots the water into a target. The water striking the target causes a balloon to inflate or advances an object to ring a bell. The player bursting the balloon or ringing the bell first is the winner.

(d) **RAPID FIRE.** This group game involves competition among players similar to the Water Racer described in (c) above. The player uses an electronic pistol to shoot at a target. Hits on the target give the player a score and the first player to reach a predetermined score is the winner.

(e) **CORK GALLERY.** The player uses a cork gun to shoot at targets located on a shelf. The player must knock the target over or off the shelf to win a prize. The prize is determined by the target knocked over or off the shelf or by the number of targets knocked over or off the shelf. The base of each target shall be uniform front and rear.

(6) **COIN PITCHES.** (a) **SPOT PITCH (LUCKY STRIKE).** The player pitches a coin at colored spots located on a table in the center of the stand. The coin must touch or stay inside of a spot to win a prize.

(b) **PLATE PITCH.** The player pitches a coin onto a glass plate to win a prize as designated.

(c) **GLASS PITCH (BOWL).** The player pitches a coin into or onto dishes, glasses, etc. If the coin remains in one of the top "Target" glass items then the player wins that item.

(7) **COIN-OPERATED GAMES.** (a) **SKILL CHUTE (BULL-DOZER) (PENNY FALL).** The player inserts a coin or token into a chute aiming the coin or token so that it will fall in front of a continuous sweeper, (bulldozer). If the coin or token is aimed correctly, the sweeper (bulldozer) will push additional tokens or prizes into a hole or chute which sends them to the player. Tokens are exchanged for prizes. If there is a hidden ledge, tip or similar obstruction which inhibits the

passage of tokens or prizes into the hole or chute which sends them to the player, then the operator must post a sign to advise the players.

(b) **SKEE BALL.** The player rolls a ball(s) up the mechanical bowling alley into targets. A computer adds up the scores and predetermined scores win.

(c) **DIGGERS.** The player turns a crank on a mechanical crane to pick up a prize. If the player picks up a prize then the player wins that prize. There can be no stops on the digger or, if there are stops, all prizes must be the same. All prizes must be capable of being picked up by the crane.

(8) **MISCELLANEOUS GAMES.** (a) **TIP-EM-UP BOTTLE.** The player is provided with a pole and a string which has a hoop or ring attached at the end. The player, using the pole with ring, must raise a bottle lying on its side to an upright position to win.

(b) **HI-STRIKER.** The player, using a wooden maul, must strike a lever target which causes a metal weight to rise on a guide line or track and ring a bell. The player must ring the bell a predetermined number of times to win a prize.

(c) **ROPE LADDER.** Player must climb up a rope ladder, which is anchored at both ends by a swivel and ring a bell or buzzer to win a prize.

(d) **WHAC-A-MOLE.** A group game which has a target surface with 5 holes - animated "moles" pop up and down at random. Whac (hit) as many moles as possible with a mallet. First player to hit a predetermined number of moles wins.

(e) **DIP BOWLING GAME.** Player rolls a bowling type ball over hump in track. If ball stays on the back side of hump, the player wins.

(f) **SPEEDBALL RADAR GAME.** Player gets four balls. Player throws three balls through radar to establish speeds and to estimate at what speed fourth ball will pass through radar. Player wins prize if he accurately estimates speed of the fourth ball. Radar must be mounted and stationary.

(g) **HORSE RACE DERBY.** A group game. Players advance their horse by shooting or rolling a ball in target area. The faster and more skillful one shoots or rolls his ball, the faster his horse will run. First horse to finish line wins.

(h) **Shuffleboard.** Player pushes a puck(s) down a shuffleboard alley to knock over poly pins at end of alley. Player wins by knocking down all the pins.

(i) **BEAN BAG.** The player tosses or throws a bean bag or a simulated bean bag at cans, bottles or other objects on a raised platform. The player wins a prize when he either knocks the object(s) off the raised platform or tips the targets over.

(9) Any additional games or modification of the games authorized above, must be submitted to the Commission in writing. The Director may temporarily approve any additional games or modification of the games subject to final approval by the Commission.

(10) No other games or variations of games may be played.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 230-30-065 PUNCHBOARD/PULL TAB PRICE PER PLAY TO BE POSTED. (1) No punchboard or pull tab series shall be placed out for public play unless the cost to the player for each punch or pull tab is clearly posted on the flare.

(2) Once placed out for public play, a punchboard or pull tab series flare may not be modified or otherwise changed, except for the deletion of those prizes valued at five dollars or more as required by WAC 230-30-070.

WSR 82-10-004

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed April 23, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Agriculture intends to adopt, amend, or repeal rules concerning assessments and collections to

change the assessment rate to one-quarter of one percent of the net receipts at the point of sale, WAC 16-528-040.

The formal adoption, amendment, or repeal of such rules will take place at 10:00 a.m., Wednesday, April 28, 1982, in the Office of the Director of Agriculture.

The authority under which these rules are proposed is chapter 18.66[15.66] RCW.

This notice is connected to and continues the matter in Notice No. WSR 81-20-075 filed with the code reviser's office on October 7, 1981.

Dated: April 23, 1982
By: G. David Kile
Assistant Director

WSR 82-10-005
EMERGENCY RULES
COMMITTEE FOR
DEFERRED COMPENSATION
[Order 82-2—Filed April 23, 1982]

Be it resolved by the Committee for Deferred Compensation, acting at Conference Room 700 H, State Modular Office Building, 7510 Armstrong, Olympia Airport, Tumwater, WA, that it does promulgate and adopt the annexed rules relating to state employees deferred compensation plan, Title 154 WAC.

We, the Committee for Deferred Compensation, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is this emergency filing is necessary to implement the deferred compensation plan for state employees during calendar year 1981.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 41.04.260 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 8, 1982.

By C. H. Shay
Analyst

Chapter 154-01 WAC
PLAN ESTABLISHED

NEW SECTION

WAC 154-01-010 PLAN ESTABLISHED. In accordance with the provisions of RCW 41.04.250 et seq., and as provided in Section 457 of the Internal Revenue

Code, the state of Washington hereby establishes the deferred compensation plan for employees of the state of Washington, hereinafter referred to as the "plan." Nothing contained in this plan shall be deemed to constitute an employment agreement between the participant and the state of Washington and nothing contained herein shall be deemed to give a participant any right to be retained in the employ of the state of Washington.

Chapter 154-04 WAC
DEFINITIONS

NEW SECTION

WAC 154-04-010 EMPLOYER. "Employer" means the state of Washington.

NEW SECTION

WAC 154-04-020 COMPENSATION. "Compensation" means all payments made to a public employee by the employer as remuneration for services rendered.

NEW SECTION

WAC 154-04-030 DEFERRED COMPENSATION. "Deferred compensation" means the amount of the participant's compensation which the participant and the employer shall mutually agree (prior to the date on which such compensation is earned) will be deferred.

NEW SECTION

WAC 154-04-040 NORMAL RETIREMENT AGE. "Normal retirement age" means:

- (1) The normal retirement age for the employee specified in any other retirement plan maintained for the employee by the employer, or, if no such age is so specified;
- (2) The date the employee attains age sixty-five.

NEW SECTION

WAC 154-04-050 PARTICIPATION AGREEMENT. "Participation agreement" means the agreement executed and filed by an employee with the employer pursuant to WAC 154-12-010, in which the employee elects to become a participant in the plan.

NEW SECTION

WAC 154-04-060 TERMINATION OF SERVICES. "Termination of services" means the severance of the participant's employment with the employer prior to attainment of normal retirement age, occurring other than by reason of death.

NEW SECTION

WAC 154-04-070 PARTICIPANT. "Participant" means any employee of the employer who executes a participation agreement with the committee assenting to the provisions of this plan, once the agreement has been approved by the committee or its designee.

NEW SECTION

WAC 154-04-080 COMMITTEE. "Committee" means the committee for deferred compensation appointed pursuant to RCW 41.04.260.

NEW SECTION

WAC 154-04-090 INCLUDIBLE COMPENSATION. "Includible compensation" means for the purposes of the limitation set forth in WAC 154-12-020, compensation for services performed for the employer which (after applying exclusions pursuant to Sections 403(b) and 457 of the Internal Revenue Code) is currently includible in gross income for federal income tax purposes. The amount of includible compensation shall be determined without regard to any community property laws.

NEW SECTION

WAC 154-04-100 EMPLOYEE. "Employee" means any person who is employed by and receives any type of compensation from the employer for whom services are rendered, and who is a full-time, permanent part-time working half-time or more, or career seasonal employee of the employer, whether or not covered by civil service; an elected or appointed official of the executive branch of the government, including any full-time member of a board, commission, or committee; a justice of the supreme court or a judge of the court of appeals or of a superior court; or a member of the state legislature.

NEW SECTION

WAC 154-04-110 DEFERRED COMPENSATION REVOLVING FUND. "Deferred compensation revolving fund" means the special fund created in the treasury of the state of Washington pursuant to RCW 41.04.260 into which shall be paid all deferred compensation hereunder and from which shall be paid as necessary costs of administration and staffing of the plan, expenses of the committee, and such other amounts determined by the committee and permitted by law; and benefits payable hereunder to participants or their respective beneficiary or beneficiaries unless otherwise paid.

Chapter 154-08 WAC
ADMINISTRATION

NEW SECTION

WAC 154-08-010 ADMINISTERED BY COMMITTEE. This plan shall be administered by the committee which shall represent the employer in all matters concerning the administration of this plan.

NEW SECTION

WAC 154-08-020 COMMITTEE TO ADOPT RULES AND REGULATIONS. The committee shall have full power and authority to adopt rules and regulations for the administration of the plan, and to interpret,

alter, amend, or revoke any rules and regulations so adopted.

NEW SECTION

WAC 154-08-030 COMMITTEE ACTION FAIR AND REASONABLE. Every action taken by the committee shall be presumed to be fair and reasonable exercise of the authority vested in or the duties imposed upon it. The committee and its individual members shall be deemed to have exercised reasonable care, diligence and prudence and to have acted impartially as to all persons interested, unless the contrary be proven by affirmative evidence.

NEW SECTION

WAC 154-08-040 COMMITTEE TO MAINTAIN RECORDS OF ACCOUNTS. To facilitate an orderly administration of the plan, the committee shall maintain or cause to be maintained a deferred compensation ledger account with respect to each participant.

NEW SECTION

WAC 154-08-050 DEFERRED COMPENSATION REVOLVING FUND. All deferred compensation hereunder shall be paid into the deferred compensation revolving fund. All costs of administration and staffing of the plan, expenses of the committee, and such other amounts determined by the committee and permitted by law, shall be paid as necessary out of the deferred compensation revolving fund. Amounts in the deferred compensation revolving fund may be invested pursuant to RCW 41.04.250 as directed by the committee. All benefits payable to participants or their respective beneficiary or beneficiaries shall be paid from the deferred compensation revolving fund unless otherwise paid.

Chapter 154-12 WAC
PARTICIPATION IN THE PLAN

NEW SECTION

WAC 154-12-010 ENROLLMENT. Enrollment in the plan.

(1) An employee may become a participant by executing a participation agreement. Compensation will be deferred for any calendar month only if a participation agreement providing for such deferral is executed by the participant and approved by the committee or its designee before the beginning of such month.

(2) In signing the participation agreement, the participant elects to participate in this plan and consents to the employer deferring the amount specified in the participation agreement from the participant's gross compensation for each pay period. The dollar amount deferred ("deferred amount") must equal at least thirty dollars per month. Once a participant has specified an amount of deferral, such specification shall continue unless changed or revoked pursuant to WAC 154-12-050 or 154-12-060 of this plan. Participants must have at least one monthly deferral.

NEW SECTION

WAC 154-12-020 DEFERRAL LIMITATIONS. Except as provided in WAC 154-12-030, the maximum that may be deferred under the plan for any taxable year of a participant shall not exceed the lesser of (1) \$7,500 or (2) 33 1/3% of the participant's includible compensation; or as may be otherwise provided in Section 457 of the Internal Revenue Code or any successor statute of similar import.

NEW SECTION

WAC 154-12-030 CATCH-UP PROVISION. For one or more of the participant's last three taxable years ending before attaining normal retirement age under the plan, the maximum deferral shall be the lesser of (1) \$15,000 or (2) the sum of (a) the limitations established for purposes of WAC 154-12-020 of the plan for the taxable year (determined without regard to this section), plus (b) so much of the limitation established under WAC 154-12-020 for taxable years before the taxable year as has not theretofore been used under WAC 154-12-020 or 154-12-030; or as may be otherwise provided in Section 457 of the Internal Revenue Code or any successor statute of similar import.

NEW SECTION

WAC 154-12-040 COMMITTEE MAY DISALLOW DEFERRAL. The participant acknowledges the right of the committee or the administrator to disallow deferral of compensation under the plan in excess of the limitations stated above. However, neither the committee nor the administrator shall have any duty to assure that amounts deferred are in compliance with such limitations. In the case of a person who participates in more than one deferred compensation plan governed by Section 457 of the Internal Revenue Code, the limitations set forth in WAC 154-12-020 and 154-12-030 shall apply to all such plans considered together.

NEW SECTION

WAC 154-12-050 MODIFICATION OF DEFERRAL. A participant may change the amount of deferral specified pursuant to WAC 154-12-010(2) of this plan at any time, but no more frequently than twice in any calendar year, unless the committee by specific action authorizes a special additional open change period. Such change shall be effective as to any calendar month only if a new participation agreement is executed by the participant and approved by the committee or its designee before the beginning of such calendar month.

NEW SECTION

WAC 154-12-060 REVOCATION OF DEFERRAL. A participant may at any time direct that deferrals under the participant's participation agreement shall cease by completing the proper form and filing it with the committee prior to the first day of the calendar month for which the deferrals shall cease; however, accrued benefits shall only be paid as provided in chapters 154-16 and 154-20 WAC.

NEW SECTION

WAC 154-12-070 REINSTATEMENT OF DEFERRAL. A participant who has directed the cessation of deferrals under the participant's participation agreement as set forth in WAC 154-12-060, may resume deferrals for any calendar month commencing no sooner than six months after such deferrals ceased by executing a new participation agreement to defer compensation.

NEW SECTION

WAC 154-12-080 DESIGNATION OF BENEFICIARIES. Each participant shall have the right to designate a beneficiary or beneficiaries to receive any benefit to which said participant may be entitled in the event of death prior to the complete distribution of benefits. If no such designation is in effect on a participant's death, the beneficiary shall be the surviving spouse. If there be no such surviving spouse, then the beneficiary shall be the participant's estate. A participant may change beneficiary designation at any time by filing a change of beneficiary form with the committee.

NEW SECTION

WAC 154-12-090 ELECTION. Each participant may elect the payout options and the payout period for each event stated in chapters 154-16 and 154-20 WAC. Such payment, method of payment and settlement options must be selected prior to the earliest distribution date provided in the plan from among options provided by rule by the committee. In the absence of such election a payout option of one hundred twenty monthly installments, or such lesser number of monthly installments as is required by treasury regulations promulgated from time to time under Section 457 of the Internal Revenue Code or any successor statute of similar import so that the payout option does not exceed the life expectancy of the participant or the joint and last survivor expectancy of the participant and the participant's spouse, shall be automatically invoked by the committee: PROVIDED, That the mode of payment of a deceased participant's benefit shall be determined by the committee within the limitations of WAC 154-16-020 and 154-20-020.

NEW SECTION

WAC 154-12-100 INCOME METHOD ELECTION. Each participant shall designate on his participation agreement the method for calculating investment income to be accrued on amounts deferred. Such designation shall continue unless changed pursuant to this section. The method for calculating investment income shall be selected from those methods made available for this purpose from time to time by the committee, in its sole discretion.

The committee may make available as methods for such calculation and accrual of investment income (1) a fixed rate of interest or (2) the earnings that the deferred amount would have earned if invested in specified mutual fund shares, deposits with a credit union, savings and loan association, bank, or mutual savings bank, life insurance, shares of an investment company, or fixed

and/or variable annuities or other methods permitted by law and selected by the committee. The committee may from time to time change the available methods for the calculation of investment income, and a participant may, no more frequently than twice each calendar year unless the committee by specific action authorizes a special additional open change period, change the election of the method, provided that any change may affect only income to be accrued after such change. In the event that the investment constituting the standard of measurement of investment income experiences a loss, the participant's benefits payable hereunder shall likewise reflect loss, rather than income, for the period. Nothing in this section shall require the employer to invest any amount in the investments constituting the basis for measuring investment income on deferred amounts, and if the employer should so invest, no participant shall have any right, title, or interest in the assets so invested.

For purposes of determining the amount of benefits payable to a participant or the participant's beneficiary or beneficiaries under the plan, the amount payable shall be reduced by costs of the plan paid from the deferred compensation revolving fund pursuant to WAC 154-08-050, and any investment income which would otherwise have been earned thereon.

NEW SECTION

WAC 154-12-110 DISTRIBUTION OF DEFERRALS. Distribution of deferrals:

(1) Notwithstanding anything in this plan to the contrary, payment of amounts deferred shall commence not later than the latest of (a) sixty days after the close of the participant's taxable year in which the participant attains normal retirement age, or, if earlier, age sixty-five; (b) the close of the participant's taxable year in which the participant separates from service with the employer; or (c) the close of the participant's taxable year in which the participant attains age seventy and one-half.

(2) Amounts deferred under this plan shall be paid according to options provided by rule by the committee pursuant to WAC 154-12-090, but such options shall provide for payment over a period not longer than (a) the life of the participant; (b) the lives of the participant and the participant's spouse; (c) a period certain not extending beyond the life expectancy of the participant; or (d) a period certain not extending beyond the joint life and last survivor expectancy of the participant and the participant's spouse.

(3) Notwithstanding anything in this plan to the contrary, beginning with the participant's taxable year in which the participant attains age seventy and one-half (or, if later, the participant's taxable year in which payments commence), the amount to be paid to the participant each year under the plan shall be not less than the least of (a) the balance of the amounts deferred; (b) an amount equal to the quotient obtained by dividing the balance of the amounts deferred at the beginning of the year by the life expectancy of the participant (or the joint life and last survivor expectancy of the participant

and the participant's spouse, as applicable), determined as of the date the participant attains age seventy and reduced by one for each taxable year commencing after the participant attains age seventy and one-half; or (c) the minimum amount permitted by Treasury Regulations promulgated under Section 457 of the Internal Revenue Code.

Chapter 154-16 WAC BENEFITS ON RETIREMENT

NEW SECTION

WAC 154-16-010 NORMAL RETIREMENT. If the participant continues in the service of the employer until or beyond normal retirement age, the employer shall pay to such participant a retirement benefit equal to the sum of all compensation theretofore deferred under the plan, together with investment income or loss thereon to the date of payment, calculated in accordance with WAC 154-12-100 by the method set forth in the participant's participation agreement(s) under which such compensation was deferred. The participant's retirement benefit may be paid in one or more installments as elected by the participant pursuant to WAC 154-12-090. Payment of a participant's retirement benefit shall commence on or before the earlier of:

(1) The first day of any month commencing after the date of the participant's retirement as designated by the participant by written notice to the committee, provided, the committee must receive said written notice no fewer than sixty days prior to the date on which payments are to commence; or

(2) The latest date on which payments are required to commence pursuant to WAC 154-12-110(1).

NEW SECTION

WAC 154-16-020 UPON DEATH OF PARTICIPANT. Should the participant die at any time after retirement, whether prior to or after the participant has begun to receive the retirement payment(s) provided by WAC 154-16-010, or if payment has commenced to the participant's surviving spouse and such surviving spouse dies before the entire amount is paid, the participant's designated beneficiary or beneficiaries shall be entitled to receive the balance remaining of such payment(s). If no beneficiary is designated as provided in the participation agreement, or if the designated beneficiary does not survive by a period of thirty days, then there shall be paid, in accordance with WAC 154-12-080, to the surviving spouse or to the estate of the participant, a lump sum amount, or such other mode of payment as is determined by the committee if the beneficiary or beneficiaries request it, equal to the current value of such payment(s). The entire amount payable under this section shall be paid within five years after the participant's death (or the death of the surviving spouse).

Chapter 154-20 WAC BENEFITS ON TERMINATION OF SERVICES OR DEATH PRIOR TO RETIREMENT

NEW SECTION

WAC 154-20-010 **TERMINATION OF SERVICES.** In the event of the participant's termination of services as defined in WAC 154-04-060, an amount equal to the sum of all compensation theretofore deferred under the plan, together with investment income or loss thereon to the date of payment, calculated in accordance with WAC 154-12-100 by the method set forth in the participant's participation agreement(s), shall be paid to the participant in such a manner as the participant may elect pursuant to WAC 154-12-090. In no event shall the committee be required to cause payments to commence until it has been given at least sixty days written notice by the participant of the participant's termination of services.

NEW SECTION

WAC 154-20-020 **DEATH OF PARTICIPANT.** In the event the participant dies before retirement or prior to receiving all the benefits provided for in WAC 154-20-010, or if payment has commenced to the participant's surviving spouse and such surviving spouse dies before the entire amount is paid, the participant's designated beneficiary or beneficiaries shall be entitled to receive the balance remaining of such payment(s). If no beneficiary is designated as provided in the participation agreement or if the designated beneficiary does not survive the participant for a period of thirty days, then there shall be paid, in accordance with WAC 154-12-080, to the surviving spouse or to the estate of the participant, a lump sum amount, or such other mode of payment as is determined by the committee if the beneficiary or beneficiaries request it, equal to the current value of such payment(s). The entire amount payable under this section shall be paid within five years after the participant's death (or the death of the surviving spouse).

Chapter 154-24 WAC
UNFORESEEABLE EMERGENCY

NEW SECTION

WAC 154-24-010 **UNFORESEEABLE EMERGENCY.** Notwithstanding any other provisions herein, in the event of an unforeseeable emergency, a participant may request the committee to pay benefits. If the application for payment is approved by the committee, payment will be made as soon as possible following such an approval. Benefits to be paid shall be limited strictly to that amount reasonably necessary to satisfy emergency need. Any remaining benefits shall be paid in accordance with chapters 154-16 and 154-20 WAC of the plan.

For purposes of this plan, an unforeseeable emergency shall be severe financial hardship to the participant resulting from a sudden and unexpected illness or accident of the participant or of a dependent (as defined in Section 152(a) of the Internal Revenue Code) of the participant, loss of the participant's property due to casualty,

or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant. The circumstances that will constitute an unforeseeable emergency will depend upon the facts of each case, but, in any case, payment shall not be made to the extent that such hardship is or may be relieved (1) through reimbursement or compensation by insurance or otherwise; (2) by liquidation of the participant's assets, to the extent liquidation of such assets would not itself cause severe financial hardship; or (3) by cessation of deferrals under the plan. Examples of what shall not be considered to be unforeseeable emergencies include the need to send a participant's child to college or the desire to purchase a home.

Chapter 154-28 WAC
LEAVE OF ABSENCE

NEW SECTION

WAC 154-28-010 **LEAVE OF ABSENCE.** If a participant is on an approved leave of absence from the employer, participation in this plan shall continue.

Chapter 154-32 WAC
AMENDMENT OR TERMINATION OF PLAN

NEW SECTION

WAC 154-32-010 **TERMINATION OF PLAN.** The employer or the committee may at any time terminate this plan. Upon such termination, benefits will be paid to each participant pursuant to chapter 154-20 WAC of the plan. Each participant's full compensation on a nondeferred basis will thereupon be restored.

NEW SECTION

WAC 154-32-020 **AMENDMENT OF PLAN.** The committee may also amend the provisions of this plan at any time: **PROVIDED, HOWEVER,** That no amendment shall affect the rights of participants or their beneficiaries to the receipt of payment of benefits, to the extent of any compensation deferred before the time of the amendment and investment income or loss thereon accrued to the date of the amendment, calculated in accordance with WAC 154-12-010.

Chapter 154-36 WAC
RELATIONSHIP TO OTHER PLANS

NEW SECTION

WAC 154-36-010 **RETIREMENT AND SOCIAL SECURITY NOT REDUCED.** It is intended that, pursuant to Section 457 of the Internal Revenue Code, the amount of deferred compensation will not be considered as current compensation for purposes of federal income taxation. Such amounts will, however, be included as compensation in determining benefits or rights under the employer's group insurance, other retirement plans and FICA. Payments under this plan will supplement retirement and death benefits payable under the employer's group insurance and other retirement plans.

Chapter 154-40 WAC
TRANSFER IN LIEU OF BENEFITS

NEW SECTION

WAC 154-40-010 ASSETS IN LIEU OF CASH. Upon the occurrence of any event requiring the payment of benefits under this plan, the committee may, in its sole discretion, elect to honor a request from the participant to substitute the transfer in kind and assignment of any asset which the employer has acquired, at fair market value.

Chapter 154-44 WAC
NONASSIGNABILITY CLAUSE

NEW SECTION

WAC 154-44-010 BENEFITS NOT ASSIGNABLE. It is agreed that neither the participant, nor the participant's beneficiary or beneficiaries, nor any other designee, shall have any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payments hereunder, which payments and right thereto are expressly declared to be nonassignable and non-transferable; and in the event of attempt to assign or transfer, the employer shall have no further liability hereunder, nor shall any unpaid benefits be subject to attachment, garnishment or execution, or be transferable by operation of law in event of bankruptcy, insolvency, except to the extent otherwise required by law.

Chapter 154-48 WAC
ASSETS

NEW SECTION

WAC 154-48-010 PLAN ASSETS. All amounts of compensation deferred under the plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property or rights, shall remain (until made available to the participant or the participant's beneficiary or beneficiaries) solely the property and rights of the employer and shall be subject only to the claims of general creditors of the employer.

Chapter 154-52 WAC
PARTICIPATION BY COMMITTEE MEMBERS

NEW SECTION

WAC 154-52-010 PARTICIPATION BY COMMITTEE MEMBERS. Members of the committee, who are otherwise eligible, may participate in the plan under the same terms and conditions as apply to other participants but an individual member shall not participate in any committee action taken with respect to that member's participation.

Chapter 154-56 WAC
EMPLOYER PARTICIPATION

NEW SECTION

WAC 154-56-010 EMPLOYER CONTRIBUTIONS. The employer may, pursuant to a changed or new participation agreement filed by a participant as specified in WAC 154-12-050 or 154-12-070, add additional deferred compensation for services to be rendered by the employee to the employer during any calendar month, provided:

(1) The employee has elected to have such additional compensation deferred, invested, and distributed, pursuant to this plan, prior to the calendar month in which the compensation is earned; and

(2) Such additional deferred compensation, when added to all other deferred compensation under the plan, does not exceed the maximum deferral permitted by chapter 154-12 WAC.

Chapter 154-60 WAC
INVESTMENT RESPONSIBILITY

NEW SECTION

WAC 154-60-010 INVESTMENT RESPONSIBILITY. The employer may, but is not required to, invest funds held pursuant to participation agreements between participants and the employer in accordance with the requests made by each participant. The committee shall retain the right to approve or disapprove such investment requests. Any action by the committee in investing funds, or approving of any such investment of funds, shall not be considered to be either an endorsement or guarantee of any investment, nor shall it be considered to attest to the financial soundness or the suitability of any investment for the purpose of meeting future obligations.

Chapter 154-64 WAC
COMMITTEE POWERS

NEW SECTION

WAC 154-64-010 PLAN PREVAILS. In the event any form or other document used in administering this plan, including but not limited to enrollment forms and marketing materials, conflict with the terms of the plan, the terms of the plan shall prevail.

NEW SECTION

WAC 154-64-020 DECISION BINDING. The committee is authorized to determine any matters concerning the rights of any participant under this plan and such determination shall be binding on the participant and any beneficiary thereof.

NEW SECTION

WAC 154-64-030 COMMITTEE TO INTERPRET. The committee is authorized to construe this plan and resolve any ambiguity in the plan. The plan and any form or other document used in administering

the plan shall be interpreted, and this plan shall be administered, so as to comply with Section 457 of the Internal Revenue Code and the regulations of the treasury department promulgated thereunder.

NEW SECTION

WAC 154-64-040 TAX STATUS NOT GUARANTEED. *The committee does not represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of the participant's participation in this plan. The participant should consult with the participant's own representative regarding all questions of federal or state income, payroll, personal property or other tax consequences arising from participation in this plan.*

NEW SECTION

WAC 154-64-050 COMMITTEE MAY REQUIRE COURT ORDER. *The committee or the employer, if in doubt concerning the correctness of their action in making a payment of a benefit, may suspend that benefit until satisfied as to the correctness of the payment or the person to receive the payment or to allow the filing in any state court of competent jurisdiction of a civil action seeking a determination of the benefits to be paid and the persons to receive them. The committee and the employer shall comply with the final orders of the court in any such suit and the participant, for the participant and the participant's beneficiary or beneficiaries, consents to be bound thereby.*

NEW SECTION

WAC 154-64-060 DELEGATION OF AUTHORITY. *The committee may delegate its functions to be performed under this plan to any designee with legal authority to perform such functions.*

Chapter 154-68 WAC
APPLICABLE LAW

NEW SECTION

WAC 154-68-010 PLAN TO CONFORM TO STATE LAW. *This plan shall be construed under the laws of the state of Washington.*

NEW SECTION

WAC 154-68-020 PLAN TO CONFORM TO FEDERAL LAW. *This plan is intended to be an eligible state deferred compensation plan within the meaning of Section 457 of the Internal Revenue Code, and shall be interpreted consistent with such section and all regulations promulgated thereunder.*

WSR 82-10-006

ADOPTED RULES HIGHER EDUCATION PERSONNEL BOARD

[Order 95—Filed April 26, 1982—Eff. June 1, 1982]

Be it resolved by the Higher Education Personnel Board, acting at Green River Community College, Auburn, Washington, that it does promulgate and adopt the annexed rules relating to:

- Amd WAC 251-10-110 Demotion, suspension, reduction, separation, dismissal—Cause for.
- Amd WAC 251-12-080 Appeals from demotion, suspension, lay-off, reduction, separation, dismissal.
- Amd WAC 251-14-030 Determination of bargaining unit.
- Amd WAC 251-14-040 Election and certification of exclusive representative.
- Amd WAC 251-22-111 Sick leave—Reporting—Verification.

This action is taken pursuant to Notice No. WSR 82-06-047 filed with the code reviser on March 3, 1982. Such rules shall take effect at a later date, such date being June 1, 1982.

This rule is promulgated under the general rule-making authority of the Higher Education Personnel Board as authorized in RCW 28B.16.100.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 15, 1982.

By Douglas E. Sayan
Director

AMENDATORY SECTION (Amending Order 90, filed 8/28/81, effective 10/1/81)

WAC 251-10-110 DEMOTION, SUSPENSION, REDUCTION, SEPARATION, DISMISSAL—CAUSE FOR. Appointing authorities may demote, suspend, reduce in salary, separate or dismiss an employee under their jurisdiction for just cause. Examples of activities which may result in such action are, but are not limited to: Neglect of duty, inefficiency, incompetence, insubordination, malfeasance, gross misconduct, physical or mental incapacity, willful violation of the published institution or related board or higher education personnel board rules or regulations, mistreatment or abuse of fellow workers or members of the public, conflict of interest, excessive absenteeism, etc.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-12-080 APPEALS FROM DEMOTION, SUSPENSION, LAYOFF, REDUCTION, SEPARATION, DISMISSAL. Any permanent employee who is demoted, suspended, laid off, reduced, separated or dismissed, may appeal such action. Appeals must be in writing and must be filed in the office of the director within thirty calendar days after the effective date of the action appealed.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-14-030 DETERMINATION OF BARGAINING UNIT. (1) Determination, alteration, modification or combination of appropriate bargaining units shall be made by the board upon petition from the appointing authority, an employee organization or upon the board's own motion, after twenty calendar days' notice has been given to the appointing authority and to affected employees and their representatives.

(2) In determining a bargaining unit, the board shall consider the following factors:

(a) Duties, skills and working conditions of the employees.

(b) History of collective bargaining by the employees and their bargaining representatives.

(c) Extent of organization among the employees.

(d) Desires of the employees.

(3) Any petition filed hereunder shall, in writing, set forth all pertinent facts and supporting reasons as comprehensively as possible, to aid the board in its determination.

(4) When the board combines existing bargaining units into one new unit and/or accretes additional classes and/or positions to a bargaining unit, such action shall effect an automatic decertification of any union shop representative provision in effect except in the following instances:

(a) Where the same employee organization is certified as the union shop representative in each of the existing bargaining units that are being combined into one new unit;

(b) Where results of the union shop election previously held still represent a majority vote in favor of the union shop provision in the new unit. Majority vote will be determined by adding the number of employees not previously covered by a union shop provision to the total number of employees eligible to vote in the previous election.

(5) ~~((After a hearing on a petition, the board shall enter an appropriate order containing findings of fact and conclusions of law.))~~ At the hearing on a petition, the board shall make an oral determination. Within thirty calendar days of the hearing, the board shall also enter an appropriate order containing findings of fact and conclusions of law reflecting its oral determination. Unless otherwise provided, the effective date for the creation or modification of a bargaining unit shall be the date of the board's oral determination.

(6) Bargaining units normally shall not include both supervisory and nonsupervisory employees.

AMENDATORY SECTION (Amending Order 69, filed 6/30/78, effective 8/1/78)

WAC 251-14-040 ELECTION AND CERTIFICATION OF EXCLUSIVE REPRESENTATIVE. (1) The director shall certify an employee organization as exclusive representative of the employees of a bargaining unit when such organization shows proof that it represents a majority of such employees at the close of the

last preceding payroll period and such proof is not contested by the appointing authority, the director, or any other interested party. Prior to certification, the director shall give ten calendar days' notice that an employee representative has petitioned to be named the exclusive representative of a bargaining unit. Such notice shall inform all other interested parties that an election may be requested as herein provided and that the proof of majority representation may be contested within ten calendar days. The ten calendar day period shall begin three days after the director's notice is mailed, and a request for an election or notice of a contest of proof of majority representation shall be deemed timely if postmarked within the ten-day period. The institution personnel officer or designee shall have responsibility for posting copies of the notice in conspicuous places in the work area of the employees included in the bargaining unit. The director shall determine whether the proof of representation is satisfactory, and if it is not satisfactory shall require that an election be held.

The director will require that an election be held when not less than thirty percent of the employees in a bargaining unit petition for an election during the ten calendar day notice period: **PROVIDED, HOWEVER,** That unless another employee organization shows proof of at least thirty percent representation, such an election shall be limited to the issue as to whether or not the employees desire certification of the petitioning employee organization as exclusive representative.

(2) The director shall conduct a secret vote for selection of an exclusive representative of the employees of a bargaining unit upon request from an employee organization showing satisfactory proof of at least thirty percent representation of employees on the active payroll who were employed within the bargaining unit at the close of the payroll period immediately preceding the date of request. Upon granting a request for an election, the director shall give written notice thereof and allow ten calendar days for other employee organizations desiring their names placed on the ballot to show satisfactory proof of at least ten percent representation of employees on the active payroll who were employed within the bargaining unit at the close of the payroll period immediately preceding the date of notice of election. The ten calendar day period shall begin three days after the director's notice is mailed, and a request by an employee organization to be placed on the ballot shall be deemed timely if postmarked within the ten calendar day period.

(3) The director or designee, at a pre-election conference, shall review with interested employee organizations and the appointing authority or designee the standards and procedures for the conduct of the election, shall inform all affected employees of the conditions set forth therein, and shall distribute sample ballots. The ballot shall contain the name of the requesting employee organization and the name of any other employee organization showing satisfactory proof of at least ten percent representation within the unit, and shall provide a choice for any employee within the unit to designate that he/she does not desire to be represented by an exclusive representative. All employees on the active payroll and

employed within the bargaining unit at the time of election are eligible to vote. Eligible employees unable to vote at the time of election may vote by absentee ballot. Absentee ballots may be requested prior to date of election, but will be counted only if received by the director or designee no later than two regular working days following the closing date of election. Where more than one organization is on the ballot and none receives a majority of all votes cast in such election, a run-off election shall be held. The run-off ballot shall contain the two choices which received the largest and second largest number of votes.

(4) Election signs and banners shall not be permitted in the area in which the balloting takes place, nor shall any person in the area discuss the advantages or disadvantages of representation by any organization whether on the ballot or otherwise, nor shall any person in that area engage in any other form of electioneering.

(5) An employee organization receiving a majority of all votes cast in such an election, or run-off, shall be certified by the director as the exclusive representative of the employees in the bargaining unit.

(6) When an employee organization has been certified as the exclusive representative of the employees in a bargaining unit, it shall be entitled to act for, and to negotiate collective agreements covering all employees in the unit, and shall be responsible for representing the interests of all such employees. Individual grievances or group grievances of employees may, however, be presented by them to management and may be adjusted by management so long as the adjustment is not inconsistent with the collective agreement and the exclusive representative has had an opportunity to review such adjustments.

(7) Another exclusive representative election shall not be held concerning the same bargaining unit until the lapse of at least twelve months from the date of the last previous exclusive representative election.

AMENDATORY SECTION (Amending Order 83, filed 1/28/80)

WAC 251-22-111 SICK LEAVE—REPORTING ((PAYMENT))—VERIFICATION. (1) Employees shall report illness or disability to the immediate supervisor at the beginning of any period of sick leave and daily thereafter unless prearranged.

(2) Upon returning to work, the employee may be required by the employing official to submit a written statement or medical certificate explaining the nature of the disability.

~~((3) Payment for sick leave due to the employee's own illness, injury, disability, exposure, or medical/dental/optical appointments (unlike sick leave for caring for family members or for bereavement or condolence) shall be excluded from the meaning of "wages" under the federal old age and survivor's insurance. For purposes of this subsection the employee shall be required to provide a medical certificate when any such personal sick leave use exceeds ten continuous work days.))~~

WSR 82-10-007
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 82-34—Filed April 26, 1982]

I, Rolland A. Schmitten, director of the State Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use shellfish rules.

I, Rolland A. Schmitten, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is this order protects broodstock clams.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 26, 1982.

By Rolland A. Schmitten
Director

NEW SECTION

WAC 220-56-36000D RAZOR CLAMS—AR-EAS AND SEASONS. *Notwithstanding the provisions of WAC 220-56-360, effective immediately until further notice, it is unlawful to take, or dig for razor clams in the Long Beach razor clam sanctuary as defined in WAC 220-56-372(1).*

WSR 82-10-008
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 82-35—Filed April 26, 1982]

I, Rolland A. Schmitten, director of the State Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, Rolland A. Schmitten, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is this order is adopted pursuant to the Columbia River Compact.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.40.010 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 26, 1982.

By Rolland A. Schmitt
Director

NEW SECTION

WAC 220-32-04100E SEASONS AND AREAS - SHAD. Notwithstanding the provisions of WAC 220-32-041, (1) It is unlawful to take, fish for or possess shad for commercial purposes with gill nets except from the following areas during the specified times for each area as follows:

(a) A line commencing at the white six-second equal-interval light approximately 3/4 mile east of the Washougal Woolen Mill pipeline and projected westerly to the Washougal blinker light; thence continuing westerly to the white four-second blinker light on the east end of Lady Island, thence easterly and northerly along the shoreline of Lady Island to the State Highway 14 Bridge; thence easterly across State Highway 14 Bridge to the mainland to point of origin from 4:00 A.M. to 10:00 P.M. on the following days:

May 24 through May 28, 1982

June 1 through June 4, 1982

June 7 through June 11, 1982

June 14 through June 18, 1982

June 21 through June 25, 1982

June 28 through July 2, 1982

Lawful gear is defined in WAC 220-32-023.

(b) The waters of Grays River from its mouth upstream to fishing boundary markers located at the Leo Reisticka farm and including the waters of Seal Slough; the waters of Deep River from its mouth upstream to the Highway 4 Bridge from 6:00 P.M. May 10 to 6:00 P.M. June 11, 1982.

Lawful gear is single-wall set gill net or drift gill net not exceeding 200 feet in length nor of a depth greater than 20 feet. Web of said gill net must contain meshes of a size not less than 4-1/2 inches nor larger than 6 inches stretch measure and must not exceed a breaking strength of a 30-pound pull.

(c) Those waters of the Columbia River upstream and easterly of a line projected from the flashing red light No. 52 on the Oregon shore near the downstream end of Gary Island, diagonally north to a white equal-interval light on the Washington shore; and including those waters of the Columbia River downstream and westerly of a line projected across the Columbia River at a point 5 miles below Bonneville Dam; and excluding the waters of Camas Slough upstream from a line projected true north from the most western tip of Lady Island to the mainland from 4:00 A.M. to 10:00 P.M. on the following days:

May 24 through May 28, 1982

June 1 through June 4, 1982

June 7 through June 11, 1982

Lawful gear is defined in WAC 220-32-023.

(d) It is unlawful to retain any fish except shad.

(2) It is lawful for individuals possessing treaty fishing rights pursuant to the Yakima, Warm Springs, Umatilla and Nez Perce treaties to take, fish for or possess shad for commercial purposes with dip nets at any time in Columbia River Management and Catch Reporting Areas 1F, 1G and 1H.

WSR 82-10-009

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 82-36—Filed April 26, 1982]

I, Rolland A. Schmitt, director of the State Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use fishing rules.

I, Rolland A. Schmitt, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is repeals inadvertent closures created by Columbia River salmon regulatory change, necessary to maximize opportunity to take harvestable numbers of sturgeon and shad.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 26, 1982.

By Rolland A. Schmitt
Director

NEW SECTION

WAC 220-56-28500B SHAD AND STURGEON—AREAS AND SEASONS. Notwithstanding the provisions of WAC 220-56-285, it is lawful to take, fish for and possess sturgeon and shad for personal use by angling the entire year from the waters of the Columbia River concurrent with salmon angling boundaries provided for in WAC 220-57-160 and outside of the following closed waters:

(1) McNary Dam - Waters between the upstream line of McNary Dam downstream to a line across the river from the red and white marker on the Oregon

shore on a line that intersects the downstream end of the wingwall of the boat lock near the Washington shore.

(2) John Day Dam - From the upstream line of John Day Dam to markers approximately 3,000 feet downstream, except that fishing is permitted up to 400 feet below the fishway entrance from the Washington shore.

(3) The Dalles Dam - From the upstream line of The Dalles Dam to the upstream side of the Interstate Bridge at The Dalles, except that fishing is permitted up to 400 feet below the fishway entrance from the Washington shore.

WSR 82-10-010
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 82-37—Filed April 26, 1982]

I, Rolland A. Schmitt, director of the State Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing rules.

I, Rolland A. Schmitt, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is no commercially harvestable surplus of herring currently available.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 26, 1982.

By Gary C. Alexander
for Rolland A. Schmitt
Director

NEW SECTION

WAC 220-49-02000H **CLOSED AREA—HERRING.** Notwithstanding the provisions of WAC 220-49-020, effective immediately until further notice, it is unlawful to take, fish for or possess herring for commercial purposes with any type of gear in Marine Fish-Shellfish Catch Reporting Areas 20A, 20B, 21A or 21B.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-49-02000F **CLOSED AREA—HERRING (82-9)**

WAC 220-49-02000G **CLOSED AREA—HERRING (82-10)**

WSR 82-10-011
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed April 27, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Eligibility conditions applicable to AFDC—Assignment of rights to support, amending WAC 388-24-108.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
Division of Administration
Department of Social and Health Services
Mailstop OB-33 C
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Washington, Phone (206) 753-7015, by May 26, 1982. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Wednesday, June 9, 1982, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, June 16, 1982, in William B. Pope's Office, 3rd Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.08.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 9, 1982, and/or orally at 10:00 a.m., Wednesday, June 9, 1982, Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: April 26, 1982

By: David A. Hogan
Division of Administration

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amend WAC 388-24-108.

The purpose of the rule change is to simplify administration.

Statutory Authority: RCW 74.08.090.

Summary of the Rule Change: Acceptance of public assistance will constitute an assignment of support rights to the department. No paperwork will be required.

Person or Persons Responsible for the Drafting, Implementation and Enforcement of the Rule: Joan Gross,

Program Manager, Division of Income Assistance,
Mailstop: OB-31 C, Phone: 3-7137.

These rules are not necessary as a result of federal law, federal court decision or state court decision.

AMENDATORY SECTION (Amending Order 1644, filed 4/27/81)

WAC 388-24-108 ELIGIBILITY CONDITIONS APPLICABLE TO AFDC—ASSIGNMENT OF RIGHTS TO SUPPORT. (1) As a condition of eligibility each applicant for or recipient of AFDC shall assign to the office of support enforcement any and all right, title, and interest in any support obligation the applicant or recipient may have in ((his/her)) his or her own behalf or on the behalf of any family member for whom application is being made; such assignment shall include rights in support payments which have accrued prior to the time assignment is made, and shall require the applicant/recipient to promptly remit to the office of support enforcement any payments received directly from the person legally responsible to pay support. Payment of public assistance to the applicant shall constitute an agreement to the assignment of rights to support by the applicant, as provided under RCW 74.20.330.

(2) If the parent or other caretaker relative with whom the child(ren) is living fails or refuses to comply with the requirement in subsection (1) of this section, the caretaker relative shall be ineligible to receive assistance and any assistance for which the child(ren) may be eligible shall be provided by protective payment as specified in WAC 388-33-453; the determination of requirements for the child(ren) shall be computed without regard to the requirements of the caretaker relative.

(3) The requirement of subsection (1) of this section shall be applicable to recipients no later than the next regular redetermination of eligibility.

WSR 82-10-012
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 82-38—Filed April 27, 1982]

I, Rolland A. Schmitt, director of the State Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use shellfish rules and commercial shellfish rules.

I, Rolland A. Schmitt, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is test fishery has indicated there is an adequate supply of shrimp for limited harvest.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 27, 1982.

By Gary C. Alexander
for Rolland A. Schmitt
Director

NEW SECTION

WAC 220-56-32500C PERSONAL USE—SHRIMP SEASON—HOOD CANAL Notwithstanding the provisions of WAC 220-56-084, it is lawful to take, fish for and possess for personal use, shrimp taken in Hood Canal southerly of a line projected between the Hood Canal Floating Bridge abutments from 10:00 A.M. May 22 to 6:00 P.M. June 24, 1982. The daily bag limit shall be 10 pounds or 10 quarts in the shell.

NEW SECTION

WAC 220-52-05300J COMMERCIAL—SHRIMP SEASON—HOOD CANAL Notwithstanding the provisions of WAC 220-52-050 and WAC 220-52-053, it is unlawful to take, fish for or possess shrimp for commercial purposes in Marine Fish-Shellfish Management and Catch Reporting Areas 27A, 27B and 27C, except as follows:

From 10:00 A.M. June 3, to 6:00 P.M. June 24, 1982 with shellfish pots (maximum of 100 pots).

A harvest log as required by WAC 220-52-050 must be sent in weekly, with the week ending on Wednesday. The log must be postmarked not later than Friday of that week.

WSR 82-10-013
ADOPTED RULES
EDMONDS COMMUNITY COLLEGE
[Resolution No. 82-4-1—Filed April 28, 1982]

Be it resolved by the board of trustees of the Edmonds Community College, acting at Lynwood Hall, Room 424, Edmonds Community College, Lynnwood, Washington 98036, that it does promulgate and adopt the annexed rules relating to student discipline, chapter 132Y-125 WAC.

This action is taken pursuant to Notice No. WSR 82-05-039 filed with the code reviser on February 16, 1982. Such rules shall take effect pursuant to RCW 28B.19.050(2).

This rule is promulgated pursuant to RCW 28B.19.020 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 15, 1982.

By Jennis J. Bapst
Vice President for Administrative Services

Chapter 132Y-125
STUDENT DISCIPLINE

WAC

132Y-125-004 Disciplinary Procedures.

NEW SECTION

WAC 132Y-125-004 DISCIPLINARY PROCEDURES. Enrollment in Edmonds Community College carries with it the obligation that the student will be a responsible citizen of the college. At the same time the college has the responsibility of informing students of their rights and responsibilities, defining reasonable standards of behavior, and assuring substantive and procedural due process.

The following section establishes a procedure for administration of disciplinary action.

Most disciplinary proceedings will be conducted informally between the student and the dean for student services or the dean's designee. In some cases, at the discretion of the dean or the student, formal procedures may be invoked.

(1) Responsibility . The dean for student services is the executive officer of the college with regard to student affairs, including discipline and shall initiate all disciplinary procedures. The dean is responsible for assembling facts on cases referred to her/his office, making provisions for suitable hearings, convening the college discipline committee when it is requested, notifying students and others concerned, keeping confidential files and reports on cases, following up each discipline case until it is closed, and destroying out-of-date files on discipline cases.

(2) Guidelines for Student Conduct . The following are guidelines for acceptable student conduct. A student enrolling in the college assumes a responsibility for conduct compatible with the college's function as an educational institution. Although Edmonds Community College is dedicated to an open, free society, there are some actions incompatible with an institution of higher education.

Grounds for disciplinary action shall include, but not be limited to, the following:

(a) Dishonesty, including, but not limited to, cheating, plagiarism, or knowingly furnishing false information to the college.

(b) Forgery, alteration, or misuse of college documents, records, or identification.

(c) Obstruction or disruption of teaching, institutional or instructional research, administration of the college, disciplinary procedures, or other college activities, including but not limited to, meetings of the Board of Trustees, community service functions, or other authorized activities on college premises.

(d) Physical abuse of any person on college-owned or controlled property or at college-sponsored or supervised functions or conduct which threatens or endangers the health or safety of any such person.

(e) Theft of or damage to property of the college or of a member of the college community or of a visitor to the campus.

(f) Unauthorized entry or occupancy of college facilities or blocking access to or egress from such areas.

(g) Unauthorized use of college supplies or equipment.

(h) Violation of college policies or of campus regulations, including, but not limited to, campus regulations concerning student organizations, the use of college facilities, or the time, place and manner of public expression.

(i) Illegal use, possession, or distribution of drugs on campus or at any college-sponsored event, or appearance on campus or at any college-sponsored event while under the influence of illegally used drugs.

(j) Use, possession or distribution of alcoholic beverages on college property or appearance on campus or any college-sponsored event while under the influence of alcohol. Use or possession of alcoholic beverages at any college event shall be by approved permit and restricted to persons of legal age.

(k) Disorderly conduct; lewd, indecent, or obscene conduct or expression; breach of the peace; or aiding, abetting, or procuring another to breach the peace on college-owned or controlled property or at college-sponsored or supervised functions.

(l) Failure to comply with directions of college officials acting in the performance of their duties.

(m) Possession or use of firearms, explosives, dangerous chemicals, substances or instruments or other weapons which can be used to inflict bodily harm on any individual or damage upon a building or grounds of the college or college-owned or controlled property or at college-sponsored or supervised functions without written authorization.

(o) Hazing, whether it is physical or verbal, which interferes with the personal liberty of a fellow student, faculty member, or employee of the college.

(3) Disciplinary Measures Available to Enforce Standards of Student Conduct .

(a) Reprimand . A reprimand serves to place on record that a student's conduct in a specific instance does not meet the standards expected at the college. A person receiving a reprimand is notified in writing by the dean for student services that this serves as a warning that continued conduct of the type described in the reprimand may result in formal action against the student. S/he is further informed that records of reprimands are confidential property of Edmonds Community College and are destroyed two years after the last entry has been made concerning any disciplinary action against an individual student, and that such records are not considered part of a student's permanent records at the college.

(b) Summary Suspension . (i) The dean for student services or designee may summarily suspend any student from the college for not more than ten (10) academic calendar days pending investigation, action or prosecution of charges of an alleged violation or violations of the guidelines for student conduct, if the dean for student services has reason to believe that the student's physical or emotional safety and well-being, or the safety and well-being of other college community members, or the protection of college property requires such suspension.

(ii) During the period of summary suspension, suspended students shall not enter the campus of the college other than to meet with the dean for student services or to attend the disciplinary hearing. However, the dean may grant the student special permission to enter for the express purpose of meeting with faculty, staff, or students in preparation for the hearing.

(iii) If the dean for student services or designee finds it necessary to exercise the authority to summarily suspend a student s/he shall:

(A) Give an oral or written notice of the alleged misconduct and violation(s) of any provision of the guideline for student conduct;

(B) Give an oral or written explanation of the evidence in support of the charge(s) to the student;

(C) Give an oral or written explanation of the corrective action or punishment (up to a maximum of ten (10) academic calendar days suspension) which may be imposed to the student;

(D) Notify the student that s/he may either accept the disciplinary action or, within forty-eight (48) hours or two (2) work days following receipt of this notification, file at the office of the dean for student services, a written request for a hearing by the committee on student conduct. If the request is not filed within the prescribed time, it will be deemed as waived.

(E) Notify the student that should the student request a hearing, s/he may bring an advocate to speak in his or her behalf.

(iv) If oral notice is given, it shall be followed by written notice within forty-eight (48) hours.

(v) The processing of hearing actions shall be accomplished according to the provisions set forth in this code, Article F, Disciplinary and Hearing Procedures, beginning with Section 5.

(c) Disciplinary Probation. The dean for student services, after close evaluation of the individual case, may restrict the college-related activities of students or groups of students as s/he deems necessary and feasible by placing them on disciplinary probation. Disciplinary probation may be imposed for a period of not to exceed one year. Repetition during the probationary period of conduct resulting in disciplinary probation may be cause for suspension or other disciplinary action.

(d) Disciplinary Suspension. Disciplinary suspension serves as a penalty against the student as a result of his conduct which fails to meet standards expected at the college. A suspended student is not to occupy any portion of the campus for a period to be specified in writing and is denied all college privileges including class attendance. Disciplinary suspension requires the approval of the president.

(e) Expulsion. An expelled student is denied all further college privileges. Students may be expelled only with the approval of the president.

(4) Emergency Procedure. Nothing herein shall prevent faculty members or administrators from taking reasonable summary action as may be necessary to maintain order when they have reason to believe that such action is necessary for the physical safety and well-being of the student or the safety and protection of other students or of college property or where the student's

conduct materially and substantially disrupts the educational process. The faculty member or administrator should immediately bring the matter to the attention of the dean for student services for appropriate disciplinary action.

(5) The Committee on Student Conduct. (a) A standing committee shall be established annually by the dean for student services to conduct hearings when requested by a student regarding disciplinary actions.

(b) The chairperson shall be elected by the committee.

(c) The committee shall include:

(i) Two (2) students designated by the president of the associated students.

(ii) One (1) administrator of the college designated by the college president, not to be the dean for student services.

(iii) Two (2) persons representing the faculty, designated by the faculty association president.

(d) A quorum shall consist of four members.

(e) All committee members shall have voting rights with simple majority rule.

(6) Disciplinary and Hearing Procedures. (a) Allegations of misconduct shall be filed in the dean for student services' office in writing. Upon investigation, the dean for student services shall initiate appropriate action.

(b) Students alleged to have conducted themselves inappropriately shall be provided with written notice to meet with the dean for student services or designee for a preliminary conference regarding the basis for possible disciplinary action. The notice must be given at least twenty-four (24) hours or one (1) work day prior to the scheduled appointment, and shall contain a statement of the allegations.

(c) If after the preliminary conference and investigation, the dean for student services determines that the student's conduct has not been in violation of college standards, the dean will dismiss proceedings and exonerate the student.

(d) If after the student's preliminary conference, the recommendation of the dean for student services is for disciplinary action, the student shall receive the following in writing:

(i) Notification of the findings and conclusions of the investigation by the dean for student services.

(ii) Notification of the disciplinary action which is to be recommended.

(iii) Notification that the student may either accept the disciplinary action or, within forty-eight (48) hours or two (2) work days following receipt of this notification, file at the office of the dean for student services, a written request for a hearing by the committee on student conduct. If the request is not filed within the prescribed time, it will be deemed as waived.

(iv) Notification that should a student request a hearing s/he may bring an advocate to speak on his or her behalf.

(e) If the student does not request a hearing, the the dean for student services shall carry out the disciplinary action.

(f) If the student decides to request a hearing, s/he shall file at the office of the dean for student services a written notice of this intent as specified above. Within

forty-eight (48) hours or two (2) work days of requesting the hearing the student shall file at the office of the dean a specific written response to each of the charges.

(g) A meeting of the committee on student conduct shall be convened not earlier than twenty-four (24) hours or one (1) work day nor later than forty-eight (48) hours or two (2) work days after submission of the student's response to the charges for formal hearing and to make a recommendation in the case to the president.

(i) Hearing Procedure . (A) The chairperson shall select a person to keep a record of the proceedings.

(B) The chairperson shall designate a person to collect and preserve all exhibits in evidence.

(C) The committee on student conduct shall present a recommendation after the conclusion of the hearing.

(D) The dean for student services or designee shall make the first presentation. In the event witnesses are called, they may be questioned by the student or student's representative and the committee.

(E) Upon completion of the presentation by the dean for student services, the student may make his/her presentation and may present any witness desired. Again, the committee or the dean may question any witness.

(F) After the completion of the presentation by the student, both sides shall then be permitted to make any closing arguments after which the committee may ask any questions.

(G) The hearing will then be closed and the committee will retire to executive session for deliberation.

(H) When a recommendation has been reached, the committee will reconvene and announce its recommendation. The meeting will then be adjourned.

(ii) Evidence . (A) The committee may, upon agreement by both parties, receive sworn written statements in lieu of sworn oral testimony at the hearing.

(B) The committee has the right to control:

(B.1) Relevance

(B.2) Materiality

(B.3) Competency

(B.4) Number and conduct of witnesses

(iii) Recommendations of the Committee . (A) In making a recommendation, the committee shall consider the following issues:

(A.1) Does the alleged act constitute a violation of acceptable standards of student conduct?

(A.2) Did the student involved commit the acts with which s/he was charged?

(A.3) Were there any mitigating circumstances?

(A.4) What sanctions have been imposed in previous cases of a similar nature?

(B) Recommendations shall include:

(B.1) Findings of fact

(B.2) Conclusions

(B.3) A recommendation on whether to uphold the decision and recommended action of the dean for student services or to institute other disciplinary action or to exonerate the student of charges.

(C) The record of the hearing, the findings, and the recommendations of the committee on student conduct shall be reviewed by the president.

(D) The president shall announce the decision within forty-eight (48) hours or two (2) work days after receipt of said record, findings and recommendations.

(E) The president's decision shall be final.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

Reviser's note: The underlining in the above new section occurred in the copy filed by the institution and appears herein pursuant to the requirements of RCW 34.08.040.

WSR 82-10-014
ADOPTED RULES
DEPARTMENT OF GAME
(Game Commission)
[Order 181—Filed April 28, 1982]

Be it resolved by the Game Commission, state of Washington, acting at Port Angeles, Washington, that it does promulgate and adopt the annexed rules relating to fishing season closure on Grizzly, Ryan, Hanaford, Elk, and Tradedollar lakes in Skamania County, and Fawn and Forest lakes in Cowlitz County, WAC 232-28-60405.

This action is taken pursuant to Notice No. WSR 82-06-048 filed with the code reviser on March 3, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Game Commission as authorized in RCW 77.12.040.

The undersigned hereby declare that they have complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW) or the Administrative Procedure Act (chapter 34.04 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

This order, after being first recorded in the order register of this governing body, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED April 8, 1982.

By Archie U. Mills
Chairman, Game Commission

NEW SECTION

WAC 232-28-60405 FISHING SEASON CLOSURE ON GRIZZLY, RYAN, HANAFORD, ELK, AND TRADEDOLLAR LAKES IN SKAMANIA COUNTY, AND FAWN AND FOREST LAKES IN COWLITZ COUNTY. Notwithstanding the provisions of WAC 232-28-604, effective April 18, 1982, it shall be unlawful for any person to take, fish for, or possess game fish in the following waters: Grizzly Lake, Skamania County, Section 30, Township 10N, Range 6E; Ryan Lake, Skamania County, Section 16, Township 10N, Range 6E; Hanaford Lake, Skamania County, Section 19, Township 10N, Range 5E; Elk Lake, Skamania County, Section 19, Township 10N, Range 5E; Tradedollar Lake, Skamania County, Section 18, Township 10N, Range 5E; Fawn Lake, Cowlitz County,

Section 19, Township 10N, Range 5E; and Forest Lake, Cowlitz County, Section 19, Township 10N, Range 5E.

WSR 82-10-015
ADOPTED RULES
DEPARTMENT OF GAME
(Game Commission)
 [Order 182—Filed April 28, 1982]

Be it resolved by the Game Commission, state of Washington, acting at Port Angeles, Washington, that it does promulgate and adopt the annexed rules relating to Mt. St. Helens' area hunting, fishing, and trapping closure, WAC 232-28-60406.

This action is taken pursuant to Notice No. WSR 82-06-048 filed with the code reviser on March 3, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Game Commission as authorized in RCW 77.12.040.

The undersigned hereby declare that they have complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW) or the Administrative Procedure Act (chapter 34.04 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

This order, after being first recorded in the order register of this governing body, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED April 8, 1982.

By Archie U. Mills
 Chairman, Game Commission

NEW SECTION

WAC 232-28-60406 MT. ST. HELENS AREA HUNTING, FISHING, AND TRAPPING CLOSURE. Notwithstanding the provisions of WAC 232-28-204, WAC 232-28-304, WAC 232-28-504, WAC 232-28-604, WAC 232-28-704, WAC 232-28-105, WAC 232-28-205, WAC 232-28-305, WAC 232-28-405, and WAC 232-28-505, it shall be unlawful for any person to take, hunt for, fish for, trap for, or possess any game animal, game fish, game bird or fur-bearing animal in the Mt. St. Helens Red Zone area described as follows:

Beginning at the northwest corner of Section 6, Township 8 North, Range 5 East; thence southeasterly to the northeast corner of Section 19, T8N, R5E; thence southeasterly to the northwest corner of Section 28, T8N, R5E; thence east to the southwest corner of Section 24, T8N, R5E; thence north to the southeast corner of Section 14, T8N, R5E; thence northeasterly to the northeast corner of Section 12, T8N, R5E; thence northwesterly to the northwest corner of Section 35, T9N, R5E; thence northeasterly along the divide separating the Lewis and Green River drainage from the Toutle River drainage to Norway Pass located in the north half (N-1/2) of Section 31, T10N, R6E; thence northerly to Bear Pass in Section 30 T10N, R6E; thence

westerly to the headwaters of Coldwater Creek (Section 25, T10N, R5E); thence westerly along the south side of Coldwater Creek to the point where it crosses the Forest Service boundary (Section 31, T10N, R5E); thence north along the west boundary of the R5E line to the northeast corner of Section 36, T10N, R4E; thence west to the northeast corner of Section 33, T10N, R4E; thence northwesterly to the headwaters of the south fork of Hoffstadt Creek located in the south half (S-1/2) of Section 28, T10N, R4E; thence westerly along the north bank of this fork to its intersection with Hoffstadt Creek (Section 24, T10N, R3E); thence continuing westerly along the north bank of Hoffstadt Creek to the north high-water line of the impoundment of the Corps of Engineers' debris retaining structure (commonly known as the N-1 debris dam); thence westerly along the north high-water line to its intersection with the N-1 debris dam located in the north half (N-1/2) of Section 29, T10N, R3E; thence southwesterly along the fill base of the northerly segment of the N-1 debris dam to the point of intersection with the natural high ground; thence southwesterly to the north end of the west fill base of the southerly segment (main structure); thence southerly along said fill base to its intersection with the base of the high ground; thence westerly along the base of the hill to its intersection with the Weyerhaeuser 3001 Road; thence southerly and easterly along the east edge of the Weyerhaeuser 3001 Road to the intersection of Weyerhaeuser Roads 3001 and 3000 in the south half (S-1/2) of Section 32, T10N, R3E; thence south and east along the north edge of Weyerhaeuser Road 3000 continuing to the point where Weyerhaeuser Road 3000 intersects the Weyerhaeuser 3090 Road in Section 26, T9N, R4E; thence southeasterly along the north edge of the Weyerhaeuser 3090 Road to its end in the east half (E-1/2) of Section 35, T9N, R4E; thence east to the east line of said Section 35; thence south along the section line to the southwest corner of Section 36, T9N, R4E; thence east to the northwest corner of Section 6, T8N, R5E and the point of beginning.

WSR 82-10-016
ADOPTED RULES
INSURANCE COMMISSIONER
 [Order R 82-2—Filed April 28, 1982]

I, Dick Marquardt, Insurance Commissioner, do promulgate and adopt at Olympia, Washington, the annexed rules relating to licensing procedures for insurance agents, solicitors and adjusters; and continuing education requirements for insurance agent, solicitors and brokers.

This action is taken pursuant to Notice No. WSR 82-07-056 filed with the code reviser on March 19, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 48.02.060 which directs that the Insurance Commissioner has authority to implement the provisions of RCW 48.14.010, 48.17.130 and 48.17.150.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 28, 1982.

Dick Marquardt
Insurance Commissioner
By Robert M. Higley
Deputy Commissioner

NEW SECTION

WAC 284-17-120 EXAMINATION PROCEDURES FOR AGENTS, SOLICITORS AND ADJUSTERS. (1) The commissioner has contracted with an independent testing service for the administration of agents', solicitors', and adjusters' examinations. On and after June 1, 1982, any person desiring to take an examination for the type of license shown in subsection (2) of this section will be required to submit a registration form and the appropriate examination fee to Educational Testing Service. Such fee is not refundable. Registration forms and information about examinations may be obtained from the Office of Insurance Commissioner or from Educational Testing Service.

(2) At least twice each month at predetermined locations, Educational Testing Service will conduct the examinations required for the following types of licenses:

TYPE OF LICENSE REQUIRED	EXAMINATIONS(S)
Life Insurance Agent or Solicitor	Life
Disability Insurance Agent or Solicitor	Disability
Life and Disability Agent or Solicitor	Life, Disability
Property/Casualty Agent or Solicitor	Property, Casualty
General Lines Agent or Solicitor	Property, Casualty, Disability
All Lines Agent or Solicitor	Life, Disability, Property, Casualty
Vehicle Only Agent or Solicitor	Vehicle
Surety Only Agent or Solicitor	Surety
Credit Life & Disability Agent or Solicitor	Credit life and Disability
Independent Adjuster	Independent Adjuster
Public Adjuster	Public Adjuster

(3) If an applicant fails to take a scheduled examination, a new registration form and appropriate fees must be submitted for any later examination, unless a serious emergency prevented attendance.

(4) Tests for vehicle, surety, and credit insurance and for adjusters will be graded by the insurance commissioner's licensing department which will notify applicants of the results. Other tests will be graded by Educational Testing Service which will provide each applicant with a score report, following examination. If the examination is passed, the score report must be forwarded to the insurance commissioner with a completed Insurance License Application, finger print card and the appropriate license fee.

(5) An applicant who fails to pass the insurance agent, solicitor or adjuster examination may request re-examination at such time as the applicant believes that

he or she has completed sufficient additional study. Each reexamination request must be accompanied by a new registration form and the appropriate examination fee.

AMENDATORY SECTION (Amending Order R 80-3, filed 3/20/80)

WAC 284-17-210 DEFINITIONS. As used in this continuing education regulation, unless the context requires otherwise;

(1) "Course" includes courses, programs of instructions, correspondence courses and seminars.

(2) "Hours" means the time assigned by the commissioner as recognition for the satisfactory completion of an approved course. For college level work entirely on approved subjects:

(a) Twelve hours will be assigned for each quarter "credit hour".

(b) Sixteen hours will be assigned for each semester "credit hour". The number of hours assigned for other programs will normally be based upon the number of classroom contact hours or their equivalent. However, based upon the evaluation of the course content, the number of hours assigned may be less than the total amount of time spent by the student in the course.

(3) "Licensee" means each natural person licensed as a resident (~~(or nonresident)~~) insurance agent, solicitor or broker (~~(, except those holding Title Only Agent licenses)~~) to sell life, disability, property, or casualty insurance. A credit insurance licensee is not included.

(4) "Certificate of completion" means a document signed by the course instructor or other responsible officer which shall signify satisfactory completion of the course and shall reflect hours of credit earned. Such certificates shall be in standard form as prescribed by the Insurance Commissioner.

AMENDATORY SECTION (Amending Order R 81-5, filed 8/31/81)

WAC 284-17-310 ((FIRST DATES)) WHEN CONTINUING EDUCATION REQUIREMENT MUST BE MET. Each licensee, as defined in WAC 284-17-210(3), shall be required to present evidence of completing the continuing education requirement, prior to license renewal, ~~((according to the following time schedule:~~

~~(1) For resident licensees qualified to sell life, disability, property or casualty insurance,))~~ beginning with those license renewals falling due on or after October 1, 1981.

~~((2) For any other licensee, beginning with those license renewals falling due on or after October 1, 1983. The purpose of this deferred effective date is to provide sufficient time for analysis of the appropriate continuing education requirement for such other licensees.~~

~~(3) Any continuing education course started and completed after April 1, 1980, and any course that is approved by WAC 284-17-240(1) that is completed after April 1, 1980, shall be allowed to be applied toward satisfaction of continuing education requirements.))~~

REPEALER

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

- (1) WAC 284-17-100 AGENT, SOLICITOR OR ADJUSTER EXAMINATION SCHEDULING AND FEES.
 (2) WAC 284-17-110 REEXAMINATION AFTER FAILURE TO PASS EXAMINATION.

WSR 82-10-017
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Order 1776—Filed April 28, 1982]

I, David A. Hogan, Director, Division of Administration of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

- New WAC 388-81-052 Receipt of resources without giving adequate consideration.
 New WAC 388-92-043 Transfer of resources without adequate consideration.
 Amd WAC 388-99-035 Resource standards.

This action is taken pursuant to Notice No. WSR 82-03-020 filed with the code reviser on January 14, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED March 3, 1982.

By David A. Hogan
 Director, Division of Administration

NEW SECTION

WAC 388-81-052 RECEIPT OF RESOURCES WITHOUT GIVING ADEQUATE CONSIDERATION. (1) Any person who knowingly and wilfully receives nonexempt resources transferred or assigned for less than fair market value after December 1, 1981, to enable an applicant or recipient to qualify for Title XVI related medical assistance or the Limited Casualty Program for the Medically Needy, is liable for a civil penalty and is guilty of a gross misdemeanor.

(2) Definitions:

(a) Fair market value means the reasonable value of a resource at the time of transfer or assignment.

(b) Uncompensated value means the fair market value of a resource minus the amount of compensation received in exchange for the resource.

(c) Value of compensation received means the consideration paid or agreed to be paid by the purchaser.

(3) WAC 388-28-461, 388-28-462, and 388-28-465 are incorporated by reference and apply to this section.

(4) The voluntary transfer or assignment of resources between spouses is permitted without affecting eligibility or continued eligibility of the spouse who transfers(ed) or assigns(ed) the resources.

(5) The amount of the civil penalty shall be equal to the uncompensated value of the cash or resources transferred or assigned at less than fair market value.

(6) The civil penalty shall not exceed the cost of assistance rendered by the department to the recipient.

(7) Written notice of imposition of the civil penalty shall be provided by personal service or certified mail to the individual or entity subject to the civil penalty.

(8) Hearings:

(a) There is a rebuttable presumption that a person who assigns(ed) or transfers(ed) cash or other resource(s) within two years of the date of applying for, or while a recipient of, public assistance for less than fair market value did so knowingly and wilfully for the purpose of qualifying for assistance.

(b) All hearings shall be in accordance with the administrative procedures contained in chapter 388-08 WAC.

(c) The prevailing party in such an action shall be awarded reasonable attorney fees.

NEW SECTION

WAC 388-92-043 TRANSFER OF RESOURCES WITHOUT ADEQUATE CONSIDERATION. (1) This section is to implement Second Substitute House Bill No. 557 effective December 1, 1981.

(2) An individual is ineligible for Title XVI categorical medical assistance or the Medically Needy component of the Limited Casualty Program for a period determined under this section if the person knowingly and wilfully assigns or transfers nonexempt resources at less than fair market value after December 1, 1981, for the purpose of qualifying or continuing to qualify for such medical care within two years preceding the date of application for such care.

(3) Definitions:

(a) Fair market value means the reasonable value of a resource at the time of transfer or assignment.

(b) Uncompensated value means the fair market value of a resource minus the amount of compensation received in exchange for the resource.

(c) Value of compensation received means the consideration paid or agreed to be paid by the purchaser.

(4) WAC 388-28-461, 388-28-462, and 388-28-465 are incorporated by reference and apply to this section.

(5) The voluntary transfer or assignment of resources between spouses is permitted without affecting eligibility or continued eligibility of the spouse who transfers(ed) or assigns(ed) the resources.

(6) The uncompensated fair market value of the resource assigned or transferred and the corresponding periods of ineligibility from the date of transfer are as follows:

(a) Dollar Amount of Uncompensated Value	Months of Ineligibility
\$ 0 - \$ 1,000	1
1,001 - 2,000	2
2,001 - 3,000	3
3,001 - 4,000	4
4,001 - 5,000	5
5,001 - 6,000	6
6,001 - 7,000	7
7,001 - 8,000	8
8,001 - 9,000	9
9,001 - 10,000	10
10,001 - 11,000	11
11,001 - 12,000	12
12,001 - 13,500	13
13,501 - 15,000	14
15,001 - 16,500	15
16,501 - 18,000	16
18,001 - 19,500	17
19,501 - 21,000	18
21,001 - 22,500	19
22,501 - 24,000	20
24,001 - 25,500	21
25,501 - 27,000	22
27,001 - 28,500	23
28,501 - 30,000	24
30,001 - 31,667	25
31,668 - 33,333	26
33,334 - 35,000	27
35,001 - 36,667	28
36,668 - 38,333	29
38,334 - 40,000	30
40,001 - 41,667	31
41,668 - 41,333	32
41,334 - 45,000	33
45,001 - 46,667	34
46,668 - 48,333	35
48,334 - 50,000	36
Over \$50,000	48

(b) The period of ineligibility shall not include partial months.

(7) The period of ineligibility may be waived if it is determined that the application of the period of ineligibility shall cause undue hardship.

(8) A person determined to be ineligible for medical care under this section has the right to request a hearing to appeal the determination, except as modified by this section, the procedure for the hearing is chapter 388-08 WAC.

(a) At a hearing the burden of proving that the person knowingly and wilfully assigned or transferred cash or other resource(s) at less than fair market value for the purpose of qualifying or continuing to qualify for assistance is on the department and the burden of proof is a preponderance of the evidence.

(b) When the appellant is the prevailing party in the hearing, the appellant shall be awarded reasonable attorney fees.

(9) See WAC 388-81-052 for civil penalties to be applied to persons who have received nonexempt resources and did not give the recipient adequate consideration.

AMENDATORY SECTION (Amending Order 1684, filed 7/29/81)

WAC 388-99-035 RESOURCE STANDARDS.

(1) To determine eligibility on the basis of resources, use the resource standards under AFDC or SSI, whichever is higher for a given resource. If applicant has resources in excess of the standards applied, the individual is not eligible and the application is denied.

(2) ~~((A medically needy applicant who has transferred assets at less than fair market value within twenty-four months prior to the month of application without adequate consideration is presumed to have disposed of the resource for the purpose of obtaining eligibility for medical assistance.~~

~~(a) The uncompensated value is to be considered an available resource.~~

~~(b) If uncompensated value is in excess of twelve thousand dollars, the application is to be denied.~~

~~(c) If less than twelve thousand dollars, consideration is to be given to disposition of resources.)) See WAC 388-92-043 for regulations on transfer of resources without adequate consideration.~~

**WSR 82-10-018
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION
[Filed April 28, 1982]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules concerning WAC 480-70-150 relating to Certificates, applications—Notice to existing carriers. The proposed amendatory section is shown below as Appendix A, Cause No. TG-1575. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendment on economic values, pursuant to chapter 43-.21H RCW and WAC 480-08-050(17).

The formal adoption, amendment, or repeal of such rules will take place at 8:00 a.m., Wednesday, June 23, 1982, in the Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington.

The authority under which these rules are proposed is RCW 80.01.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 18, 1982, and/or orally at 8:00

a.m., Wednesday, June 23, 1982, Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington.

Dated: April 27, 1982
By: Barry M. Mar
Secretary

WSR 82-10-019
ADOPTED RULES
LIQUOR CONTROL BOARD

[Order 102, Resolution No. 111—Filed April 28, 1982]

STATEMENT OF PURPOSE

In the matter of amending WAC 480-70-150 relating to Certificates, applications—Notice to existing carriers.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040, which directs that the commission has authority to implement the provisions of chapter 81.77 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to provide flexibility for carrier protest and representation in applications for certificates of convenience and necessity.

Barry M. Mar, Secretary, Seventh Floor, Highways-Licenses Building, Olympia, Washington, telephone number (206) 753-6420, and members of his staff were responsible for the drafting of the proposed rules and will be responsible for implementation and enforcement of the proposed rules.

The proponent of the rules is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule changes proposed will affect no economic values.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Secretary of the Senate, three copies to the Chief Clerk of the House of Representatives, and three copies to the Joint Administrative Rules Review Committee.

Appendix "A"

AMENDATORY SECTION (Amending Order No. R-19, filed 5/12/70)

WAC 480-70-150 CERTIFICATES, APPLICATIONS—NOTICE TO EXISTING CARRIERS. (1) For the purposes of this rule, applications for permanent authority shall include applications for permanent certificates or extensions of certificate authority, and requests for authority to sell, assign, lease or transfer outstanding certificates or any rights thereunder.

(2) The commission shall notify by means of its weekly application docket all known existing garbage and/or refuse collection companies who, at the time of the filing of an application for permanent authority, are serving, or hold authority to serve, the route, line, or territory described in the application, of the filing of same. Such existing certificate holders or a garbage and/or refuse collection organization, association, or conference on behalf of such existing certificate holders shall have twenty days from the date of such notice to file with the commission their opposition to the application. Protests should set forth specifically the grounds upon which they are made and contain a concise statement of the interest of the protestant in the proceeding.

Be it resolved by the Washington State Liquor Control Board, acting at Capitol Plaza Building, 1025 East Union Avenue, Olympia, WA, that it does promulgate and adopt the annexed rules relating to minimum qualifications for issuance of Class E, F, and Classes EF licenses, WAC 314-16-200.

This action is taken pursuant to Notice No. WSR 82-07-014 filed with the code reviser on March 9, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Washington State Liquor Control Board as authorized in RCW 66.08.030 and 66.98-.070 and Title 34 RCW.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 28, 1982.

By Robert D. Hannah
Chairman

AMENDATORY SECTION (Amending Order 55, filed 5/31/77, effective 7/1/77)

WAC 314-16-200 MINIMUM QUALIFICATIONS FOR ISSUANCE OF CLASS E, F, AND CLASSES EF LICENSES. (~~((RULE 36))~~) (1) The following are minimum qualifications necessary prior to consideration being given by the board to the issuance of Class E, F, or Classes EF licenses to store operations. The decision as to whether a license will or will not be issued in a particular case is, pursuant to RCW 66.24-.010, a matter of board discretion. While the following minimum qualifications must be present before the board will give consideration to the issuance of a Class E, F, or Classes EF license to an applicant, the mere fact that an applicant meets these minimum qualifications is not to be construed as creating a vested right in the applicant to have a license issued.

(2) Before the board will issue a Class E, F, or Classes EF license to an applicant grocery store, the proposed licensed premises must be stocked with an inventory of food, grocery and related grocery store items in excess of \$3,000 wholesale value.

(3) Grocery stores which also sell gasoline or apply for board approval to install gasoline pumps in connection with their businesses must be stocked with an inventory of food, grocery and related grocery store items, exclusive of gasoline, oil, auto parts, and related gas station or garage items, in excess of \$7,500 wholesale value before the board will issue to them a Class E, F, or Classes EF license or grant approval to install gas pumps at their licensed premises. PROVIDED: That marinas which sell

gasoline for use in boats only shall be subject to the requirements of subsection (2) above.

(4) The minimum amounts referred to in paragraphs (2) and (3) above shall be maintained at the premises at all times they are licensed with the exception of beginning and closing inventory for seasonal operations or when the inventory is being sold out immediately prior to discontinuing or selling the business.

(5) Stores other than grocery stores (~~must establish that their principal business is the sale of goods rather than services:~~

~~(6) Stores whose principal business is to be the sale of wine))~~ must submit to the board a written commitment to establish and maintain a minimum wholesale inventory of wine in the amount of \$3,000 prior to the issuance of a license. This minimum inventory shall be maintained at the licensed premises at all times they are licensed.

~~((7))~~ (6) PROVIDED: That subsections (2), (3), (4) and ~~((6))~~ (5) of this regulation shall not apply to stores licensed prior to the effective date of this regulation unless on that date they do meet the minimum inventory figures required by those subsections. PROVIDED, FURTHER, That upon a change of the ownership of these licensed stores, it will be necessary for the requirements of this regulation to be met prior to the issuance of a new license.

WSR 82-10-020

ADOPTED RULES

LIQUOR CONTROL BOARD

[Order 103, Resolution No. 112—Filed April 28, 1982]

Be it resolved by the Washington State Liquor Control Board, acting at Capitol Plaza Building, 1025 East Union Avenue, Olympia, WA, that it does promulgate and adopt the annexed rules relating to Prorating and refunding of fees—Discontinuance of business, WAC 314-12-040.

This action is taken pursuant to Notice No. WSR 82-07-046 filed with the code reviser on March 18, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Washington State Liquor Control Board as authorized in RCW 66.08.030 and 66.98.070 and Title 34 RCW.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 28, 1982.

By Robert D. Hannah
Chairman

AMENDATORY SECTION (Amending Rule 3, filed 6/13/63)

WAC 314-12-040 PRORATING AND REFUNDING OF FEES—DISCONTINUANCE OF BUSINESS (~~((RULE 3))~~). (1) Unless otherwise provided by law, there will be no prorating of any license fee.

(2) Upon denial or withdrawal of an application for license, adoption or change of trade name, or change of location, the fee tendered therewith shall be returned.

(3) When a license is suspended or cancelled, or the licensed business is discontinued, no refund of the license fee shall be made.

(4) Upon discontinuance of business for twenty-one days or more by a licensee, he shall forthwith deliver up his license to the board, or representative of the board. A licensee who is not operating as a seasonal business and who has voluntarily discontinued sale of liquor in excess of forty-five days will not be eligible for renewal of license for a subsequent year unless sale of liquor under the license is resumed on a permanent basis prior to the beginning of the next subsequent licensing period.

WSR 82-10-021

ADOPTED RULES

LIQUOR CONTROL BOARD

[Order 104, Resolution No. 113—Filed April 28, 1982]

Be it resolved by the Washington State Liquor Control Board, acting at Capitol Plaza Building, 1025 East Union Avenue, Olympia, WA, that it does promulgate and adopt the annexed rules relating to operations and procedure, WAC 314-60-040.

This action is taken pursuant to Notice No. WSR 82-07-095 filed with the code reviser on March 24, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Washington State Liquor Control Board as authorized in RCW 66.08.030 and 42.30.070.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 28, 1982.

By Robert D. Hannah
Chairman

AMENDATORY SECTION (Amending Order 97, Resolution No. 106, filed 1/27/82)

WAC 314-60-040 OPERATIONS AND PROCEDURE. The general course and method by which the operations of the board are channeled and determined are illustrated by the following:

(1) An organizational chart is available from the board's public records office which illustrates the general structure and composition of the board's operations.

(2) Board procedures relating to hearings involving alleged violations of the liquor act and/or revised rules and regulations of the board are covered in Title X Hearings WAC 314-04-010, and in Title XIV Practice and Procedure WAC 314-08-010 through 314-08-590.

(a) General information pertaining to formal hearings is available from the board's public records office.

(b) Forms of notice of proposed order of summary license suspension are available from the board's public records office.

(3) Pursuant to the requirements of the Open Public Meetings Act (chapter 42.30 RCW) all determinations and business of the board, except exempt matters, are made and conducted at its regular and/or special meetings. Regular (~~weekly~~) meetings of the board are held on (~~Wednesday~~) Monday through Friday of each week, except on holidays, beginning at 9:30 a.m. or as soon thereafter as a quorum is assembled at its offices on the fifth floor, Capitol Plaza Building, 1025 East Union Avenue, Olympia, Washington.

WSR 82-10-022
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 82-39—Filed April 29, 1982]

I, Rolland A. Schmitten, director of the State Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing rules.

I, Rolland A. Schmitten, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is harvestable surplus of herring is available.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 29, 1982.

By Gary C. Alexander
for Rolland A. Schmitten
Director

NEW SECTION

WAC 220-49-02000I CLOSED AREA—HERRING. Notwithstanding the provisions of WAC 220-49-020, (1) effective immediately until further notice it is lawful to take, fish for and possess herring for commercial purposes in Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B and 21A except for closed waters in Hale Passage as defined in subsection (2). Lawful fishing days are Mondays, Tuesdays and Thursdays and lawful fishing hours are 6:00 A.M. to 4:00 P.M. each day.

(2) It is unlawful to take, fish for or possess herring for commercial purposes in the following closed waters:

(a) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 21A described by a line drawn between Point Migley and Sandy Point Light south to a line drawn between Carter Point to Point Frances.

(b) All of Marine Fish-Shellfish Management and Catch Reporting Area 21B.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-49-02000H CLOSED AREA—HERRING (82-37)

WSR 82-10-023
ATTORNEY GENERAL OPINION
Cite as: **AGLO 1982 No. 9**
[April 28, 1982]

INSURANCE—HEALTH—OPTICIANS—SERVICES OF DISPENSING OPTICIAN UNDER HEALTH CARE SERVICE CONTRACT

A health care service contractor registered under chapter 48.44 RCW may offer to provide or to pay reimbursement for the services of a licensed dispensing optician.

Requested by:

Honorable Larry L. Vognild
St. Sen., 38th District
1710 32nd Street
Everett, Washington 98201

WSR 82-10-024
ATTORNEY GENERAL OPINION
Cite as: **AGLO 1982 No. 10**
[April 29, 1982]

PUBLIC EMPLOYEES—VACATION—COMPENSATION FOR UNUSED, ACCRUED, VACATION LEAVE

Where an employee covered by chapter 51, Laws of 1982, 1st Ex. Sess., terminates his or her employment

before July 1, 1982, payment for that employee's accrued annual leave need not actually also be made before that date in order to avoid the new prohibition set forth therein.

Requested by:

Honorable Joe Taller
Director, Office of
Financial Management
House Office Building
Olympia, Washington 98504

**WSR 82-10-025
ADOPTED RULES
COMMISSION
FOR THE BLIND**

[Order 82-02—Filed April 30, 1982]

Be it resolved by the Washington State Commission for the Blind, acting at Olympia, Washington, that it does promulgate and adopt the annexed rules relating to:

New	WAC 67-30-050	Placement.
New	WAC 67-30-070	Rehabilitation teaching services.
New	WAC 67-30-130	Orientation and mobility services.
New	WAC 67-30-170	Services to civil employees of the United States.
New	WAC 67-30-210	Physical and informational accessibility.

This action is taken pursuant to Notice No. WSR 82-06-039 filed with the code reviser on March 2, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 74.16 RCW which directs that the Commission for the Blind has authority to implement the provisions of chapter 74.16 RCW, Aid to Blind Persons.

This rule is promulgated under the general rule-making authority of the Commission for the Blind as authorized in RCW 74.16.450.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 24, 1982.

By Paul Dziejcz
Director

NEW SECTION

WAC 67-30-050 PLACEMENT. (1) The Commission may provide or cause to be provided placement services to clients under an individualized written rehabilitation program. The Commission and clients will be mutually responsible in the endeavor to find and secure suitable employment. While the Commission will meet its responsibilities stated in this section, clients will be

held responsible under their individualized written rehabilitation programs for actively and independently applying themselves in job-seeking efforts and self-placement.

(2) Placement services prepare a client for work and assist him/her in obtaining appropriate employment and may include the following range of activities:

(a) Organized and identifiable attempts to establish or improve the linkage of a client and a work situation.

(b) Sustained collaboration with the client in a variety of work-oriented activities culminating in the client's engagement in a job, including self-employment.

(c) Communicating and negotiating with a variety of employment resources in the community and other community resources regarding the employment of blind persons. This may or may not be on behalf of specific clients.

(d) Assisting the client in stabilizing himself/herself in a work setting to the point that the placement goal has been satisfactorily achieved.

(3) Placement services may be provided as follows:

(a) Vocational rehabilitation counselors will deliver placement services to clients as a primary function and the principal focus of their professional responsibilities and activities.

(b) A job training and placement counselor whose principle function will be to communicate and negotiate with a variety of community resources, especially employers, regarding the employment of blind persons will provide placement services. This function may or may not be on behalf of specific clients.

(c) Existing, non-cost placement resources in the community such as the State Department of Employment Security, projects with industry, and other entities shall be utilized whenever possible.

(d) In certain situations, placement services may be purchased when it is in the client's vocational interests, when the Commission's services are not otherwise available, or are offered by a vendor as part of a "package" involving placement as a service. The specific conditions under which placement services may be purchased are addressed in the Commission's procedures governing such purchase.

(4) Placement services will be terminated when the client has been provided vocational rehabilitation services in accordance with an individualized written rehabilitation program, and been determined to have maintained a suitable employment goal for at least sixty days.

(5) Suitable placement refers to a determination that the provision of vocational rehabilitation services has enabled a client to enter or retain employment consistent with client's capacities and abilities.

NEW SECTION

WAC 67-30-070 REHABILITATION TEACHING SERVICES. (1) The Commission will provide or cause to be provided rehabilitation teaching services to clients by rehabilitation teachers in the employ of the Commission. Such services may be purchased by the Commission from vendors who meet standards for these

services when they are not otherwise available to a client.

(2) Rehabilitation teaching services include specific and identifiable teaching methods that are used to assist blind individuals in acquiring skills in manual dexterity, communication, home orientation, home management and general self-management.

(3) Rehabilitation teaching services may be provided during all phases of the vocational rehabilitation process wherever there is a documented need for them for diagnostic purposes and under a client's individualized written rehabilitation program.

NEW SECTION

WAC 67-30-130 ORIENTATION AND MOBILITY SERVICES. (1) The Commission will provide orientation and mobility services that are consistent with the client's individualized written rehabilitation program and that any problems in training, Employment-seeking, employment, and post-employment, related to the client's inability to travel independently, are resolved.

(2) Orientation and mobility services shall include systematic and individualized assessment, instruction, and the dissemination of resources information which can enable blind persons to travel independently with optimum efficiency, safety, grace, and self-confidence.

(3) The Commission may provide or cause to be provided orientation and mobility services to individual clients through:

(a) Orientation and Mobility specialists in the employ of the Commission;

(b) Independent orientation and mobility specialists whose qualifications are consistent with Commission standards;

(c) Orientation and mobility specialists in the employ of agencies for the blind whose qualifications are consistent with Commission standards;

(d) The Commission's field services offices by rehabilitation teachers in the client's home environment.

NEW SECTION

WAC 67-30-170 SERVICES TO CIVIL EMPLOYEES OF THE UNITED STATES. The Commission will make vocational rehabilitation services available to civil employees of the U.S. Government who are disabled in the line of duty under the same conditions applied to other handicapped individuals.

NEW SECTION

WAC 67-30-210 PHYSICAL AND INFORMATIONAL ACCESSIBILITY. (1) No otherwise qualified handicapped individual shall, solely by reason of handicap, be excluded from participation, be denied benefits of, or be subjected to discrimination under any Commission-provided program or activity.

(2) No handicapped person will be subjected to discrimination because Commission-provided facilities are inaccessible to or unusable by handicapped persons. Any

construction or alteration to any present or future locations or facility, on behalf of or for the use of the Commission, will be readily accessible to and useable by handicapped persons.

(3) No person shall be denied access to Commission information, records or materials solely on the basis of his/her inability to utilize such information, records or materials in a customary manner.

**WSR 82-10-026
EMERGENCY RULES
COMMISSION
FOR THE BLIND**

[Order 82-03—Filed April 30, 1982]

Be it resolved by the Washington State Commission for the Blind, acting at Olympia, Washington, that it does promulgate and adopt the annexed rules relating to:

- New WAC 67-20-180 Economic need.
- New WAC 67-20-185 Economic need—Financial statement required.
- New WAC 67-20-190 Economic need—Standards for determining.
- New WAC 67-20-200 Economic need—Notification of decision.
- New WAC 67-20-385 Vocational rehabilitation services—Physical and mental restoration.
- New WAC 67-20-395 Vocational rehabilitation services—Training—College and trade school.
- New WAC 67-40-440 Prevention of blindness.

We, the Washington State Commission for the Blind, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is due to budget limitations, it is necessary to reduce vocational rehabilitation services by establishing an economic need test for some services and limiting the provision of other services.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to chapter 74.16 RCW which directs that the Commission for the Blind has authority to implement the provisions of chapter 74.16 RCW, Aid to Blind Persons.

This rule is promulgated under the general rule-making authority of the Commission for the Blind as authorized in RCW 74.16.450.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 24, 1982.

By Paul Dziedzic
Director

NEW SECTION

WAC 67-20-180 ECONOMIC NEED. (1) The commission shall provide the following services regardless of the economic need of the client receiving the services. However, when available, client insurance may be utilized to help defray the costs of services:

- (a) Diagnostic and related services,
- (b) Counseling,
- (c) Training,
- (d) Placement.

(2) The following vocational rehabilitation services shall be provided by the commission only if the client receiving the services is eligible for such services on the basis of economic need:

- (a) Transportation, except where provided in connection with diagnostic services,
- (b) Placement tools, equipment, and initial stocks and supplies,
- (c) Occupational licenses,
- (d) Maintenance, except where provided in connection with diagnostic services,
- (e) Other goods and services necessary for the client rehabilitation, including post-employment services necessary for the client's rehabilitation.

NEW SECTION

WAC 67-20-185 ECONOMIC NEED—FINANCIAL STATEMENT REQUIRED. An applicant accepted for vocational rehabilitation services or accepted for extended evaluation to determine rehabilitation potential shall be required to furnish the commission with:

- (1) Such information in detail regarding his financial assets, income, debts, obligations, and expenses as may be necessary to enable the commission to make a determination of his economic need;
- (2) A disclosure of insurance coverage which may apply to vocational rehabilitation services;
- (3) A signed statement indicating whether he is in need of financial assistance from the commission to participate in those vocational rehabilitation services which are conditioned upon economic need.

NEW SECTION

WAC 67-20-190 ECONOMIC NEED—STANDARDS FOR DETERMINING. (1) A client shall be eligible on the basis of economic need to receive vocational rehabilitation services or extended evaluation services from the commission when the total of his/her obligations, debts, and expenses is equal to or exceeds the total of his/her income and nonexempt assets or resources. When the value of his/her income and nonexempt assets is greater than the value of his/her obligations, debts, and expenses, the excess of the former over the latter shall be made available by the client for the payment of the cost of those services which are conditioned upon economic need.

(2) Determination of a client's economic need involves an evaluation of the income, assets, debts, obligations, and expenses of his/her entire family unit, including his/her dependents or, if the client is an unemancipated minor, his/her parents.

(3) The following shall be considered income for the purpose of determining the economic need of a client:

- (a) Wages paid to the client and to any dependent family members living in the home. For purposes of this section wages shall be equal to gross wages less deductions from income taxes, social security, taxes, retirement deductions, and other involuntary deductions;
- (b) Contributions from relatives or others, in cash or in kind, on a regular and predictable basis;
- (c) Net profit from roomers or boarders;
- (d) Net profit from property rentals;
- (e) Net profit from farm products;
- (f) Net profit from business enterprises;
- (g) Scholarship or fellowship funds;
- (h) Income from public or private welfare agencies;
- (i) Any other income received on a regular and predictable basis, including but not limited to alimony, dividends from stocks, annuity payment, unemployment compensation, insurance, pensions, etc.

(4) The following types of property shall be considered exempt assets and may not be considered in determining the client's economic need:

- (a) The home occupied by the client or his/her family, including any contiguous real property. A house trailer is an exempt asset when it is being regularly occupied by the client or his/her family as the principle place of residence or when it will be so occupied in the predictable future;
- (b) Household furniture, clothing, life insurance, and other personal effects;
- (c) An automobile when one or more of the following conditions is met:
 - (i) The client and his/her family have only one automobile, or
 - (ii) All automobiles used by the family are for the purpose of transportation to work or school, or
 - (iii) The automobile has been furnished in whole or in part to the client or to one of his/her dependents by the veteran's administration, or
 - (iv) The automobile is essential to the client's vocational rehabilitation objective;
- (d) Vocational equipment and machinery owned by the client is an exempt asset if it is being used to provide part or all of the living expenses of the client and his/her dependents or if it may be so used after completion of the vocational rehabilitation plan;
- (e) Livestock is an exempt asset to the extent that it produces income or otherwise helps the client to meet normal living requirements.

(5) All types of tangible and intangible property, including but not limited to real property, personal property, stocks, bonds, savings accounts, and checking accounts, which are not exempt under subsection (4) shall constitute the client's nonexempt assets and shall be considered in determining the client's economic need. The value of a nonexempt asset shall be equal to its fair market value, less any unpaid encumbrances of record.

(6) The following obligations, debts, and expenses shall be deducted from the client's income and nonexempt assets in determining the client's economic need:

- (a) The client's actual shelter and living expenses,

(b) Shelter and living expenses for the client's dependents;

(c) Payments which the client is required to make under court order;

(d) Outstanding taxes on earnings or personal or real property;

(e) Insurance premium payments;

(f) Contractual payments on real or personal property if such obligations were incurred prior to the client's application for vocational rehabilitation services.

NEW SECTION

WAC 67-20-200 ECONOMIC NEED—NOTIFICATION OF DECISION. When it is determined that the client shall be required to contribute financially to his rehabilitation, the commission shall explain to him when, how, and for what services his funds will be used.

NEW SECTION

WAC 67-20-385 VOCATIONAL REHABILITATION SERVICES—PHYSICAL AND MENTAL RESTORATION. (1) Physical and mental restoration shall include all medical and related services including the following:

(a) Medical treatment including but not limited to therapeutic programs under medical supervision, necessary laboratory work, and necessary medication;

(b) Surgical treatment; surgery for cardiac or gynecological conditions shall be provided only if approved by the medical consultant;

(c) Psychiatric treatment only when the diagnostic study clearly indicates a favorable prognosis for relatively short-term therapy. A program of psychiatric treatment which will extend beyond twelve months must have the prior approval of the medical consultant;

(d) Dental treatment only when it will significantly increase employability or remove an established vocational handicap, or in emergency situations involving pain, acute infections, or injury. Examples of disabling dental conditions for which restorative services may be authorized include widespread ulceration of teeth, destruction of tooth structures, decay which seriously affects the individual's ability to eat, badly malformed or positioned teeth, or rejection of the individual from employment on the basis of his appearance. Restorative dental services will not be provided when the restoration will not directly affect employability;

(e) Nursing services;

(f) Hospital (either inpatient or outpatient care) and clinic services;

(g) Convalescent, nursing, or rest home care only when there is an expectation of a normal period of convalescence after which other appropriate services leading to the rehabilitation of the client may be initiated or resumed. Such care shall not be provided by the Commission as a long-term process for conditions not expected to improve;

(h) Drugs and supplies;

(i) Prosthetic, orthoptic or other assistive devices essential to obtaining or retaining employment;

(j) Eyeglasses;

(k) Podiatry;

(l) Physical therapy; physical therapy shall consist of the employment of the physically beneficial properties of light, heat, cold, water, electricity, massage, manipulation, exercise, and mechanical devices as treatment of disease or injury.

(m) Occupational therapy; occupational therapy shall include all manual skills and recreational activities which provide specific active exercise for physical disabilities and shall include psychologic rehabilitation techniques;

(n) Medical or medically-related social work services;

(o) Medically directed speech or hearing therapy.

(2) The provision of physical and mental restoration services shall be deferred for the remainder of the biennium ending June 30, 1983, except that:

(a) Clients needing physical restoration who appear to be eligible will be referred to the Prevention of Blindness Program;

(b) Medical emergencies to prevent eminent loss of sight or prevent severe service interruption will be provided with the approval of the supervisor.

NEW SECTION

WAC 67-20-395 VOCATIONAL REHABILITATION SERVICES—TRAINING—COLLEGE AND TRADE SCHOOL. (1) No training or training services in institutions of higher education (universities, colleges, community/junior colleges) or trade or business schools shall be paid for with vocational rehabilitation funds unless the client has demonstrated application for, and denial of, other grants and scholarships.

(2) Tuition at institutions of higher education will be limited to the amount charged at the University of Washington or the actual cost, whichever is less.

(3) Books and academic supplies will be limited to \$75 per quarter or \$110 per semester for a full academic load. Students attending less than full time will have the amount authorized for books and supplies reduced proportionately.

NEW SECTION

WAC 67-40-440 PREVENTION OF BLINDNESS. (1) Clients who meet financial and medical eligibility criteria for surgery for the removal of cataracts will be provided cataract surgery on one eye only.

(2) When Prevention of Blindness funds are expended, service to eligible clients will be deferred until the biennium beginning July 1, 1983.

WSR 82-10-027

ADOPTED RULES

ENERGY FACILITY SITE

EVALUATION COUNCIL

[Order 82-2—Filed April 30, 1982]

Be it resolved by the Energy Facility Site Evaluation Council, acting at Olympia, Washington, that it does promulgate and adopt the annexed rules relating to:

Amd WAC 463-30-020 Hearings examiners and panels.
 Amd WAC 463-30-030 Use of the term "council".
 Rep WAC 463-30-040 Hearing examiner designation.
 Amd WAC 463-30-320 Proposed council order or recommendation.

This action is taken pursuant to Notice No. WSR 82-04-056 filed with the code reviser on February 1, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 80.50.040(1) which directs that the Energy Facility Site Evaluation Council has authority to implement the provisions of chapter 80.50 RCW.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 26, 1982.

By William L. Fitch
 Executive Secretary

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-020 ((HEARING EXAMINERS AND PANELS)). COUNCIL CONDUCTED HEARINGS AND ADMINISTRATIVE LAW JUDGES. The Council may ((appoint a single hearing examiner or multimember panel of Council members to)) conduct contested case hearings pursuant to chapter 80.50 RCW or it may utilize an administrative law judge provided by the office of administrative hearings pursuant to chapter 34.12 RCW. In the event the Council elects to conduct the hearing, the hearing shall be governed by the regulations and procedures contained in this chapter as applicable. ((Panels may consist of Council members or hearing examiners or both. This shall not preclude the full participation of any other Council member.))

Reviser's note: RCW 34.04.058 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.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-030 USE OF THE TERM "COUNCIL." The term "Council," for purpose of this chapter, shall ((mean the Council, hearing panel, or hearing examiner, whichever is appropriate in context)) refer to the members of the Energy Facility Site Evaluation Council as constituted by law, or a panel of such members.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 463-30-040 Hearing examiner designation.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-320 PROPOSED COUNCIL ORDER OR RECOMMENDATION. In any case where a contested case proceeding is conducted ((before a hearing panel or a hearing examiner)) by an administrative law judge or a panel of Council members less than a majority, there shall be prepared a proposed Council order, supported by written findings of fact and conclusions of law, copies of which shall be served upon all parties. The proposed order, findings and conclusions shall be transmitted to the Council. In a site certification proceeding, the proposed Council order shall be designated a Proposed Council Recommendation and shall be styled accordingly.

WSR 82-10-028

EMERGENCY RULES

DEPARTMENT OF REVENUE

[Order 82-3—Filed April 30, 1982]

I, Donald R. Burrows, acting director of revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to food products, WAC 458-20-244.

I, Donald R. Burrows, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is revised rule must be adopted by May 1, 1982, to reflect amended law.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the Department of Revenue as authorized in RCW 82.32.300.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 30, 1982.

By Don R. McCuiston
 Director, Interpretation and Appeals Division

AMENDATORY SECTION (Amending Order ET 78-1, filed 4/21/78)

WAC 458-20-244 FOOD PRODUCTS. ((Initiative Measure No. 345, approved November 8, 1977, added new subsections to RCW 82.08.030 and 82.12.030 exempting certain food products for human consumption away from the retailer's premises from retail sales tax and use tax. There is no food products exemption for business and occupation tax. The effective date of these exemptions is July 1, 1978. The word "tax" as used

hereafter in this rule means retail sales tax. "Food products" include generally those products normally ingested by humans for nourishment, but the term excludes seeds, seedlings, trees, and the like, for home gardens, as well as breeding stock of animals, birds, insects, and other animate creatures.

The law exempts most, but not all, food products from tax, but even the food products qualified for exemption are made subject to tax by the law if any one of the following circumstances is present:

a. The food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the seller or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others;

OR,

b. The food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location. Where such facilities are provided the tax applies even if the food products are sold on a "take out" or "to go" order and it is immaterial that the products are actually packaged or wrapped and that they are in fact taken from the premises of the retailer;

OR,

c. The food products are sold for consumption within a place (except national or state parks or monuments), the entrance to which is subject to an admission charge. But, even if the admission-charged place is a national or state park or monument such that the admission charge does not negate the exemption, the tax will apply if either circumstances a or b above are present.

VENDORS WHO ARE REQUIRED TO COLLECT TAX:

1. Sales of food products are subject to tax when sold by cafes, caterers, restaurants, pizza parlors, food drive-ins, vending machine operators, and businesses which are operated in such a way as to invite or permit consumption of the food at or near the premises where the food is sold. This circumstance is presumed to occur where customers are provided facilities for immediate consumption of food sold, such as tables, chairs, or counters, trays, glasses, dishes, or tableware (whether reusable or not), or a nearby parking area available for immediate use of customers in consuming the food. It is the intent of the law that tax be charged by retailers who sell food products ready for consumption at or near the premises of the vendor by furnishing cups, spoons, straws or the like to facilitate immediate consumption. If such facilities are provided the tax applies even though the food is sold, packaged, or wrapped "to go" and even if the food is in

fact removed from the premises of the retailer and is consumed elsewhere. The test is not where the food is actually consumed but whether the customer is provided any of the described facilities for consumption of the food:

2. Sales by theaters, fair grounds concessions, athletic arena concessions, and any other businesses selling food products within a place to which an admission price is charged are taxable. The only exceptions as to admission-charged areas are national or state parks or monuments, but even sales of food products within such state or national areas are taxable if customers are provided facilities for consumption as described in paragraph #1.

EXEMPT AND TAXABLE SALES BY GROCERS:

The following are lists of exempt and taxable items normally sold by grocery stores, supermarkets, and similar businesses. The examples are meant to be illustrative and are not all inclusive.

The exempt products listed are exempt when sold for off premises consumption but are taxable if sold for immediate consumption as described in paragraph #1 above.

Exempt if Consumption Facilities Not Provided

Baby foods	Marshmallows
Bakery products	Mayonnaise
Baking Soda	Meat, meat products
Bouillon cubes	Milk, milk products
Candy	Mustard
Cereal products	Noncarbonated soft drinks
Chocolate	Nuts
Cocoa	Oleomargarine
Coffee and coffee substitutes	Olives, olive oil
Condiments	Peanut butter
Crackers	Popcorn
*Diet food	Popsicles
Eggs, egg products	Potato chips
Extracts and flavoring for food	Powdered drink mixes
Fish, fish products	Sandwich spreads
Flour	Sauces
Food coloring	Sherbet
Frozen foods	Shortening
Fruit, fruit products	Soup
Gelatin	Sugar, sugar products, *Health foods
Honey	sugar substitutes
Ice cream, toppings	Syrups
Jam, jelly, jello	Tea
	Vegetables, vegetable products
	Yeast

The products listed as taxable are subject to tax however sold or prepared.

Specific Classes Of Items Taxable In All Cases

Alcoholic beverages	First aid products
Aspirin	Ice, bottled water
Beer or wine-making supplies	(mineral or otherwise)
Calcium tablets	Mouthwashes
Carbonated beverages	Nonedible cake decorations
Chewing tobacco	Nonprescription medicines
Cod liver oil	Patent medicines
Cough medicines (liquid or lozenge)	Pet food and supplies
*Dietary supplements or adjuncts	Seeds and plants for gardens
	Tonics, vitamins
	Toothpaste

*NOTE: Sales of dietary supplements which are subject to regulation by the U.S. Federal Drug Administration are subject to tax.

~~Regulated dietary supplements are those preparations which provide 50 percent or more of the U.S. Recommended Daily Allowance (U.S. RDA) of essential vitamins and minerals per serving.~~

~~Health foods or dietary preparations containing less than 50 percent of U.S. RDAs per serving may be sold tax exempt as food and FDA regulations (21 CFR, chapter I, Part 80) adopted October 12, 1976, effective January 1, 1978, prohibit any claim that such preparations are "dietary supplements." Dietary supplements do not include any food in its raw or natural state, which means that nothing has been done to the product, other than superficial treatment (such as washing its surface), to change the product physically or chemically before marketing.~~

~~Dietary adjuncts are vitamin/mineral preparations taken to meet special vitamin or mineral needs occasioned by drug therapy. Dietary adjuncts are not tax exempt food products.~~

~~Retailers of food products are required to keep adequate records to demonstrate that any sales claimed tax exempt in fact qualify for exemption under this rule and the law.~~

~~COMBINATION BUSINESS:~~

~~Persons operating a combination of two businesses at one location, one of which provides facilities for consumption on the premises (see paragraph #1, "Vendors Who Are Required to Collect Tax"), such as a lunch counter along with a grocery store or a cafe along with a bakery, are required to keep their inventories, accounting records, and sales receipts segregated between the two businesses. If the two businesses are commingled in operation and accounting, all sales will be deemed subject to tax.~~

~~COMBINATION PACKAGES:~~

~~When a package consists of both food and nonfood products, such as a holiday or picnic basket containing beer and pretzels, cups or glasses containing food items, or carbonated beverages along with cheese and crackers, the food portion may be tax exempt if its price is stated separately, if the price is a lump sum, the tax applies to the entire price.~~

~~However, promotional give-aways of nonfood items to enhance food sales, such as coffee sold in a decorative apothecary container or cheese sold in a serving dish are not taxable and are not deemed combination packages where it is clear that the container or dish is simply a gift furnished as a sales inducement for the food. In the same way, promotional give-aways of food items as an inducement for sales of nonfood items are not exempt (e.g., the sale of fancy crystal ware containing candy or nuts is fully subject to sales tax).~~

~~COMMISSARIES OR GROCERY SHOPS IN INSTITUTIONS OR OTHER RESTRICTED (NOT OPEN TO THE PUBLIC) AREAS:~~

~~Food products sold by commissaries which restrict sales generally to residents, inmates, or a similarly limited group of customers are tax exempt if the food products are for consumption away from the general area reserved for merchandizing such products.~~

~~OTHER FOOD VENDORS:~~

- ~~1. Restaurants and transportation companies (e.g., air, rail, water), and businesses furnishing meals to employees, see Rule 119 [WAC 458-20-119].~~
- ~~2. Hotels, motels, boarding or rooming houses, resorts, and trailer camps, see Rule 166 [WAC 458-20-166].~~
- ~~3. Religious, charitable, benevolent, and nonprofit service organizations, see Rule 169 [WAC 458-20-169].~~
- ~~4. Certain persons, groups, or institutions purchase food products for purposes of serving meals to individuals and historically have been required to pay sales tax as consumers on such purchases because of a unique relationship between the food purchases and the nature of the services rendered by such groups. Food sales taxed in this way were the following:~~
 - ~~(a) Furnishing of meals by hospitals, rest homes, sanitariums, and similar institutions to patients as a part of the service rendered in the conduct of such institutions.~~
 - ~~(b) Serving of meals to members by fraternities, sororities, and other similar groups who reside in one place and jointly share the expenses of the household including expenses of meals provided by them.~~
 - ~~(c) Providing of meals by public schools, high schools, colleges, universities, or private schools operating lunch rooms, cafeterias, or dining rooms for the exclusive purpose of providing students and faculty with meals as a part of the educational program.~~
 - ~~(d) Providing of meals by guest ranches or summer camps which, in addition to supplying meals and lodging, offer special recreation facilities and instruction in sports, boating, riding, outdoor living, etc., and which make an unsegregated charge for meals, lodging, and services, and report such charges under the service classification as provided by Rule 166 [WAC 458-20-166].~~

~~Since purchase of food products in any of these four situations has been subject to sales tax in the past, the food products exemption applies to these purchases of food products for human consumption. However, sales of meals by such groups in circumstances other than furnishing them in connection with services in the four situations described above are governed by Rule 119 [WAC 458-20-119]. Further, when such groups do not provide their own meals, but the meals are purchased~~

~~from caterers or concessionaires, the caterers or concessionaires are making retail sales subject to the tax.~~

USE TAX:

~~All of the foregoing provisions of this rule dealing with sales tax are equally applicable with respect to the use tax of chapter 82.12 RCW.)~~

Effective May 1, 1982 chapter 35 (P.V.) Laws of 1982, 1st Extraordinary Session, reimposes retail sales tax on sales of food products for human consumption except for food purchased with food stamps. Included with exempt food stamp purchases are purchases made with W.I.C. food vouchers. W.I.C. stands for Women, Infants and Children and is a special supplemental food program sponsored by the United States Department of Agriculture.

Retailers who accept food stamps and W.I.C. vouchers for purchases of food products are required to keep suitable records (per RCW 82.32.070) to demonstrate that any sales claimed sales tax exempt qualify for exemption under this rule and law.

Retailers will be required to retain totals of exempt sales recorded on daily cash register tapes. Additionally, all bank deposits must include a breakdown to disclose the totals of food stamps and W.I.C. vouchers.

TAX APPLICATION EXAMPLES:

A) a customer who buys \$49.50 worth of groceries and pays with \$50.00 worth of food stamps would pay no sales tax; however, the retailer would record the \$49.50 sale as retail sales tax exempt, not the \$50.00 in stamps received;

B) where a customer buys \$60 worth of groceries and tenders \$50 in food stamps and \$10 in cash, the \$50 of groceries purchased with food stamps is tax exempt while the additional \$10 in purchases is subject to the retail sales tax.

Adopted ((April 21, 1978)) May 1, 1982

WSR 82-10-029
EMERGENCY RULES
DEPARTMENT OF REVENUE
 [Order 82-4—Filed April 30, 1982]

I, Donald R. Burrows, acting director of revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to sales of meals, WAC 458-20-119.

I, Donald R. Burrows, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is revised rule must be adopted by May 1, 1982, to reflect amended law.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the Department of Revenue as authorized in RCW 82.32.300.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 30, 1982.

By Don R. McCuiston
 Director, Interpretation and Appeals Division

AMENDATORY SECTION (Amending Order ET 78-4, filed 6/27/78)

WAC 458-20-119 SALES OF MEALS.

~~((BUSINESS AND OCCUPATION TAX~~

~~All persons making sales of meals, upon which the retail sales tax applies under the provisions set forth in this ruling, are required to pay the business and occupation tax under the retailing classification upon the gross proceeds derived from such sales.~~

RETAIL SALES TAX

~~RESTAURANTS AND OTHER EATING PLACES. Sales of meals by hotels, restaurants, cafeterias, clubs, boarding houses and other eating places are subject to the retail sales tax. Sales to such eating places of food and beverage products for use in preparing meals are sales for resale and are not subject to the tax.~~

~~In the case of boarding houses and American plan hotels the price of meals must be segregated from the charges made for rooms on bills rendered guests and on the books of the taxpayer. (See WAC 458-20-124—Restaurants, etc.)~~

~~RAILROAD, PULLMAN CAR, STEAMSHIP, AIRPLANE, OR OTHER TRANSPORTATION COMPANIES. Sales of meals by railroad, Pullman car, steamship, airplane, or other transportation companies served at fixed locations in this state, or served upon the carrier itself while within this state, are subject to the retail sales tax.~~

~~Where no specific charge is made for meals separate and apart from the transportation charge, the entire amount so charged is deemed a charge for transportation and the retail sales tax is not applicable to any portion thereof. In such case the transportation company will be liable to its vendors for retail sales tax upon the purchase of meals.~~

~~MEALS FURNISHED TO EMPLOYEES. Except as provided by WAC 458-20-244 (Rule 244), sales of meals by employers to employees are sales at retail and subject to the retail sales tax. This is true whether individual meals are sold, whether a flat charge is made, or whether meals are furnished as a part of the compensation for services rendered. Where no specific charge is made for each meal, the measure of the tax will be average cost per meal served, based upon the actual cost of the food, but in no event may such tax be reported on a value of less than 75¢ per meal. In view of the fact that it is often impracticable to collect the retail sales tax from employees on such sales, persons engaged in the business of furnishing meals to the public may, in lieu of~~

~~collecting such tax from employees, pay the tax directly to the Department of Revenue, based upon a value of no less than 75¢ for each meal furnished. Where meals furnished are not recorded as sales the 75¢ value per meal shall be presumed to apply according to the following formula for determining meal count: (a) Those employees working shifts up to five hours, one meal; (b) Employees working shifts of more than five hours, two meals.~~

~~Persons engaged in the business of furnishing meals to the public, generally pay their employees a fixed cash wage and, in addition thereto, furnish one or more meals per day to such employees, as compensation for their services. The furnishing of such meals constitutes a retail sale, irrespective of whether or not a specific charge is made therefor. Where a specific charge is made, the retail sales tax must be collected and accounted for on the selling price.~~

~~HOSPITALS AND INSTITUTIONS. The serving of meals by hospitals, rest homes, sanitariums and similar institutions to patients as a part of the service rendered in the conduct of such institutions is not subject to the retail sales tax. See WAC 458-20-244 (Rule 244).~~

~~FRATERNITIES AND SORORITIES. Fraternities, sororities and other groups of individuals who reside in one place and jointly share the expenses of the household including expense of meals are not considered to be making sales when meals are furnished to members. See WAC 458-20-244 (Rule 244).~~

~~However, when such groups do not provide their own meals, but the meals are provided by caterers or concessionaires, the caterers or concessionaires are making retail sales subject to the tax. Sales to such caterers or concessionaires of food and beverage products for use in preparing meals are sales for resale and are not subject to the tax.~~

~~SCHOOL, COLLEGE, OR UNIVERSITY DINING ROOMS. Public schools, high schools, colleges, universities or private schools operating lunch rooms, cafeterias or dining rooms for the exclusive purpose of providing students and faculty with meals are not considered to be engaged in the business of making retail sales. See WAC 458-20-244 (Rule 244).~~

~~Where any such cafeteria, lunch or dining room caters to the public the school, college or university operating it is considered to be making retail sales and the retail sales tax must be collected from all persons to whom the meals are furnished.~~

~~SALES OF ALCOHOLIC BEVERAGES BY CLASS H LICENSEES, TAVERNS, AND CONCESSIONAIRES. Businesses authorized under license or permit issued by the Washington State Liquor Control Board to sell liquor, beer, and wine by the drink under conditions of business such as to render impracticable the separate collection of the retail sales tax may, upon compliance with the following requirements and conditions, include the retail sales tax in the selling price of the item sold: (a) The establishment must display a chart, in type large enough to be read by customers, posted in a conspicuous place, which separately lists each item by name, the selling price, sales tax, and total charge, and (b) the chart must be posted~~

~~at a location where the customer can easily read the chart without being required to enter employee work areas or without special request that the chart be furnished to him. This procedure is permissible only for sale of alcoholic beverages and not to sales of meals or other menu items. A list of prices which merely shows number combinations which add up to even nickel or dime amounts does not meet the foregoing requirements. An operator who elects to report sales tax in the manner herein provided but fails to follow the foregoing requirements shall be subject to business and occupation tax and retail sales tax upon gross receipts.~~

~~CLASS H LICENSE LOCATIONS. When an operator elects pursuant to the foregoing, to sell drinks at a price which, after addition of sales tax is rounded off to an even amount, this pricing method must be used in all areas of the location. This means that the price posting requirements must be met wherever drinks are sold so that the customer can identify readily the items billed inclusive of tax and those billed exclusive of tax. Therefore, drink totals and food totals must be shown separately so that all dinner checks involving both food and liquor charges shall be presented to the customer with amounts due shown in the following order: Food, sales tax on food, liquor, total. Persons who elect to post prices to show amounts of tax included but who fail to comply with these requirements are subject to business and occupation tax and retail sales tax measured by the gross bar and cocktail lounge receipts.~~

~~GRATUITIES. Tips or gratuities representing donations or gifts by customers under circumstances which are clearly voluntary are not part of the selling price subject to tax. However, mandatory additions to the price by the seller, whether labeled service charges, tips, gratuities or otherwise must be included in the selling price and are subject to both the retailing classification of the business and occupation tax and the retail sales tax.)~~

BUSINESS AND OCCUPATION TAX

~~All persons making sales of meals, upon which the retail sales tax applies under the provisions set forth in this ruling, are required to pay the business and occupation tax under the retailing classification upon the gross proceeds derived from such sales.~~

RETAIL SALES TAX

~~RESTAURANTS AND OTHER EATING PLACES. Sales of meals by hotels, restaurants, cafeterias, clubs, boarding houses and other eating places are subject to the retail sales tax. Sales to such eating places of food and beverage products for use in preparing meals are sales for resale and are not subject to the tax.~~

~~In the case of boarding houses and American plan hotels the price of meals must be segregated from the charges made for rooms on bills rendered guests and on the books of the taxpayer. (See Rule 124 - Restaurants, etc.)~~

~~RAILROAD, PULLMAN CAR, STEAMSHIP, AIRPLANE OR OTHER TRANSPORTATION COMPANY DINERS. Sales of meals by railroad, Pullman car, steamship, airplane or other transportation companies served at fixed locations in this state, or~~

served upon the carrier itself while within this state, are subject to the retail sales tax.

Where no specific charge is made for meals separate and apart from the transportation charge, the entire amount so charged is deemed a charge for transportation and the retail sales tax is not applicable to any portion thereof. In such case the transportation company will be liable to its vendors for retail sales tax upon the purchase of the food supplies or meals.

HOSPITALS AND INSTITUTIONS. The serving of meals by hospitals, rest homes, sanitariums and similar institutions to patients as a part of the service rendered in the conduct of such institutions is not subject to the retail sales tax. In cases where compensation of nurses or attendants employed by hospitals includes the furnishing of meals in addition to the stated cash wage, the same rule applies. Sales of food and beverage products to such institutions for use in preparing such meals are sales for consumption and are subject to the tax.

However, many hospitals have cafeterias or restaurants through which meals are sold for cash or credit to doctors, visitors, nurses and other employees, and certain hospitals have agreements whereby nurses employed are paid a fixed cash wage in full payment for services rendered, which does not include the charge made for meals. Under those circumstances, all sales of meals to such persons are subject to the retail sales tax.

Since it is impracticable for hospitals, at the time of purchasing food products, to determine the portion that will be used in furnishing the services rendered by them, hospitals may, in lieu of accurate accounting, determine sales tax liability, upon sales of meals served to other than patients, in the following manner:

1. Retail sales tax should be paid to hospitals' vendors upon all purchases of food products, irrespective of the amount thereof to be served to patients.

2. Retail sales tax should be collected upon all sales of meals made to doctors and visitors and to nurses and all other employees whose compensation does not include the furnishing of meals.

3. In computing sales tax liability, hospitals may take a deduction of 50% from the gross sales, in lieu of refund of sales tax paid by them to their vendors upon the original purchase of food used in preparing meals for sale to doctors and visitors and to nurses and others whose compensation does not include the furnishing of meals.

FRATERNITIES AND SORORITIES. Fraternities, sororities and other groups of individuals who reside in one place and jointly share the expenses of the household including expense of meals are not considered to be making sales when meals are furnished to members. Sales of food and beverage products to such groups to be used in preparing meals are sales for consumption and are subject to the retail sales tax.

However, when such groups do not provide their own meals, but the meals are provided by caterers or concessionaires, the caterers or concessionaires are making retail sales subject to the tax. Sales to such caterers or concessionaires of food and beverage products for use in preparing meals are sales for resale and are not subject to the tax.

MEALS FURNISHED TO EMPLOYEES. Sales of meals by logging companies, mills, contractors, transportation companies and other business and industrial concerns to employees are sales at retail and subject to the retail sales tax. This is true whether individual meals are sold, whether a flat charge is made, or whether meals are furnished as a part of the compensation for services rendered. Where no specific charge is made for each meal, the measure of the tax will be average cost per meal served, based upon the actual cost of the food. In view of the fact that it is often impracticable to collect the retail sales tax from employees on such sales, persons engaged in the business of furnishing meals to the public may, in lieu of collecting such tax from employees, pay the tax directly to the Department of Revenue. Where meals furnished are not recorded as sales the tax due on meals shall be presumed to apply according to the following formula for determining meal count: (a) those employees working shifts up to five hours, one meal; (b) employees working shifts of more than five hours, two meals.

Persons engaged in the business of furnishing meals to the public, generally pay their employees a fixed cash wage and, in addition thereto, furnish one or more meals per day to such employees, as compensation for their services. The furnishing of such meals constitutes a retail sale, irrespective of whether or not a specific charge is made therefor. Where a specific charge is made, the retail sales tax must be collected and accounted for on the selling price.

SCHOOL, COLLEGE OR UNIVERSITY DINING ROOMS. Public schools, high schools, colleges, universities or private schools operating lunch rooms, cafeterias or dining rooms for the exclusive purpose of providing students and faculty with meals are not considered to be engaged in the business of making retail sales.

Where any such cafeteria, lunch or dining room caters to the public the school, college or university operating it is considered to be making retail sales and the retail sales tax must be collected from all persons to whom the meals are furnished.

SALES OF ALCOHOLIC BEVERAGES BY CLASS H LICENSEES, TAVERNS, AND CONCESSIONAIRES. Businesses authorized under license or permit issued by the Washington State Liquor Control Board to sell liquor, beer, and wine by the drink under conditions of business such as to render impracticable the separate collection of the retail sales tax may, upon compliance with the following requirements and conditions, include the retail sales tax in the selling price of the item sold: (a) the establishment must display a chart, in type large enough to be read by customers, posted in a conspicuous place, which separately lists each item by name, the selling price, sales tax, and total charge, and (b) the chart must be posted at a location where the customer can easily read the chart without being required to enter employee work areas or without special request that the chart be furnished to him. This procedure is permissible only for sale of alcoholic beverages and not to sales of meals or other menu items. A list of prices which merely shows number combinations which add up to even nickel or dime amounts

does not meet the foregoing requirements. An operator who elects to report sales tax in the manner herein provided but fails to follow the foregoing requirements shall be subject to business and occupation tax and retail sales tax upon gross receipts.

CLASS H LICENSE LOCATIONS. When an operator elects pursuant to the foregoing, to sell drinks at a price which, after addition of sales tax is rounded off to an even amount, this pricing method must be used in all areas of the location. This means that the price posting requirements must be met wherever drinks are sold so that the customer can identify readily the items billed inclusive of tax and those billed exclusive of tax. Therefore, drink totals and food totals must be shown separately so that all dinner checks involving both food and liquor charges shall be presented to the customer with amounts due shown in the following order: food, sales tax on food, liquor, total. Persons who elect to post prices to show amounts of tax included but who fail to comply with these requirements are subject to business and occupation tax and retail sales tax measured by the gross bar and cocktail lounge receipts.

GRATUITIES. Tips or gratuities representing donations or gifts by customers under circumstances which are clearly voluntary are not part of the selling price subject to tax. However, mandatory additions to the price by the seller, whether labeled service charges, tips, gratuities or otherwise must be included in the selling price and are subject to both the retailing classification of the business and occupation tax and the retail sales tax.

Revised ((April 28, 1978)) April 30, 1982.
Effective ((July 1, 1978)) May 1, 1982.

**WSR 82-10-030
EMERGENCY RULES
DEPARTMENT OF REVENUE
[Order 82-5—Filed April 30, 1982]**

I, Donald R. Burrows, acting director of revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to retail sales tax collection schedules, WAC 458-20-237.

I, Donald R. Burrows, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is revised rule must be adopted by May 1, 1982, to reflect amended law.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the Department of Revenue as authorized in RCW 82.32.300.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure

Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 30, 1982.
By Don R. McCuiston
Director, Interpretation and Appeals Division

AMENDATORY SECTION (Amending Order 82-1, filed 2/24/82)

WAC 458-20-237 RETAIL SALES TAX COLLECTION SCHEDULES. Under the provisions of chapter ((8))35, Laws of 198((+))2 ((2nd))1st ex. sess., the state retail sales tax was ((increased))decreased to 5((5))4% effective ((December 4, 1981))May 1, 1982. RCW 82.14.030 authorizes counties and cities to levy a local sales and use tax of .5%, such local tax to be collected along with the 5((5))4% state tax, making a total combined tax of ((6))5.9% in areas imposing the local tax. By RCW 82.14.045 all cities and counties, after voter approval, are authorized to levy an additional sales and use tax of .1%, .2%, or .3%, and, in the case of a class AA county, .4%, .5%, or .6%, to finance public transportation systems, which tax is also to be collected along with the state tax, making a total combined tax of 6.1%, 6.2%, ((6.3%, 6.4%)) or 6.5%((, or 6.6%)).

Under the authority of RCW 82.08.060 and 82.14-.070, and in accordance with chapter 34.04 RCW, the department of revenue has adopted the following 5((5))4%, ((6-0))5.9%, 6.1%, 6.2%, ((6.3%, 6.4%)) and 6((6))5% schedules to govern the collection of retail sales tax on all retail sales. Also, under chapter 49, Laws of 1982, 1st Extraordinary Session, counties and cities are authorized to impose optional sales tax or use tax at rates up to 5 tenths of one percent. Imposition of these taxes will affect the foregoing collection schedules accordingly.

((RETAIL SALES TAX COLLECTION SCHEDULE
December 4, 1981

5.5 Percent

<u>SALE</u>	<u>TAX</u>
<u>.10</u>	<u>.27 .01</u>
<u>.28</u>	<u>.45 .02</u>
<u>.46</u>	<u>.63 .03</u>
<u>.64</u>	<u>.81 .04</u>
<u>.82</u>	<u>.99 .05</u>
<u>1.00</u>	<u>1.18 .06</u>
<u>1.19</u>	<u>1.36 .07</u>
<u>1.37</u>	<u>1.54 .08</u>
<u>1.55</u>	<u>1.72 .09</u>
<u>1.73</u>	<u>1.90 .10</u>
<u>1.91</u>	<u>2.09 .11</u>
<u>2.10</u>	<u>2.27 .12</u>
<u>2.28</u>	<u>2.45 .13</u>
<u>2.46</u>	<u>2.63 .14</u>
<u>2.64</u>	<u>2.81 .15</u>
<u>2.82</u>	<u>2.99 .16</u>
<u>3.00</u>	<u>3.18 .17</u>
<u>3.19</u>	<u>3.36 .18</u>

SALE	TAX
3.37 — 3.54	.19
3.55 — 3.72	.20
3.73 — 3.90	.21
3.91 — 4.09	.22
4.10 — 4.27	.23
4.28 — 4.45	.24
4.46 — 4.63	.25
4.64 — 4.81	.26
4.82 — 4.99	.27
5.00 — 5.18	.28
5.19 — 5.36	.29
5.37 — 5.54	.30
5.55 — 5.72	.31
5.73 — 5.90	.32
5.91 — 6.09	.33
6.10 — 6.27	.34
6.28 — 6.45	.35
6.46 — 6.63	.36
6.64 — 6.81	.37
6.82 — 6.99	.38
7.00 — 7.18	.39
7.19 — 7.36	.40
7.37 — 7.54	.41
7.55 — 7.72	.42
7.73 — 7.90	.43
7.91 — 8.09	.44
8.10 — 8.27	.45
8.28 — 8.45	.46
8.46 — 8.63	.47
8.64 — 8.81	.48
8.82 — 8.99	.49
9.00 — 9.18	.50
9.19 — 9.36	.51
9.37 — 9.54	.52
9.55 — 9.72	.53
9.73 — 9.90	.54
9.91 — 10.09	.55

SALE	TAX
2.75 — 2.91	.17
2.92 — 3.08	.18
3.09 — 3.24	.19
3.25 — 3.41	.20
3.42 — 3.58	.21
3.59 — 3.74	.22
3.75 — 3.91	.23
3.92 — 4.08	.24
4.09 — 4.24	.25
4.25 — 4.41	.26
4.42 — 4.58	.27
4.59 — 4.74	.28
4.75 — 4.91	.29
4.92 — 5.08	.30
5.09 — 5.24	.31
5.25 — 5.41	.32
5.42 — 5.58	.33
5.59 — 5.74	.34
5.75 — 5.91	.35
5.92 — 6.08	.36
6.09 — 6.24	.37
6.25 — 6.41	.38
6.42 — 6.58	.39
6.59 — 6.74	.40
6.75 — 6.91	.41
6.92 — 7.08	.42
7.09 — 7.24	.43
7.25 — 7.41	.44
7.42 — 7.58	.45
7.59 — 7.74	.46
7.75 — 7.91	.47
7.92 — 8.08	.48
8.09 — 8.24	.49
8.25 — 8.41	.50
8.42 — 8.58	.51
8.59 — 8.74	.52
8.75 — 8.91	.53
8.92 — 9.08	.54
9.09 — 9.24	.55
9.25 — 9.41	.56
9.42 — 9.59	.57
9.60 — 9.74	.58
9.75 — 9.91	.59
9.92 — 10.08	.60

RETAIL SALES TAX COLLECTION SCHEDULE
December 4, 1981

6.0 Percent

SALE	TAX
.09	.24 .01
.25	.41 .02
.42	.58 .03
.59	.74 .04
.75	.91 .05
.92	1.08 .06
1.09	1.24 .07
1.25	1.41 .08
1.42	1.58 .09
1.59	1.74 .10
1.75	1.91 .11
1.92	2.08 .12
2.09	2.24 .13
2.25	2.41 .14
2.42	2.58 .15
2.59	2.74 .16

RETAIL SALES TAX COLLECTION SCHEDULE

May 1, 1982

5.4 Percent

SALE	TAX
.10	.27 .01
.28	.46 .02
.47	.64 .03
.65	.83 .04
.84	1.01 .05
1.02	1.20 .06
1.21	1.38 .07
1.39	1.57 .08

SALE	TAX
1.58-	1.75 .09
1.76-	1.94 .10
1.95-	2.12 .11
2.13-	2.31 .12
2.32-	2.49 .13
2.50-	2.68 .14
2.69-	2.87 .15
2.88-	3.05 .16
3.06-	3.24 .17
3.25-	3.42 .18
3.43-	3.61 .19
3.62-	3.79 .20
3.80-	3.98 .21
3.99-	4.16 .22
4.17-	4.35 .23
4.36-	4.53 .24
4.54-	4.72 .25
4.73-	4.90 .26
4.91-	5.09 .27
5.10-	5.27 .28
5.28-	5.46 .29
5.47-	5.64 .30
5.65-	5.83 .31
5.84-	6.01 .32
6.02-	6.20 .33
6.21-	6.38 .34
6.39-	6.57 .35
6.58-	6.75 .36
6.76-	6.94 .37
6.95-	7.12 .38
7.13-	7.31 .39
7.32-	7.49 .40
7.50-	7.68 .41
7.69-	7.87 .42
7.88-	8.05 .43
8.06-	8.24 .44
8.25-	8.42 .45
8.43-	8.61 .46
8.62-	8.79 .47
8.80-	8.98 .48
8.99-	9.16 .49
9.17-	9.35 .50
9.36-	9.53 .51
9.54-	9.72 .52
9.73-	9.90 .53
9.91-	10.09 .54

SALE	TAX
.77-	.93 .05
.94-	1.10 .06
1.11-	1.27 .07
1.28-	1.44 .08
1.45-	1.61 .09
1.62-	1.77 .10
1.78-	1.94 .11
1.95-	2.11 .12
2.12-	2.28 .13
2.29-	2.45 .14
2.46-	2.62 .15
2.63-	2.79 .16
2.80-	2.96 .17
2.97-	3.13 .18
3.14-	3.30 .19
3.31-	3.47 .20
3.48-	3.64 .21
3.65-	3.81 .22
3.82-	3.98 .23
3.99-	4.15 .24
4.16-	4.32 .25
4.33-	4.49 .26
4.50-	4.66 .27
4.67-	4.83 .28
4.84-	4.99 .29
5.00-	5.16 .30
5.17-	5.33 .31
5.34-	5.50 .32
5.51-	5.67 .33
5.68-	5.84 .34
5.85-	6.01 .35
6.02-	6.18 .36
6.19-	6.35 .37
6.36-	6.52 .38
6.53-	6.69 .39
6.70-	6.86 .40
6.87-	7.03 .41
7.04-	7.20 .42
7.21-	7.37 .43
7.38-	7.54 .44
7.55-	7.71 .45
7.72-	7.88 .46
7.89-	8.05 .47
8.06-	8.22 .48
8.23-	8.38 .49
8.39-	8.55 .50
8.56-	8.72 .51
8.73-	8.89 .52
8.90-	9.06 .53
9.07-	9.23 .54
9.24-	9.40 .55
9.41-	9.57 .56
9.58-	9.74 .57
9.75-	9.91 .58
9.92-	10.08 .59

RETAIL SALES TAX COLLECTION SCHEDULE

May 1, 1982

5.9 Percent

SALE	TAX
.09-	.25 .01
.26-	.42 .02
.43-	.59 .03
.60-	.76 .04

RETAIL SALES TAX COLLECTION SCHEDULE

May 1, 1982

6.1 Percent

SALE	TAX
.09-	.24 .01
.25-	.40 .02
.41-	.57 .03
.58-	.73 .04
.74-	.90 .05
.91-	1.06 .06
1.07-	1.22 .07
1.23-	1.39 .08
1.40-	1.55 .09
1.56-	1.72 .10
1.73-	1.88 .11
1.89-	2.04 .12
2.05-	2.21 .13
2.22-	2.37 .14
2.38-	2.54 .15
2.55-	2.70 .16
2.71-	2.86 .17
2.87-	3.03 .18
3.04-	3.19 .19
3.20-	3.36 .20
3.37-	3.52 .21
3.53-	3.68 .22
3.69-	3.85 .23
3.86-	4.01 .24
4.02-	4.18 .25
4.19-	4.34 .26
4.35-	4.50 .27
4.51-	4.67 .28
4.68-	4.83 .29
4.84-	4.99 .30
5.00-	5.16 .31
5.17-	5.32 .32
5.33-	5.49 .33
5.50-	5.65 .34
5.66-	5.81 .35
5.82-	5.98 .36
5.99-	6.14 .37
6.15-	6.31 .38
6.32-	6.47 .39
6.48-	6.63 .40
6.64-	6.80 .41
6.81-	6.96 .42
6.97-	7.13 .43
7.14-	7.29 .44
7.30-	7.45 .45
7.46-	7.62 .46
7.63-	7.78 .47
7.79-	7.95 .48
7.96-	8.11 .49
8.12-	8.27 .50
8.28-	8.44 .51
8.45-	8.60 .52
8.61-	8.77 .53
8.78-	8.93 .54
8.94-	9.09 .55
9.10-	9.26 .56

SALE TAX

9.27-	9.42 .57
9.43-	9.59 .58
9.60-	9.75 .59
9.76-	9.91 .60
9.92-	10.08 .61

RETAIL SALES TAX COLLECTION SCHEDULE

((December 4, 1981))

May 1, 1982

6.2 Percent

SALE TAX

.09-	.24 .01
.25-	.40 .02
.41-	.56 .03
.57-	.72 .04
.73-	.88 .05
.89-	1.04 .06
1.05-	1.20 .07
1.21-	1.37 .08
1.38-	1.53 .09
1.54-	1.69 .10
1.70-	1.85 .11
1.86-	2.01 .12
2.02-	2.17 .13
2.18-	2.33 .14
2.34-	2.49 .15
2.50-	2.66 .16
2.67-	2.82 .17
2.83-	2.98 .18
2.99-	3.14 .19
3.15-	3.30 .20
3.31-	3.46 .21
3.47-	3.62 .22
3.63-	3.79 .23
3.80-	3.95 .24
3.96-	4.11 .25
4.12-	4.27 .26
4.28-	4.43 .27
4.44-	4.59 .28
4.60-	4.75 .29
4.76-	4.91 .30
4.92-	5.08 .31
5.09-	5.24 .32
5.25-	5.40 .33
5.41-	5.56 .34
5.57-	5.72 .35
5.73-	5.88 .36
5.89-	6.04 .37
6.05-	6.20 .38
6.21-	6.37 .39
6.38-	6.53 .40
6.54-	6.69 .41
6.70-	6.85 .42
6.86-	7.01 .43
7.02-	7.17 .44
7.18-	7.33 .45
7.34-	7.49 .46
7.50-	7.66 .47

SALE	TAX
7.67- 7.82	.48
7.83- 7.98	.49
7.99- 8.14	.50
8.15- 8.30	.51
8.31- 8.46	.52
8.47- 8.62	.53
8.63- 8.79	.54
8.80- 8.95	.55
8.96- 9.11	.56
9.12- 9.27	.57
9.28- 9.43	.58
9.44- 9.59	.59
9.60- 9.75	.60
9.76- 9.91	.61
9.92-10.08	.62

SALE	TAX
6.12- 6.26	.39
6.27- 6.42	.40
6.43- 6.58	.41
6.59- 6.74	.42
6.75- 6.90	.43
6.91- 7.06	.44
7.07- 7.22	.45
7.23- 7.38	.46
7.39- 7.53	.47
7.54- 7.69	.48
7.70- 7.85	.49
7.86- 8.01	.50
8.02- 8.17	.51
8.18- 8.33	.52
8.34- 8.49	.53
8.50- 8.65	.54
8.66- 8.80	.55
8.81- 8.96	.56
8.97- 9.12	.57
9.13- 9.28	.58
9.29- 9.44	.59
9.45- 9.60	.60
9.61- 9.76	.61
9.77- 9.92	.62
9.93-10.07	.63))

((RETAIL SALES TAX COLLECTION SCHEDULE

December 4, 1981

6.3 Percent

SALE	TAX
.08	.23 .01
.24	.39 .02
.40	.55 .03
.56	.71 .04
.72	.87 .05
.88	1.03 .06
1.04	1.19 .07
1.20	1.34 .08
1.35	1.50 .09
1.51	1.66 .10
1.67	1.82 .11
1.83	1.98 .12
1.99	2.14 .13
2.15	2.30 .14
2.31	2.46 .15
2.47	2.61 .16
2.62	2.77 .17
2.78	2.93 .18
2.94	3.09 .19
3.10	3.25 .20
3.26	3.41 .21
3.42	3.57 .22
3.58	3.73 .23
3.74	3.88 .24
3.89	4.04 .25
4.05	4.20 .26
4.21	4.36 .27
4.37	4.52 .28
4.53	4.68 .29
4.69	4.84 .30
4.85	4.99 .31
5.00	5.15 .32
5.16	5.31 .33
5.32	5.47 .34
5.48	5.63 .35
5.64	5.79 .36
5.80	5.95 .37
5.96	6.11 .38

RETAIL SALES TAX COLLECTION SCHEDULE

May 1, 1982

6.5 Percent

SALE	TAX
.08	.23 .01
.24	.38 .02
.39	.53 .03
.54	.69 .04
.70	.84 .05
.85	.99 .06
1.00	1.15 .07
1.16	1.30 .08
1.31	1.46 .09
1.47	1.61 .10
1.62	1.76 .11
1.77	1.92 .12
1.93	2.07 .13
2.08	2.23 .14
2.24	2.38 .15
2.39	2.53 .16
2.54	2.69 .17
2.70	2.84 .18
2.85	2.99 .19
3.00	3.15 .20
3.16	3.30 .21
3.31	3.46 .22
3.47	3.61 .23
3.62	3.76 .24
3.77	3.92 .25
3.93	4.07 .26
4.08	4.23 .27

SALE	TAX
4.24	.28
4.39	.29
4.54	.30
4.70	.31
4.85	.32
5.00	.33
5.16	.34
5.31	.35
5.47	.36
5.62	.37
5.77	.38
5.93	.39
6.08	.40
6.24	.41
6.39	.42
6.54	.43
6.70	.44
6.85	.45
7.00	.46
7.16	.47
7.31	.48
7.47	.49
7.62	.50
7.77	.51
7.93	.52
8.08	.53
8.24	.54
8.39	.55
8.54	.56
8.70	.57
8.85	.58
9.00	.59
9.16	.60
9.31	.61
9.47	.62
9.62	.63
9.77	.64
9.93	.65

SALE	TAX
1.90	.13
2.05	.14
2.20	.15
2.35	.16
2.50	.17
2.66	.18
2.81	.19
2.96	.20
3.11	.21
3.26	.22
3.41	.23
3.57	.24
3.72	.25
3.87	.26
4.02	.27
4.17	.28
4.32	.29
4.47	.30
4.63	.31
4.78	.32
4.93	.33
5.08	.34
5.23	.35
5.38	.36
5.54	.37
5.69	.38
5.84	.39
5.99	.40
6.14	.41
6.29	.42
6.44	.43
6.60	.44
6.75	.45
6.90	.46
7.05	.47
7.20	.48
7.35	.49
7.50	.50
7.66	.51
7.81	.52
7.96	.53
8.11	.54
8.26	.55
8.41	.56
8.57	.57
8.72	.58
8.87	.59
9.02	.60
9.17	.61
9.32	.62
9.47	.63
9.63	.64
9.78	.65
9.93	.66

((RETAIL SALES TAX COLLECTION SCHEDULE
December 4, 1981

6.6 Percent

SALE	TAX
.08	.01
.23	.02
.38	.03
.54	.04
.69	.05
.84	.06
.99	.07
1.14	.08
1.29	.09
1.44	.10
1.60	.11
1.75	.12

Note: Brackets are repetitive above \$10.

Revised ((November 19, 1980)) April 30, 1982

WSR 82-10-031
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 1793—Filed April 30, 1982]

I, David A. Hogan, Director, Division of Administration of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to incapacity, amending WAC 388-37-035.

I, David A. Hogan, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is this change will simplify administration without adversely affecting anyone.

Such rules are therefore adopted as emergency rules to take effect on May 1, 1982.

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 30, 1982.

By David A. Hogan
 Director, Division of Administration

AMENDATORY SECTION (Amending Order 1709, filed 10/15/81)

WAC 388-37-035 INCAPACITY. (1) The term "incapacity" refers to the existence of a physiological, emotional and/or mental impairment which renders the person incapable of gainful employment.

(a) Such incapacity must be verified by medical evidence.

(b) The person must be substantially prevented by reason of the impairment from engaging in a useful occupation. Reasons for unemployment other than incapacity, such as individual employer preferences, business and economic conditions, social handicaps, etc., are not factors to be considered in determining his inability to obtain and continue in employment.

(2) The source of evidence for physiological incapacity will be a written report from a physician or chiropractor; for a mental incapacity, the source may be a report from a psychiatrist or clinical psychologist. Medical evidence may be obtained from other DSHS institutions and agencies from which the individual is receiving or has received services. Such reports must include a diagnosis and prognosis for the incapacitating condition and the effect of the condition on the individual's ability to function.

(3) The determination of incapacity will be made on the facts of each case. This requires evaluation of the severity of the impairment and its effect on the individual, and consideration of the individual's abilities so that it can be determined whether there remains a capacity to engage in a useful occupation.

(4) Incapacity due to mental disorders shall be determined on the basis of actual and specific impairment of faculties necessary for the person to be able to engage in gainful employment. The fact that an individual may be receiving treatment for a mental health problem is not in itself evidence that incapacity exists.

(5) Such incapacity will be determined on the basis of evidence that the individual:

(a) Is unable to exercise judgment and make decisions necessary to obtain and maintain employment.

(b) Is unable to sustain an adequate attention span.

(c) Manifests bizarre or inappropriate behavior patterns beyond his capability to control.

(d) Does not have the degree of physical and motor control required to sustain employment.

(e) Does not have perception and memory to the degree necessary to obtain and sustain employment.

(f) Is unable to follow directions or to learn to the degree necessary to obtain and sustain employment.

(g) Is under medication which impairs functioning.

(h) Any one or a combination of the conditions in subdivisions (a) through (h) may be sufficient to establish incapacity.

~~(6) Incapacity will be considered to be established ((for a period of sixty days)) without an incapacity review team decision when the person:~~

~~(a) Deleted;~~

~~(b) Has been determined to be eligible for any benefits based on social security administration disability criteria;~~

~~(c) Is eligible for services from the bureau of developmental disabilities;~~

~~((d) Is being released from inpatient psychiatric treatment.))~~

(7) Incapacity will be considered established for a period of sixty days without an incapacity review team decision when the person is being released from inpatient psychiatric treatment.

(8) Incapacity due to alcoholism will be considered to be established when an individual is admitted as a resident into ((either)) intensive or long-term treatment at an alcoholism treatment center or recovery house services as defined in WAC 275-19-020.

~~((8))~~ (9) Incapacity due to abuse of drugs other than alcohol will be considered to be established for a designated period when an individual is admitted as a resident into a certified residential drug treatment program, or certified detoxification program or is accepted into a certified methadone (or approved substitute) maintenance program.

(a) In accordance with the above criteria, incapacity will be considered to be established for the following maximum periods of time:

(i) Detoxification—thirty days.

(ii) Maintenance—sixty days.

(iii) Residential treatment—sixty days.

(b) Assistance shall not be continued beyond the initial period of time described in subdivision (8)(a) of this section without an incapacity review team decision.

~~((9))~~ (10) If the person claiming incapacity due to alcoholism or drug abuse does not meet the criteria in subsections (7) or (8) of this section, incapacity will be determined by evidence that:

(a) Pathological or demonstrable organic damage has resulted from chronic alcoholism or drug abuse, or

(b) The individual, as a result of the addiction, has his judgment so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment and constitutes a danger to himself, to any other person, or to property.

~~((10))~~ (11) Individuals who are found to be incapacitated due to alcoholism or drug abuse must be participating in an approved alcoholism or certified drug treatment program.

~~((11))~~ (12) An individual who refuses to accept and follow through on available treatment when such treatment is recommended shall not be eligible.

~~((12))~~ (13) The use of drugs or alcohol of itself is not evidence that an incapacitating condition exists.

WSR 82-10-032
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)
[Order 1796—Filed April 30, 1982]

I, David A. Hogan, Director, Division of Administration of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Institutions for the mentally retarded (IMR)—Accounting and reimbursement system, new chapter 275-38 WAC.

I, David A. Hogan, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is these rules are necessary to implement chapter 11, Laws of 1981 2nd ex. sess., which is presently in effect.

Such rules are therefore adopted as emergency rules to take effect on May 1, 1982.

This rule is promulgated pursuant to RCW 74.09.120 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 30, 1982.

By David A. Hogan
Director, Division of Administration

NEW SECTION

WAC 275-38-001 TERMS. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth in this section when used in this chapter.

(1) "Accrual method of accounting" — A method of accounting where revenues are reported in the period when earned, regardless of when collected, and expenses are reported in the period incurred, regardless of when paid.

(2) "Active treatment in institutions for the mentally retarded" requires the following:

(a) The individual's regular participation, in accordance with an individual habilitation plan, in professionally developed and supervised activities, experiences, or therapies.

(b) A written individual habilitation plan setting forth measurable goals or objectives stated in terms of desirable behavior and prescribing an integrated program of activities, experiences or therapies necessary for the individual to reach the goals or objectives. The overall purpose of the plan is to help the individual function at the greatest physical, intellectual, social, or vocational level he or she can presently or potentially achieve.

(c) An interdisciplinary professional evaluation:

(i) Completed, for a recipient, before admission to the institution but not more than three months before, and for an individual applying for medicaid after admission, before the institution requests payment;

(ii) Consisting of complete medical, social, psychological diagnosis and evaluations, and an evaluation of the individual's need for institutional care; and

(iii) Made by a physician, a social worker, and other professionals, at least one of whom is a qualified mental retardation professional.

(d) Reevaluation medically, socially, and psychologically at least annually by the staff involved in carrying out the resident's individual plan of care. The reevaluation must include review of the individual's progress toward meeting the plan objectives, the appropriateness of the individual plan of care, assessment of his or her continuing need for institutional care, and consideration of alternate methods of care.

(e) An individual postinstitutionalization plan, as part of the individual plan of care, developed before discharge by a qualified mental retardation professional and other appropriate professionals.

(3) "Allowable costs" — See WAC 275-38-680.

(4) "Appraisal" — The process of establishing the fair market value or reconstruction of the historical cost of an asset acquired in a past period as performed by an individual professionally designated either by the American institute of real estate appraisers as a member, appraisal institute (MAI), or by the society of real estate appraisers as a senior real estate analyst (SREA) or a senior real property appraiser (SRPA). The process includes a systematic, analytic determination, the recording and analyzing of property facts, rights, investments,

and values based on a personal inspection and inventory of the property.

(5) "Arm's-length transaction" – A transaction resulting from good-faith bargaining between a buyer and seller, where neither party is legally related to the other party by blood or under law, and having adverse positions in the market place. Sales or exchanges of IMR or nursing home facilities among two or more parties where all parties subsequently continue to own one or more of the facilities involved in the transaction shall not be considered arm's-length transactions. Sale of a IMR facility subsequently leased back to the seller within five years of the date of sale shall not be considered an arm's-length transaction.

(6) "Assets" – Economic resources of the contractor, recognized, and measured in conformity with generally accepted accounting principles. Assets also include deferred charges, not resources, but assets recognized and measured in accordance with generally accepted accounting principles.

(7) "Bad debts" – Amounts considered to be uncollectable from accounts and notes receivable.

(8) "Beds" – Unless otherwise specified, the number of set-up beds in the IMR facility, not to exceed the number of licensed beds.

(9) "Beneficial owner" – Any person:

(a) Directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power including the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power including the power to dispose, or to direct the disposition of such ownership interest.

(b) Directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter.

(c) Subject to subsection (9) of this section, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

Except, any person acquiring an ownership interest or power specified in subsection (9)(c)(i), (ii), or (iii) of this section with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest acquired through the exercise or conversion of such ownership interest or power.

(d) Any person in the ordinary course of business having a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest until the pledgee has taken all formal steps necessary required to declare a default and determine the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised: PROVIDED, That

(i) The pledge agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in subsection (9) of this section; and

(ii) The pledge agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or direct or to direct the vote of the pledged ownership interest; or

(B) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power(s) pursuant to a pledge agreement where credit is extended and where the pledgee is a broker or dealer.

(10) "Boarding home" – Means any home or other institution licensed in accordance with chapter 18.20 RCW.

(11) "Capitalization" – The recording of an expenditure as an asset.

(12) "Capitalized lease" – A lease required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

(13) "Cash method of accounting" – A method of accounting where revenues are recognized only when cash is received, and expenditures are expensed, and asset items are not recorded until cash is disbursed.

(14) "Change of ownership" – A change in the individual or legal organization responsible for the daily operation of an IMR facility.

(a) Events changing ownership include but are not limited to the following:

(i) The form of legal organization of the owner is changed (such as a sole proprietor forms a partnership or corporation);

(ii) Title to the IMR enterprise is transferred by the contractor to another party;

(iii) The IMR facility is leased, or an existing lease is terminated;

(iv) Where the contractor is a partnership, any event occurs dissolving the partnership;

(v) Where the contractor is a corporation, the corporation is dissolved, merges with another corporation which is the survivor, or consolidates with one or more other corporations to form a new corporation.

(b) Ownership does not change when the following occurs:

(i) A party contracts with the contractor to manage the enterprise as the contractor's agent, (i.e., subject to the contractor's general approval of daily operating decisions);

(ii) If the contractor is a corporation, some or all of the corporation's stock is transferred.

(15) "Charity allowances" – Reductions in charges made by the contractor because of the indigence or medical indigence of a resident.

(16) "Contract" – A contract between the department and a contractor for the delivery of IMR services to eligible medicaid recipients in a facility and an entity responsible for operational decisions.

(17) "Contractor" – An entity contracting with the department to deliver IMR services to eligible medicaid recipients.

(18) "Courtesy allowances" – Reductions in charges in the form of an allowance to physicians, clergy, and others, for services received from the contractor. Employee fringe benefits are not considered courtesy allowances.

(19) "CSO" – The local community services office of the department.

(20) "DDD" – The division of developmental disabilities of the department.

(21) "Department" – The department of social and health services (DSHS) and employees.

(22) "Depreciation" – The systematic distribution of the cost or other base of a tangible asset less salvage, over the estimated useful life of the asset.

(23) "Donated asset" – An asset the contractor acquired without making any payment in the form of cash, property, or services. An asset is not a donated asset if the contractor made even a nominal payment in acquiring the asset. An asset purchased using donated funds is not a donated asset.

(24) "Entity" – An individual, partnership, corporation, public institution established by law, or any other association of individuals, capable of entering enforceable contracts.

(25) "Equity capital" – Total tangible and other assets necessary, ordinary, and related to patient care from the most recent provider cost report minus related total long-term debt from the most recent provider cost report plus working capital as defined in this section.

(26) "Facility" – An IMR residential setting licensed in accordance with chapter 18.51 RCW as a nursing home, licensed in accordance with chapter 18.20 RCW as a boarding home for the aged, or certified as an IMR by the department in accordance with federal regulations.

(27) "Fair market value" – The price the asset would have been purchased for on the date of acquisition in an arm's-length transaction between a well-informed buyer and seller, neither being under any compulsion to buy or sell.

(28) "Fiscal year" – The operating or business year of a contractor. All contractors report on the basis of a twelve-month fiscal year, but provision is made in this chapter for reports covering abbreviated fiscal periods.

(29) "Generally accepted accounting principles" – Accounting principles currently approved by the financial accounting standard board (FASB).

(30) "Goodwill" – The excess of the price paid for a business over the fair market value of all other identifiable and tangible assets acquired. Also, the excess of the price paid for an asset over fair market value.

(31) "Habilitative services" – Those services required by the individual habilitation plan provided or directed by qualified therapists.

(32) "Historical cost" – The actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies.

(33) "Imprest fund" – A fund regularly replenished in exactly the amount expended from the fund.

(34) "IMR" – When referring to a facility, one certified to provide services to the mentally retarded or persons with related conditions. When referring to a level of care, IMR is a range of services required for the mentally retarded or persons with related conditions. When referring to a person, a recipient requiring IMR services.

(35) "Interest" – The cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

(36) "Joint facility costs" – Any costs representing expenses incurred benefiting more than one facility, or one facility and any other entity.

(37) "Levels of care" – The classification of levels of services provided to residents by a contractor, (e.g., levels A, B, C, D and E.)

(38) "Medicaid program" – The state medical assistance program provided under RCW 74.09.500 or authorized state medical services.

(39) "Medical assistance recipient" – An individual determined eligible for medical assistance by the department for the services provided in chapter 74.09 RCW.

(40) "Nonallowable costs" – Same as "unallowable costs".

(41) "Nonrestricted funds" – Donated funds not restricted to a specific use by the donor, (e.g., general operating funds).

(42) "Nursing home" – A home, place or institution, licensed in accordance with chapter 18.51 RCW, where skilled nursing, intermediate care and/or IMR services are delivered.

(43) "Operating lease" – A lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

(44) "Owner" – A sole proprietor, general or limited partner, or beneficial interest holder of five percent or more of a corporation's outstanding stock.

(45) "Ownership interest" – All interests beneficially owned by a person, calculated in the aggregate, regardless of the form such beneficial ownership takes.

(46) "Per diem (per resident day) costs" – Total allowable costs for a fiscal period divided by total resident days for the same period.

(47) "Prospective daily payment rate" – The daily amount assigned to each contractor, determined by the department to be reasonable to meet the costs of providing services required by law if the contractor provides those services in an economical and efficient manner. Such a rate is a budget for maximum expenditures necessary to provide services required by law.

(48) "Qualified mental retardation professional (QMRP)" – A therapist approved by the department having specialized training and one year's experience in working with the mentally retarded or developmentally disabled.

- (49) "Qualified therapist" – Any of the following:
- (a) An activities specialist having specialized education, training, or experience as specified by the department.
- (b) An audiologist eligible for a certificate of clinical competence in audiology or having the equivalent education and clinical experience.
- (c) A dental hygienist as defined by chapter 18.29 RCW.
- (d) A dietitian: Eligible for registration by the American dietetic association under requirements in effect on January 17, 1974; or having a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management; having one year supervisory experience in the dietetic service of a health care institution; and participating annually in continuing dietetic education.
- (e) An occupational therapist being a graduate of a program in occupational therapy, or having the equivalent of such education or training.
- (f) A pharmacist as defined by chapter 18.64 RCW.
- (g) A physical therapist as defined by chapter 18.74 RCW.
- (h) A physician as defined by chapter 18.71 RCW or an osteopathic physician as defined by chapter 18.57 RCW.
- (i) A psychologist as defined by chapter 18.83 RCW.
- (j) A qualified mental retardation professional.
- (k) A registered nurse as defined by chapter 18.88 RCW.
- (l) A social worker who is a graduate of a school of social work.
- (m) A speech pathologist eligible for a certificate of clinical competence in speech pathology or having the equivalent education and clinical experience.
- (50) "Recipient" – An eligible medical care recipient.
- (51) "Regression analysis" – A statistical technique through which one can analyze the relationship between a dependent or criterion variable and a set of independent or predictor variables.
- (52) "Regional services" – Local office division of developmental disabilities.
- (53) "Related organization" – An entity which is under common ownership and/or control with, or has control of or is controlled by, the contractor. An entity is deemed to "control" another entity if one entity has a five percent or greater ownership interest in the other, or if an entity has capacity, derived from any financial or other relationship, and whether or not exercised, to influence directly or indirectly the activities of the other.
- (54) "Relative" – Spouse, natural parent, child, or sibling; adopted child or adoptive parent; step-parent, step-child, step-brother, step-sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent or grandchild; uncle, aunt, nephew, niece or cousin.
- (55) "Resident day" – A calendar day of resident care. In computing calendar days of care, the day of admission is always counted. The day of discharge is counted only when the resident was admitted on the same day. A resident is admitted for purposes of this

definition when he or she is assigned a bed and a resident record is opened.

(56) "Resident living staff" – Staff whose primary responsibility is the care and development of the residents, including:

- (a) Resident activity program;
- (b) Domiciliary services; and/or
- (c) Habilitative services under the supervision of the QMRP.

(57) "Restricted fund" – A fund where the use of the principal and/or income is restricted by agreement with or direction by the donor to a specific purpose, in contrast to a fund over which the owner has complete control. These generally fall into three categories:

- (a) Funds restricted by the donor to specific operating purposes;
- (b) Funds restricted by the donor for additions to property, plant, and equipment; and
- (c) Endowment funds.

(58) "Secretary" – The secretary of DSHS.

(59) "Start-up costs" – The one-time preopening costs incurred from the time preparation begins on a newly constructed or purchased building until the first resident is admitted. Start-up costs include administrative and nursing salaries, utility costs, taxes, insurance, repairs and maintenance, training costs, etc. Start-up costs do not include expenditures for capital assets.

(60) "Title XIX" – The 1965 amendments to the social security act, P.L. 89-07, as amended.

(61) "Unallowable costs" – Costs not meeting every test of an allowable cost, as determined in WAC 275-38-680.

(62) "Uniform chart of accounts" – A list of account titles identified by code numbers established by the department for contractors to use in reporting costs.

(63) "Vendor number" – A number assigned to each contractor delivering IMR services to IMR medicaid recipients.

(64) "Working capital" – Total current assets necessary, ordinary, and related to resident care as reported in the most recent cost report minus total current liabilities necessary, ordinary, and related to resident care from the most recent cost report.

NEW SECTION

WAC 275-38-005 IMR CARE. (1) The department has the administrative and legal responsibility to purchase the services of an institution for the mentally retarded and persons with similar conditions (IMR), and IMR-based services for eligible developmentally disabled persons. The department has the responsibility to assure adequate care, service, and protection are provided through licensing and certification procedures.

(2) The intent of this chapter is to establish standards for habilitative training, health related care, supervision, and residential services to eligible persons.

(3) Each IMR facility shall be certified as a Title XIX IMR facility.

(4) Each IMR facility with a certified capacity of sixteen beds or more shall be certified and/or licensed as a nursing home in accordance with chapter 18.51 RCW.

(5) Each private IMR facility with a certified capacity of fifteen beds or less shall be licensed as a boarding home for the aged in accordance with chapter 18.20 RCW.

(6) Facilities certified to provide IMR services must comply with all applicable federal regulations under Title XIX, Section 1905 of the Social Security Act 42 U.S.C. as amended, as well as state regulations governing the licensing of nursing homes or boarding homes for the aged, and other relevant state regulations.

(7) The sections of this chapter will supersede and replace any and all sections affecting IMR facilities or programs in chapters 388-88 and 388-96 WAC except where specifically referenced in this chapter.

NEW SECTION

WAC 275-38-007 IMR FACILITIES. (1) Contracts with IMR facilities will specify one of five levels (A, B, C, D, and E) of service. Clients will be referred for admission to IMR facilities by the DDD regional services office. Admission will be verified and classification determined by a qualified mental retardation professional employed by the department. This classification will specify one of these five levels of service.

(2) At least fifty percent of the licensed bed capacity of a facility will be occupied by persons with mental retardation or related conditions as of the date of application for certification.

(3) Facilities shall not admit any person as a resident except developmentally disabled persons after the date of certification.

NEW SECTION

WAC 275-38-015 NAME OF IMR. The division will recognize only the official name of an IMR as shown on the license.

NEW SECTION

WAC 275-38-020 CLOSURE OF AN IMR FACILITY. When a facility is due to cease operations, the facility has the responsibility of notifying the department in writing, giving sixty days notice. Upon receipt of notice of closure of a facility, the department shall cease referral of clients to the facility and proceed in the orderly relocation of the residents.

NEW SECTION

WAC 275-38-025 ADEQUATE IMR CARE. Care and services rendered must be justified as essential to the resident's habilitation and health care needs, with the overall goal of the resident attaining the highest level of independence. Each IMR is obligated to assure the provision of adequate habilitative training and health care to include but not limited to:

(1) Active treatment as defined in WAC 275-38-001.

(2) Services to the resident by or under the supervision of qualified therapists in accordance with the identified needs of the individual resident.

(3) Provide routine items and supplies uniformly used for all residents.

(4) Surgical appliances, prosthetic devices, and aids to mobility required for the exclusive use of an individual resident are available to the recipient pursuant to WAC 388-86-100.

(5) Nonreusable supplies not usually provided for all residents may be individually ordered in accordance with WAC 388-86-005(2). Requests for such supplies must be authorized by a department representative.

(6) Each IMR facility is responsible for providing transportation to and from the day training programs. Responsibility for transportation may include assurance of resident's use of public transportation.

NEW SECTION

WAC 275-38-030 CONTINUITY OF RESIDENT CARE. When a resident is transferred from one IMR facility to another, from an IMR facility to the hospital, from the hospital to an IMR facility, or to alternative community placement, essential information concerning the resident, his or her condition, regimen of care and training must be transmitted in writing by the sending facility to the receiving facility at the time of the resident's transfer.

NEW SECTION

WAC 275-38-035 IMR CONTRACT—NON-COMPLIANCE. (1) When a facility is in violation of the terms of the contract, the department may temporarily suspend the referral of residents to the facility. Whenever referral is suspended under this section, the facility will immediately be notified in writing of the suspension and of the basis for the department's action. Suspension may continue until the department determines the infraction has been corrected.

(2) Failure of a facility to provide staffing commensurate with the terms of the contract shall necessitate the suspension of referral of recipients who require the level of care and supervision not provided by the facility. No facility shall accept or retain recipients whose unique needs cannot be met by that facility. See WAC 275-38-025. Violations creating a health or safety hazard to individual residents shall constitute grounds for termination of the contract by the department.

(3) The occupancy of each resident room in any licensed IMR facility is designated by the licensing authority and the occupancy of each room must be limited to the number of residents for which the room is licensed. The location of any resident in such a manner as to exceed the licensed capacity of any resident room constitutes a violation of the contract for IMR care whether or not the total licensed capacity of the facility has been reached. The location of a resident in any unlicensed area of the facility is also a violation of the contract.

(4) When the department terminates a contract, the facility will be notified in writing of the contract termination and the basis for the department's action. The department will be responsible for the relocation of residents.

NEW SECTION

WAC 275-38-040 CLASSIFICATION OF IMR RESIDENTS. (1) For IMR residents the level of care determinations are made by a qualified mental retardation professional employed by the department, in accordance with his or her best professional judgment. Each IMR resident shall be classified by the level of care the resident may individually need. The levels of care are A, B, C, D, or E.

(2) In making IMR classification decisions, the departmental representative shall utilize the following guidelines:

(a) Level A: Residents:

(i) Requiring twenty-four hour licensed nursing supervision; and

(ii) May attend day training in community based programs; and

(iii) Manifesting behaviors requiring highly structured behavioral management programs; or

(iv) Not able to receive adequate care or services in a lesser level of IMR.

(b) Level B: Clients:

(i) Requiring licensed nursing supervision for at least eight hours each day; and

(ii) May attend day training in community based program; and

(iii) Manifesting behaviors requiring highly structured behavioral management programs; or

(iv) Not able to receive adequate care or services in a lesser level of IMR.

(c) Level C: Residents:

(i) Requiring twenty-four hours of licensed nursing supervision; and

(ii) Capable of participating in off-premises day training programs; or

(iii) Cannot receive adequate care or services in a lesser level of IMR.

(d) Level D: Residents:

(i) Requiring licensed nursing supervision for at least eight hours each day; and

(ii) Capable of participating in off-premises day training programs; or

(iii) Not able to receive adequate care or services at a lesser level of IMR.

(e) Level E: Residents:

(i) Requiring health-related supervision but not requiring licensed nursing supervision. The facility must provide for licensed consultation to supervise the health care needs of the residents;

(ii) Capable of attending an off-premises day training program; and

(iii) Not able to receive adequate care or services at a less restrictive level of residential setting.

(3) The classification of IMR residents shall be periodically reviewed by a qualified mental retardation professional employed by the department for the purposes of:

(a) Determining the need for continued stay; and

(b) Identify the level of care required to meet the needs of the resident.

(4) Classification changes shall be made in accordance with the needs of the resident and in accord with appeal and relocation procedures outlined in WAC 275-27-500 and 275-38-060 as applicable.

NEW SECTION

WAC 275-38-045 MINIMUM STAFF REQUIREMENTS. (1) Each level of IMR must provide staff adequate in numbers and qualifications to meet the need of the residents.

(2) Specifically, the IMR must provide at least the following:

(a) Level A:

(i) Facility-based physician staff to provide for twenty-four hour medical supervision to include examination, diagnosis, planning, implementation, and review of appropriate medical regimen for each resident;

(ii) One full-time registered nurse as director of nursing services with sufficient additional licensed nurses to provide twenty-four hour nursing supervision;

(iii) Facility-based qualified therapist staff in accordance with WAC 275-38-025;

(iv) Sufficient resident living staff to meet the needs of the residents in care level A;

(v) Sufficient qualified mental retardation professional staff to meet the needs of the residents.

(b) Level B:

(i) Facility-based physician staff sufficient to provide for medical supervision to include examination, diagnosis, planning, implementation, and review of an appropriate medical regimen for each resident;

(ii) At least one registered nurse responsible as the director of nursing services and in addition sufficient licensed nurses to provide nursing supervision of the facility for at least eight hours per day;

(iii) Facility-based qualified therapist staff in accordance with WAC 275-38-025;

(iv) Sufficient resident living staff to meet the needs of the residents in care level B;

(v) Sufficient qualified mental retardation professional staff to meet the needs of the residents.

(c) Level C:

(i) A physician as a consultant medical director to the facility;

(ii) One full-time registered nurse as director of nursing services with additional licensed nurses to provide twenty-four hour nursing supervision of the facility;

(iii) Sufficient resident living staff to meet the needs of the residents in care level C;

(iv) Sufficient qualified mental retardation professional staff to meet the needs of the residents;

(v) Consultant qualified therapist staff in accordance with WAC 275-38-025.

(d) Level D:

(i) A physician as a consultant medical director to the facility;

(ii) A licensed nurse responsible as the director of nursing services with additional licensed nurses to provide nursing supervision of the facility for at least eight hours per day;

(iii) Sufficient resident living staff to meet the needs of the residents in care level D;

(iv) Sufficient qualified mental retardation professional staff to meet the needs of the residents;

(v) Consultant qualified therapist staff in accordance with WAC 275-38-025.

(e) Level E:

(i) A physician as a consultant medical director to the facility;

(ii) A registered nurse as a consultant to the facility, responsible for the health care needs of the residents;

(iii) Sufficient resident living staff must be provided to assure at least one staff is on duty in the facility when residents are present;

(iv) Sufficient qualified mental retardation professional staff to meet the needs of the residents;

(v) Qualified consultant therapists in accordance with WAC 275-38-025.

NEW SECTION

WAC 275-38-050 PLACEMENT OF IMR CLIENT. Placement into an IMR facility is the responsibility of the division of developmental disabilities and shall be accomplished in accordance with the applicable federal and state regulations. The client's classification and eligibility for IMR services shall be determined by representatives of the department before payment can be approved: **PROVIDED**, That a facility may not admit a client requiring services the facility is not able to provide.

NEW SECTION

WAC 275-38-055 TRANSFER OF IMR CLIENT—RELOCATION. (1) The department is responsible for assuring individual client's health care and habilitative training needs are identified and met, as provided by state and federal regulations. The department is therefore responsible for assuring that each client is placed in a facility certified as capable of meeting the needs of the client.

(2) Each client admitted to a facility may be transferred or discharged only for medical reasons, or for his or her welfare or the welfare of other residents of the facility. This determination shall be made by the department based on an assessment of the resident, consultation with the service provider, and a review of the relevant records.

(3) If the services being provided to a resident are not commensurate with the resident's needs, the department is responsible for initiating and facilitating the resident's relocation.

A circumstance where the department would enforce immediate movement of a resident from an IMR facility is the revocation or suspension of the IMR certification and/or license.

(4) Upon the determination by the department that a facility will no longer operate or be allowed to operate an IMR, because of any violation of the facility's contract or these regulations or state or federal law, the department will provide notice to the resident and the guardian, next-of-kin, or responsible party that thirty days following the mailing date of the letter, the resident

will be required to relocate: **PROVIDED**, That nothing in this section shall require a pretransfer notice be given when the secretary or his or her designee determines an immediate threat to health and/or safety exists or moves may be accomplished sooner at the request of the resident or with the resident's consent.

(5) Decertification, termination, or nonrenewal of contract actions require a stop payment of Title XIX funds. Such actions do not affect the facility's right to operate as a nursing home or boarding home, but does disqualify the facility from operating as an IMR facility and receiving federal funds. When termination of federal funds is contemplated, residents must be informed.

(6) When relocation is required, a designated representative of the department will conduct a review and assessment for the classification. Thirty days prior to any implementation of a change in the level of care, resulting in the change of the services required and provided, or because of the transfer, the department shall notify, in writing, the resident and guardian, next-of-kin, or responsible party pursuant to WAC 275-38-060.

(7) Grounds for the request by a facility to have a resident relocated or discharged are limited to the following:

(a) Medical reasons;

(b) Resident's welfare;

(c) The welfare of the other residents; or

(d) Nonpayment of services provided to the resident during his or her stay at the facility.

The facility shall follow the following procedure:

(i) The facility shall send a request in writing to the department, for relocation or discharge of a resident. This request shall include the grounds for the request and substantiation of concurrence by the interdisciplinary team in the development of an appropriate individual habilitation plan.

(ii) The department shall approve or deny the request for relocation or discharge based on an on-site visit with the resident and a review of his or her records, within fifteen working days following the receipt of the request.

(iii) The facility administrator shall be informed of the department's approval or denial of the request.

(iv) If the facility's request is approved, the department shall notify, in writing, the resident or the resident's guardian, or next-of-kin, or responsible party, of the decision pursuant to WAC 275-38-060.

(v) The resident and the department will be allowed thirty days from the date that the resident is notified of relocation or discharge by the department in order to facilitate relocation.

(e) The resident has a right to request relocation and to select the IMR he or she desires for placement. If this selection is available and appropriate to the habilitation and health care needs of the resident, all reasonable attempts to accomplish relocation shall be made by the department.

(i) The resident or the resident's guardian must request such a move in writing.

(ii) Arrangements for relocation will be the responsibility of the division of developmental disabilities.

NEW SECTION

WAC 275-38-060 IMR RESIDENT RIGHTS—RELOCATION. (1) Except in the cases specified in WAC 275-38-060(2), the resident (or guardian, next-of-kin, or responsible party of the resident if the resident has been adjudicated to be incompetent or under age eighteen) must be informed in writing thirty days prior to any relocation or reclassification to ensure orderly transfer or discharge. Such notice must include:

(a) The grounds for the proposed change and/or transfer,

(b) A statement that the resident or any other individual designated by the resident has a right to a conference with a division of developmental disabilities representative within thirty days of receipt of the notice;

(c) The right to request a fair hearing within thirty days of the notice to contest the department's decision;

(d) The method by which a fair hearing may be obtained;

(e) The right to be represented at the fair hearing by an authorized representative;

(f) The existence and locations of any legal services in the community that are available.

(2) A fair hearing request form shall be sent with the notice of relocation and/or reclassification.

(a) If the resident requests a fair hearing within the thirty day time period, the department shall not change the level of care or transfer the resident pending fair hearing decision or appeal rights, unless such action is warranted by the health or safety needs of the resident.

(b) If the secretary or his or her designee finds a change in the level of care is not appropriate, no further action shall be taken to change the level of care or transfer the resident, unless there is a change in the situation or circumstances at which time the request may be resubmitted.

(c) If the secretary or his or her designee affirms the determination to change the resident's level of care and/or transfer, and no judicial review is filed within thirty days of the receipt of notice of determination, the department shall proceed with the planned action.

(d) If the secretary or his or her designee affirms the determination to change the resident's level of care and/or transfer and a request for judicial review has been filed, any proposed change and/or transfer shall be delayed pending the outcome of the process, unless such action is warranted by the health or safety needs of the resident.

(3) Advance notice is not required:

(a) If the resident or the resident's guardian requests a transfer in writing and waives the right to a period notice.

(b) In the event of an immediate threat to the resident's life or health, or life or health of others.

(4) Advance notice and planning does not include a right to a fair hearing for a resident when the department judges the facility where the resident resides is no longer able to provide Title XIX services due to:

(a) Termination of the facility's contract.

(b) Decertification of the facility.

(c) Nonrenewal of the facility's contract.

(d) Revocation of the facility's license.

(e) Emergency license suspension.

NEW SECTION

WAC 275-38-065 TRANSFER OR DISCHARGE PLANNING. A suitable discharge and/or transfer plan must be prepared by the division of developmental disabilities for each resident to be transferred or discharged. Transfers shall be dependent on the best interests of the resident. The plan shall include the location of available settings at the appropriate level of care consistent with the needs of the resident. The plan shall include:

(1) Coordination of communication between the staffs of the old and new facilities;

(2) Pretransfer visit, when the resident's condition permits, to the new facility, familiarizing the resident with the new surroundings, and other residents;

(3) Coordination of active participation by the resident's guardian or family in the transfer preparation;

(4) Coordination with staff members of the old and new facilities to discuss expectations and provide consultation on request;

(5) Posttransfer follow-up by the division of developmental disabilities to monitor the effects of the change.

NEW SECTION

WAC 275-38-075 DISCHARGE OR LEAVE OF AN IMR RESIDENT. (1) A certified IMR facility having an IMR contract with the department shall contact the regional services office, division of developmental disabilities giving immediate notification of unauthorized leave, disappearance, serious accident, or other traumatic incident effecting a resident or the resident's health or welfare.

(2) Discharge and readmission is required for all residents who are admitted as hospital inpatients.

NEW SECTION

WAC 275-38-080 SOCIAL LEAVE FOR IMR RESIDENTS. (1) Social leaves should be consistent with goals and objectives of the resident's individual habilitation plan.

(2) Facility vacancies due to social leave of a resident will be reimbursed if such social leave complies with the individual habilitation plan and the following conditions:

(a) The facility shall notify the director of the division of developmental disabilities or his or her designee, of social leaves exceeding fifty-three hours.

(b) Social leaves over seven consecutive days require prior written approval by the director, division of developmental disabilities or his or her designee.

(c) Social leave in excess of seventeen days per year requires prior written approval by the director, division of developmental disabilities or his or her designee.

NEW SECTION

WAC 275-38-510 PROSPECTIVE COST-RELATED REIMBURSEMENT. The prospective cost-related reimbursement system is the system used by the

department to pay for IMR services provided to IMR residents. Reimbursement rates for such services will be determined in accordance with the principles, methods, and standards contained in this chapter.

NEW SECTION

WAC 275-38-515 CONDITIONS OF PARTICIPATION. In order to participate in the prospective cost-related reimbursement system, the person or legal organization responsible for operation of an IMR facility shall:

- (1) Obtain a state certificate of need pursuant to chapter 70.38 RCW;
- (2) Hold the appropriate current license (e.g., nursing home license, boarding home);
- (3) Hold current Title XIX certification to provide IMR services;
- (4) Hold a current contract to provide IMR services; and
- (5) Comply with all provisions of the contract and all applicable regulations, including but not limited to the provisions of chapter 275-38 WAC.

NEW SECTION

WAC 275-38-520 PROJECTED BUDGET FOR NEW CONTRACTORS. (1) Each new contractor shall submit a one-year projected budget to the department at least sixty days before the contract will become effective. For purposes of this section, a "new contractor" is one:

- (a) Operating a new facility;
 - (b) Acquiring or assuming responsibility for operating an existing facility;
 - (c) Obtaining a certificate of need approval due to an addition to or renovation of a facility.
- (2) The projected budget shall cover the twelve months immediately following the date the contractor will enter the program. The projected budget shall be prepared on forms and in accordance with instructions provided by the department.

NEW SECTION

WAC 275-38-525 CHANGE OF OWNERSHIP. (1) On the effective date of a change of ownership, as defined in WAC 275-38-001, the department's contract with the former owner shall be terminated. The former owner shall give the department thirty days written notice of such termination in accordance with the terms of the contract. When certificate of need is required for the new owner to acquire the facility, and the new owner wishes to continue to provide service to recipients without interruption, certificate of need shall be obtained before the former owner submits a notice of termination.

(2) If the new contractor desires to participate in the cost-related reimbursement system, the contractor shall meet the conditions specified in WAC 275-38-515, and shall submit a projected budget in accordance with WAC 275-38-520 no later than sixty days before the date of the change of ownership. The IMR contract with the new owner shall be effective as of the date of the change of ownership.

NEW SECTION

WAC 275-38-530 TERMINATION OF CONTRACT. (1) When a contract is terminated for any reason, the former contractor shall submit final reports in accordance with WAC 275-38-575. Payment for care provided during the final thirty days of service under a contract will be held until the contractor has filed a properly completed final annual report, and final settlement has been determined.

(2) Following final settlement, a payment withheld pursuant to subsection (1) of this section will be sent to the contractor, after any overpayment determined in connection with final settlement has been deducted. If the contractor contests the settlement determination in accordance with WAC 275-38-940, the department will hold the amount in dispute pending completion of the appeal process, but will release the balance of such payment to the contractor.

(3) The department will release a payment which would be withheld pursuant to subsection (1) of this section, provided a bond issued by a reputable bonding company and acceptable to the department is filed by the contractor. The bond shall:

- (a) Be in an amount equal to the released payment;
- (b) Be for a term sufficient to ensure effectiveness after final settlement and the exhaustion of administrative and judicial remedies;
- (c) Provide the full amount of the bond shall be paid to the department if a properly completed final annual report is not filed in accordance with this chapter, or if financial records supporting this report are not preserved and made available to the department's auditors; and
- (d) Provide an amount equal to any recovery the department determines is due from the contractor at settlement, but not exceeding the amount of the bond, shall be paid to the department in the event the contractor does not pay the refund within sixty days following receipt of written demand or the conclusion of administrative or judicial proceedings to contest settlement issues.

(4) If a contract is terminated solely in order for the same owner to contract with the department to deliver IMR services to a different class of medical care recipients at the same IMR facility, the contractor is not required to submit final reports, and payment for the final thirty days will not be withheld.

(5) When a contract is terminated, any accumulated liabilities assumed by a new owner shall be reversed against the appropriate accounts by the contractor.

NEW SECTION

WAC 275-38-535 DUE DATES FOR REPORTS. Annual reports covering the complete fiscal year shall be submitted within ninety days after the end of the fiscal year.

NEW SECTION

WAC 275-38-540 REQUESTS FOR EXTENSIONS. The department, upon a written request setting forth reasons for the necessity of an extension, may

grant a thirty day extension of time for filing any required report, if the written request is received prior to the expiration of the relevant time period.

NEW SECTION

WAC 275-38-545 REPORTS. (1) In order for a contractor to receive payments under the cost-related reimbursement system for providing care to IMR residents, an annual report based on the contractor's fiscal year shall be submitted to the department.

(2) Each contractor's fiscal year for federal tax and cost reporting purposes shall coincide with the calendar year, except for state-owned and operated IMR facilities whose reporting form shall coincide with the facility's fiscal year.

NEW SECTION

WAC 275-38-550 IMPROPERLY COMPLETED OR LATE REPORTS. (1) For 1981 and subsequent annual cost reporting periods, an annual report, including the proposed settlement computed by cost center pursuant to WAC 275-38-630, must be completed in accordance with applicable statutes, departmental regulations and instructions. An annual cost report deficient in any of these respects may be returned in whole or in part to the contractor for proper completion. Annual reports must be submitted by the due date determined in accordance with WAC 275-38-535.

(2) For purposes of establishing rates effective July 1, 1982, if a contractor has not corrected errors in an annual cost report, including the proposed settlement, according to subsection (1) of this section by May 15, 1982, such report shall be excluded from computation of the redistribution pool established pursuant to WAC 275-38-855(5) and the contractor shall be subject to the provisions of subsection (3) of this section.

(3) If a report is not properly completed or is not received by the department on or before the due date of the report, including any approved extensions, all or a part of any payments due under the contract may be held by the department until the improperly completed or delinquent report is properly completed and received by the department.

NEW SECTION

WAC 275-38-555 COMPLETING REPORTS AND MAINTAINING RECORDS. (1) All reports shall be legible and reproducible. It is recommended all entries be typed or in black ink.

(2) Reports shall be completed in accordance with instructions provided by the department. If no specific instruction covers a situation, generally accepted accounting principles shall be followed.

(3) The accrual method of accounting shall be used, except for governmental institutions operated on a cash method of accounting, data based on this method of accounting will be acceptable. All revenue and expense accruals shall be reversed against the appropriate accounts if not received or paid within one hundred twenty days after the accrual is made, unless special circumstances are documented justifying continuing to carry all or part

of the accrual (e.g., contested billings). Accruals for vacation, holiday, sick pay, and taxes may be carried for longer periods, provided the contractor's usual policy is followed.

(4) Methods of allocating costs shall be consistently applied. Written approval must be obtained from the department if a contractor wishes to change an allocation method. Contractors operating multiservice facilities or facilities incurring joint facility costs shall allocate costs using the methods approved by the department under WAC 275-38-735.

(5) The contractor's records relating to an IMR facility shall be maintained so reported data can be audited for compliance with generally accepted accounting principles, the department's reimbursement principles, and reporting instructions. These records shall be available for review by authorized personnel of the department and of the United States department of health and human services during normal business hours at a location in the state of Washington specified by the contractor.

(6) If a contractor fails to maintain records adequate for audit purposes or fails to allow inspection of such records by authorized personnel as provided in subsection (5) of this section, the department may suspend all or part of subsequent reimbursement payments due under the contract until compliance is forthcoming. Upon compliance, the department shall resume current contract payments and shall release payments suspended pursuant to subsection (5) of this section.

NEW SECTION

WAC 275-38-560 CERTIFICATION REQUIREMENT. Each required report shall be accompanied by a certification signed on behalf of the contractor responsible to the department during the report period. If the contractor files a federal income tax return, the certification shall be executed by the person normally signing this return. The certification shall also be signed by the licensed administrator of the IMR facility. If the report is prepared by someone other than an employee of the contractor, a separate statement shall be included with the certification signed by the individual preparing the report and indicating his or her status with the contractor.

NEW SECTION

WAC 275-38-565 REPORTS—FALSE INFORMATION. (1) If a contractor knowingly or with reason to know files a report containing false information, such action constitutes cause for termination of the contractor's contract with the department.

(2) Adjustments to reimbursement rates required because a false report was filed will be made in accordance with WAC 275-38-885.

(3) Contractors filing false reports may be referred for prosecution under applicable statutes.

NEW SECTION

WAC 275-38-570 AMENDMENTS TO REPORTS. (1) For purposes of computing settlements, an

amendment to an annual report shall be filed if significant errors or omissions are discovered prior to the commencement of the department's field audit. Errors or omissions shall be deemed "significant" if errors or omissions would mean a net difference of two cents or more per resident day or one thousand dollars or more in reported costs, whichever is higher, in any cost area. To file an amendment, only pages where changes are required need to be filed, together with the certification required by WAC 275-38-560. Adjustments to reimbursement rates resulting from an amended report will be made in accordance with WAC 275-38-885.

(2) If an amendment is filed, a contractor shall also submit with the amendment an account of the circumstances relating to and the reasons for the amendment, along with supporting documentation. The department may refuse to consider an amendment resulting in a more favorable settlement to a contractor if the amendment is not the result of circumstances beyond the control of the contractor or the result of good-faith error under the system of cost allocation and accounting in effect during the reporting period in question. Amendments may be submitted for purposes of adjusting reimbursement rates in accordance with WAC 275-38-900; however, use in this regard does not mean an amendment will be used for settlement purposes in the absence of conditions specified in subsection (2) of this section.

(3) Acceptance or use by the department of an amendment to a cost report shall in no way be construed as a release of applicable civil or criminal liability.

NEW SECTION

WAC 275-38-575 REPORTING FOR AN ABBREVIATED PERIOD. (1) Reports shall be filed as required by the department when a contractor or IMR facility enters the prospective cost-related reimbursement system.

(2) If the contractor changes during a fiscal year, the former contractor shall submit a final annual report covering the period the contract was in effect during the fiscal year. The new contractor shall submit an annual report covering the period the contract is in effect during the fiscal year.

(3) An annual report shall be submitted within sixty days after the end of the abbreviated period.

NEW SECTION

WAC 275-38-580 REQUIREMENTS FOR RETENTION OF RECORDS BY THE CONTRACTOR. All financial and statistical data supporting the required reports shall be retained for a period of three years subsequent to filing at a location in the state of Washington specified by the contractor. If at the end of three years there are unresolved audit questions, the records shall be retained until these questions are resolved. All such data shall be made available upon demand to authorized representatives of the department and of the United States department of health and human services. When a contract is terminated, final settlement will not be made until accessibility and preservation of the records within the state of Washington are assured.

NEW SECTION

WAC 275-38-585 REQUIREMENT FOR RETENTION OF REPORTS BY THE DEPARTMENT. The department will retain each required report for a period of three years following the date the report was submitted. If at the end of three years there are unresolved audit questions, the report will be retained until such questions are resolved.

NEW SECTION

WAC 275-38-590 DISCLOSURE OF IMR FACILITY REPORTS. Pursuant to chapter 388-320 WAC, all required financial and statistical reports submitted by IMR facilities to the department will be available for public disclosure.

NEW SECTION

WAC 275-38-595 DESK REVIEW. (1) The department will analyze each annual cost report within six months after the annual cost is properly completed and filed.

(2) If it appears from the analysis a contractor has not correctly determined or reported costs, the department may request additional information from the contractor. If the department deems it necessary in order to ensure correct reporting, the department may schedule a special field audit of the contractor.

NEW SECTION

WAC 275-38-600 FIELD AUDITS. Each annual cost report will be field audited by auditors employed by or under contract with the department.

NEW SECTION

WAC 275-38-605 PREPARATION FOR AUDIT BY THE CONTRACTOR. (1) The department will normally notify the contractor at least two weeks in advance of a field audit.

(2) The contractor shall provide the auditors with access to the IMR and to all financial, statistical records, and work papers supporting the data in the cost report. Such records shall be made available at a location in the state of Washington specified by the contractor, as agreed by the department.

(3) The contractor shall reconcile reported data with applicable federal income and payroll tax returns and with the financial statement as of the end of the period covered by the report. Such reconciliation shall be in suitable form for verification by the auditors.

NEW SECTION

WAC 275-38-610 SCOPE OF FIELD AUDITS. (1) Auditors will review the contractor's record-keeping and accounting practices and, where appropriate, make written recommendations for improvements.

(2) Auditors will examine the contractor's financial and statistical records to verify:

(a) Supporting records are in agreement with reported data;

(b) Only expense items the department has specified as allowable costs have been included by the contractor in computing the costs of services provided under the contract;

(c) Allowable costs have been accurately determined and are reasonable, necessary, ordinary, and related to resident care; and

(d) Resident trust funds have been properly maintained.

(3) Auditors will prepare and provide draft audit narratives and summaries to the contractor before final narratives and summaries are prepared.

NEW SECTION

WAC 275-38-615 INADEQUATE DOCUMENTATION. The auditors will disallow any expenses reported as allowable costs not supported by adequate documentation in the contractor's financial records. Documentation must show the costs were incurred and were related to resident care and training.

NEW SECTION

WAC 275-38-620 DEADLINE FOR COMPLETION OF AUDITS. (1) Field audits will be completed within one year after a properly completed annual cost report is received by the department, provided field auditors are given timely access to the IMR facility and to all financial and statistical records necessary to audit the report.

(2) The department will give priority to field audits of final annual reports and whenever possible will begin such field audits within sixty days after a properly completed final annual report is received.

NEW SECTION

WAC 275-38-625 DISCLOSURE OF AUDIT NARRATIVES AND SUMMARIES. Final audit narratives and summaries prepared by the auditor will be available for public disclosure.

NEW SECTION

WAC 275-38-630 SETTLEMENT. (1) Beginning with calendar year 1981, the contractor shall submit a preliminary settlement report together with the contractor's annual cost report. This report shall compare the prospective rates paid to the contractor during the report period, weighted according to the number of resident days each rate was in effect, with the contractor's allowable costs for the period, taking into account all authorized shifting (WAC 275-38-635) and the upper rate limits set out in WAC 275-38-885.

(2) Settlement shall be in accordance with the following principles:

(a) In the resident care and food cost areas, the contractor shall refund all portions of payments received for residents in excess of allowable resident care and food costs, respectively, for residents;

(b) In the administration, operations, and property cost areas, the contractor shall refund all portions of

payments received for recipients in excess of administration, operations, and property costs, respectively, for recipients;

(c) In the property cost area, the contractor shall refund amounts determined under WAC 275-38-815 and for settlement periods prior to January 1, 1981, amounts determined under WAC 275-38-810;

(d) In the return on equity cost area, the contractor shall refund amounts determined under WAC 275-38-880(4).

(3) The department will either accept or reject the preliminary settlement reported within ninety days after the preliminary settlement report's receipt. If the department accepts the preliminary settlement report, the preliminary settlement report will become the proposed settlement report. If the department rejects the preliminary settlement report, the department will submit a proposed settlement report to the contractor.

(4) The contractor shall pay the refund, or shall commence repayment in accordance with a schedule determined by the department, within sixty days after receiving the proposed settlement report, unless the contractor's preliminary settlement report was rejected by the department and the contractor contests settlement issues in good faith in accordance with the procedures set out in WAC 275-38-960. If the settlement determination is contested, the contractor shall pay or commence repayment in accordance with a schedule determined by the department within sixty days after such proceedings are concluded. The department will pay any amount due the contractor as the result of errors in billing or payment disclosed on the proposed settlement report within thirty days after the settlement report is received by the contractor or within thirty days after proceedings to contest the settlement are concluded.

(5) If the contractor does not refund the overpayment and interest or any installment when due, the department may withhold payments from current billings until the overpayment is refunded. Payments will only be withheld under this subsection up to the underfunded amount of the overpayment.

(6) A proposed settlement may be revised by the department on the basis of audit findings. Payments of amounts determined to be due on revised settlement to either contractor or the department shall be made within the time limits specified in subsections (4) and (5) of this section.

NEW SECTION

WAC 275-38-635 SHIFTING. (1) For calendar year 1981 and subsequent years, in determining a contractor's settlement, if allowable costs were less than the rate in any cost area, savings will be shifted (or "transferred") to cover any deficit in another cost area.

(2) The amount shifted may not exceed twenty percent of the rate in the cost area into which the shift is made.

(3) No saving may be shifted into the property or return on equity cost areas.

NEW SECTION

WAC 275-38-640 DATE SETTLEMENT BECOMES FINAL. (1) A settlement will become final thirty days after the date the revised settlement is received by the contractor unless the contractor contests this determination in accordance with the procedures set out in WAC 275-38-960. In the event the settlement determination is contested, the settlement determination will be final as of the date these proceedings are concluded.

(2) A settlement for calendar year 1981 or subsequent years will become final one hundred twenty days after the final audit narrative and summary is sent to the contractor, if no revised settlement is sent to the contractor prior to that date.

(3) A settlement for a settlement period prior to January 1, 1981, will be reopened if necessary to make adjustments in accordance with WAC 275-38-810(4).

NEW SECTION

WAC 275-38-642 INTEREST ON SETTLEMENTS. (1) In any settlement for calendar year 1981 or a subsequent year, where an amount is determined to be due the department, that amount will bear interest at a rate of one percent per month from the date the settlement is sent to the contractor to the date of payment, unless the contractor establishes the overpayment was the result of errors made by the department.

(2) The contractor may, by payment of a disputed settlement in whole, or where approved by the department, in part, stop accrual on the amount paid. Such payment will be without prejudice to any right to obtain review of a settlement determination.

NEW SECTION

WAC 275-38-643 STATEMENT PROVIDED AT TIME OF ADMISSION. The facility must provide each patient and representative with a written statement, at the time of admission:

(1) Listing all services provided by the facility, distinguishing between those services included in the facility's basic rate and those services not included in the facility's basic rate, that can be charged to the patient's personal funds;

(2) Stating there is no obligation for the patient to deposit funds with the facility;

(3) Describing the patient's right to select how personal funds will be handled. The following alternatives must be included:

(a) The patient's right to receive, retain, and manage his or her personal funds or have this done by a legal guardian, if any;

(b) The patient's right to apply to the social security administration to have a representative payee designated for purposes of federal or state benefits he or she may be entitled;

(c) Except when subdivision (b) of this section applies, the patient's right to designate, in writing, another person to act for the purpose of managing his or her personal funds; and

(d) The facility's obligation, upon written authorization by the patient, to hold, safeguard, and account for the patient's personal funds in accordance with subsection (3)(d) of this section.

(4) Stating any charge for this service is included in the facility's basic rate;

(5) Stating the facility is permitted to accept a patient's funds to hold, safeguard, and account for, only upon the written authorization of the patient or representative;

(6) Stating if the patient becomes incapable of managing his or her personal funds and does not have a representative, the facility is required to arrange for the management of his or her personal funds in accordance with WAC 275-38-660.

NEW SECTION

WAC 275-38-645 RESIDENT TRUST ACCOUNTS. (1) The provider shall establish and maintain, as a service to the recipient, a bookkeeping system, incorporated in the business records, adequate for audit, for all resident moneys entrusted to and received by the facility for the resident.

(2) The system will apply to the resident:

(a) Incapable of handling his or her own money and whose guardian, relative, developmental disabilities regional service office administrator, or physician makes written request of the facility to accept this responsibility; if the social security form SSA-780, "certificate of applicant for benefits on behalf of another," is utilized as documentation, the form must be signed by one of the persons designated in this subsection.

(b) Capable of handling his or her own money, but requests the facility in writing to accept this responsibility.

(3) It shall be the responsibility of the provider to maintain such written authorization in the resident's file.

(4) The resident must be given at least a quarterly reporting of all financial transactions in his or her trust account. The representative payee, the guardian and/or other designated agents of the recipient must be sent a copy of the quarterly accounting report.

NEW SECTION

WAC 275-38-650 ACCOUNTING PROCEDURES FOR RESIDENT TRUST ACCOUNTS. (1) The provider shall maintain a subsidiary ledger with an account for each resident for whom the provider holds money in trust. Each account and related supporting information shall:

(a) Be maintained at the facility;

(b) Be kept current;

(c) Be balanced each month, and;

(d) Show in detail, with supporting verification, all moneys received on behalf of the individual resident and the disposition of all moneys so received.

(2) Each account shall be available for audit and inspection by a department representative and be maintained for a minimum of three years. The provider further agrees to notify the division of developmental

disabilities, regional services office of the department when:

(a) The account of any individual certified on or before December 31, 1973, having an award letter limit of two hundred dollars cash, reaches the sum of one hundred seventy-five dollars.

The regional services office will re-evaluate the status of each recipient certified under the eligibility criteria prior to January 1, 1974, having an award letter specifying a two hundred dollar cash limit.

(b) The account of any individual certified on or after January 1, 1974, having an award letter limit of one thousand five hundred dollars, reaches the sum of one thousand four hundred fifty dollars.

(c) For both groups, the accumulation toward the limit, after admission to the facility, is permitted only from savings from the clothing and personal incidentals allowance and other income the department specifically designates as exempt income from time-to-time.

(d) No resident account may be overdrawn (show a debit balance). If a resident wants to spend an amount greater than in such resident's trust account, the IMR may provide money from the IMR's own funds and collect the debt by installments from the portion of the resident's allowance remaining at the end of each month. No interest may be charged to residents for such loans.

(3) In order to ensure the resident trust accounts are not charged for services provided under the Title XIX program, any charge for medical services otherwise properly made to a resident's trust account must be supported by a written denial from the department.

(a) A request for additional equipment such as a walker, wheelchair or crutches must have a written denial from the department of social and health services before a resident's trust account can be charged.

(b) Except as otherwise provided below, a request for physical therapy, drugs, or other medical services must have a written denial from the local CSO before a resident trust account can be charged.

A written denial from the local CSO is not required when the pharmacist verifies a drug is not covered by the program (e.g., items on the FDA list of ineffective or possible effective drugs, nonformulary over-the-counter (OTC) medications such as vitamins, laxatives, nose drops, etc.). The pharmacist's notation to this effect is sufficient.

NEW SECTION

WAC 275-38-655 TRUST MONEYS—IMPREST FUND. (1) The provider may maintain a petty cash fund originating from trust moneys of an amount reasonable and necessary for the size of the facility and the needs of the residents, not to exceed five hundred dollars. This petty cash fund shall be an imprest fund. All moneys over and above the trust fund petty cash amount shall be deposited intact in a trust fund checking account, separate and apart from any other bank account(s) of the facility or other facilities.

(2) Cash deposits of resident allowances must be made intact to the trust account within one week from the time payment is received from the department, social security administration, or other payor.

(3) Any related bankbooks, bank statements, checkbook, check register, and all voided and cancelled checks, shall be made available for audit and inspection by a department representative, and shall be maintained by the IMR for not less than three years.

(4) No service charges for such checking account shall be paid by resident trust moneys.

(5) The trust account per bank shall be reconciled monthly to the trust account per resident ledgers.

NEW SECTION

WAC 275-38-660 TRUST MONEYS CONTROL OR DISBURSEMENT. Trust moneys shall be held in trust and are not to be turned over to anyone other than the resident or his or her guardian without the written consent of the resident, his or her designated agent as appointed by power-of-attorney, or appropriate department of social and health services personnel as designated by the DDD regional services administrator.

(1) When moneys are received, a receipt should be filled out in duplicate; one copy should be given to the person making payment or deposit, and the other copy should be retained in the receipt book for easy reference.

(2) Checks received by residents must be endorsed by the resident. Each resident receiving a check or state warrant is responsible for endorsement by his or her own signature. Only when the resident is incapable of signing his or her name may the provider assume the responsibility of securing the resident's mark "X" followed by the name of the resident and the signature of two witnesses.

(3) If both the general fund account and the trust fund account are at the same bank, the trust portion of checks including care payments can be deposited directly to trust by including a trust account deposit slip for the correct amount with the checks and the general account deposit slip.

(4) The resident's trust account ledger sheet must be credited with the allowance received. This should be referenced with the receipt number and must be supported by a copy of the deposit slip (one copy for all deposits made).

NEW SECTION

WAC 275-38-665 TRUST MONEYS AVAILABILITY. Moneys so held in trust for any resident shall be available for his or her personal and incidental needs when requested by the resident or one of the individuals designated in WAC 275-38-660.

NEW SECTION

WAC 275-38-667 ACCOUNTING UPON CHANGE OF OWNERSHIP. (1) Upon sale of the facility or other transfer of ownership, the facility must provide the new owner with a written accounting, in accordance with generally accepted auditing procedures, of all patient funds being transferred, and obtain a written receipt for the funds from the new owner.

(2) The facility must give each patient or representative a written accounting of any personal funds held by the facility before any transfer of ownership occurs.

(3) In the event of a disagreement with the accounting provided by the facility, the patient retains all rights and remedies provided under state law.

NEW SECTION

WAC 275-38-670 PROCEDURE FOR RE-FUNDING TRUST MONEY. When a recipient is discharged and/or transferred, the balance of the resident's trust account will be returned to the individual designated in WAC 275-38-660, within thirty days, and a receipt obtained. In certain cases it may be advisable to mail the refund to the resident's new residence.

NEW SECTION

WAC 275-38-675 LIQUIDATION OF TRUST FUND. (1) Expired resident. The provider will obtain a receipt from next-of-kin, guardian, or duly qualified agent when releasing the balance of money held in trust. If there is no identified next-of-kin, guardian, or duly qualified agent, the DDD regional service office is to be contacted in writing within seven days for assistance in the release of the money held in trust. A check or other document showing payment to such next-of-kin, guardian, or duly qualified agent will serve as a receipt.

(2) Resident, unable to locate. In situations where the resident leaves the IMR facility without authorization and his or her whereabouts are unknown:

(a) The IMR will make a reasonable attempt to locate the missing resident. This includes: Contacting friends, relatives, police, the guardian, and the DDD in the area.

(b) If the resident cannot be located after ninety days, the IMR must notify the department of revenue of the existence of "abandoned property", outlined in chapter 63.28 RCW. The IMR will be required to deliver to the department of revenue the balance of the resident's trust fund account within twenty days following such notification.

NEW SECTION

WAC 275-38-678 RESIDENT PROPERTY RECORDS. (1) The facility must maintain a current, written record for each resident including written receipts for all personal possessions deposited with the facility by the resident.

(2) The property record must be available to the resident and resident representative as designated in WAC 275-38-645(2)(a).

NEW SECTION

WAC 275-38-680 ALLOWABLE COSTS. Allowable costs are documented costs necessary, ordinary, and related to the provision of IMR services to IMR residents, and are not expressly declared nonallowable by applicable statutes or regulations. Costs are ordinary if costs are of the nature and magnitude a prudent and cost-conscious management would pay.

NEW SECTION

WAC 275-38-685 SUBSTANCE PREVAILS OVER FORM. (1) In determining allowable costs, the

substance of a transaction will prevail over the transaction's form. Accordingly, allowable costs will not include increased costs resulting from transactions or the application of accounting methods circumventing the principles of the prospective cost-related reimbursement system.

(2) Increased costs resulting from a series of transactions between the same parties and involving the same assets (e.g., sale and leaseback, successive sales or leases of a single facility or piece of equipment) will not be allowed.

NEW SECTION

WAC 275-38-690 OFFSET OF MISCELLANEOUS REVENUES. (1) Allowable costs shall be reduced by the contractor whenever the item, service, or activity covered by such costs generates revenue or financial benefits (e.g., purchase discounts or rebates) other than through the contractor's normal billing for IMR services: Except, unrestricted grants, gifts, endowments, and interest therefrom, will not be deducted from the allowable costs of a nonprofit facility.

(2) Where goods or services are sold, the amount of the reduction shall be the actual cost relating to the item, service, or activity. In the absence of adequate documentation of cost, the amount of the reduction shall be the full amount of the revenue received. Where financial benefits such as purchase discounts or rebates are received, the amount of the reduction shall be the amount of the discount or rebate.

(3) Only allowable costs shall be recovered under this section. Costs allocable to activities or services not included in IMR services (e.g., costs of vending machines, residents' personal laundry, and services specified in chapter 388-86 WAC not included in IMR services) are nonallowable costs.

NEW SECTION

WAC 275-38-695 COSTS OF MEETING STANDARDS. All categories of necessary and ordinary expenses a contractor incurs in providing IMR services meeting all applicable standards will be allowable costs.

NEW SECTION

WAC 275-38-700 LIMIT ON COSTS TO RELATED ORGANIZATIONS. (1) Costs applicable to services, facilities, and supplies furnished by organizations related to the contractor shall be allowable only to the extent the costs do not exceed the lower of the cost to the related organization or the price of comparable services, facilities or supplies purchased elsewhere. The term "related organization" is defined in WAC 275-38-001.

(2) Documentation of costs to related organizations shall be made available to the auditors at the time and place the financial records relating to the entity are audited. Payments to or for the benefit of the related organization will be disallowed where the cost to the related organization cannot be documented.

NEW SECTION

WAC 275-38-705 START-UP COSTS. Necessary and ordinary start-up costs, as defined in WAC 275-38-001, will be allowable if start-up costs are amortized over not less than sixty consecutive months beginning with the month the first resident is admitted for care.

NEW SECTION

WAC 275-38-715 EDUCATION AND TRAINING. (1) Ordinary expenses of on-the-job training and in-service training required for employee orientation and certification training directly related to the performance of duties assigned will be allowable costs.

(2) Ordinary expenses of resident life staff training will be allowable costs.

(3) Necessary and ordinary expenses of recreational and social activity training conducted by the contractor for volunteers will be allowable costs. Expenses of training programs for other nonemployees will not be allowable costs.

NEW SECTION

WAC 275-38-720 TOTAL COMPENSATION—OWNERS, RELATIVES, AND CERTAIN ADMINISTRATIVE PERSONNEL. For purposes of the tests in WAC 275-38-725 and 275-38-730, total compensation includes gross salary or wages and fringe benefits (e.g., health insurance) made available to all employees but excludes payroll taxes paid by the contractor.

NEW SECTION

WAC 275-38-725 OWNER OR RELATIVE—COMPENSATION. (1) Total compensation of an owner or relative of an owner shall be limited to ordinary compensation for necessary services actually performed.

(a) Compensation is ordinary if the compensation is the amount usually paid for comparable services in a comparable facility to an unrelated employee, and does not exceed limits set out in this chapter.

(b) A service is necessary if the service is related to resident care and training and would have had to be performed by another person if the owner or relative had not performed the service.

(2) The contractor, in maintaining customary time records adequate for audit shall include such records for owners and relatives receiving compensation.

(3) For purposes of this section, if the contractor with the department is a corporation, "owner" includes all corporate officers and directors.

NEW SECTION

WAC 275-38-730 MAXIMUM ALLOWABLE COMPENSATION OF CERTAIN ADMINISTRATIVE PERSONNEL. (1) Compensation for administrative personnel shall be an allowable cost, subject to the limits contained in this section.

(2) Total compensation of the licensed administrator for services actually rendered to an IMR facility on a full-time basis (at least forty hours per week, including

reasonable vacation, holiday, and sick time) will be allowable at the lower of (a) actual compensation received, or (b) the amount in the table in subsection (5) of this section corresponding to the number of set-up beds in the IMR facility. Compensation of the licensed administrator will only be allowable if the department is given written notice of his or her employment within ten days after the employment begins.

(3) Total compensation of not more than one full-time licensed assistant administrator will be allowable if there are at least eighty set-up beds in the IMR, at the lower of (a) actual compensation received, or (b) seventy-five percent of the appropriate amount in the table in subsection (5) of this section.

(4) Total compensation of not more than one full-time registered administrator-in-training will be allowable at the lower of (a) actual compensation received, or (b) sixty percent of the appropriate amount in the table in subsection (5) of this section.

(5) **TABLE**

Maximum Allowable Total Compensation for Licensed Administrators—Calendar Year 1982

SET-UP BEDS

16 - 39	\$27,000
40 - 79	\$29,700
80 - 119	\$32,800
120 - 159	\$35,900
160 - 239	\$39,500
240 - 319	\$43,500
320 - 399	\$47,800
400 and up	\$52,600

(6) If the licensed administrator, licensed assistant administrator or registered administrator-in-training regularly works fewer than forty hours per week, allowable compensation shall be the lower of:

(a) Actual compensation received, or

(b) The appropriate amount in the table in subsection (5) of this section multiplied by the percentage derived from the division of the actual hours worked by forty hours. Further discounting is required if the person was licensed or registered and/or worked for less than the entire report period.

(7) The contractor shall maintain time records for the licensed administrator and for an assistant administrator, administrator-in-training or QMRP, if any.

(8) The cost of a licensed administrator, assistant administrator or administrator-in-training is not an allowable expense in IMR facilities of fifteen beds or less. Administrative services will be provided by the QMRP in these facilities. Total compensation of wages and salaries for the QMRP will be allowable at the lower of:

(a) Actual compensation received; or

(b) The hourly cost of wages and salaries of QMRP in level C and D IMR contracting with the department multiplied by the QMRP regularly worked hours per week, not to exceed forty hours per week.

NEW SECTION

WAC 275-38-735 DISCLOSURE AND APPROVAL OF JOINT FACILITY COST ALLOCATION. (1) The contractor shall disclose to the department:

(a) The nature and purpose of all costs which represent allocations of joint facility costs; and

(b) The methodology of the allocation utilized.

(2) Such disclosure shall be made not later than September 30, 1980, for the following year and not later than September 30th for each year thereafter, except a new contractor shall submit the first year's disclosure together with the submissions required by WAC 275-38-520.

(3) The contractor shall demonstrate and certify:

(a) The services involved are necessary, ordinary, related to resident care, and nonduplicative; and

(b) Costs are allocated in accordance with the resident care related benefits and services received from the specific resources represented by those costs.

(4) The department shall approve such methodology not later than December 31, 1980, and not later than December 31 for each year thereafter.

(5) An amendment or revision to an approved methodology shall be submitted to the department for approval at least ninety days prior to the effective date of the amendment or revision.

(6) Where a contractor will begin to incur joint facility costs at some time other than the beginning of the calendar year, the contractor shall provide the information required in subsections (1) and (3) of this section at least ninety days prior to the date the cost will first be incurred.

(7) Joint facility costs not disclosed, allocated, and reported in conformance with this section are nonallowable costs.

NEW SECTION

WAC 275-38-740 MANAGEMENT AGREEMENTS, MANAGEMENT FEES, AND CENTRAL OFFICE SERVICES. (1) If a contractor intends to enter into a management agreement with an individual or firm which will manage the IMR facility as agent of the contractor, a copy of the agreement must be received by the department at least ninety days before the agreement is to become effective. A copy of any amendment to a management agreement must also be received by the department at least ninety days in advance of the date the amendment is to become effective. No management fees for periods prior to the time the department receives a copy of the applicable agreement will be allowable. When necessary for the health and safety of facility residents, the ninety-day notice requirement may be waived, in writing, by the department.

(2) Management fees will be allowed only if:

(a) A written management agreement both creates a principal or agent relationship between the contractor and the manager, and sets forth the items, services, and activities to be provided by the manager; and

(b) Documentation demonstrates the services contracted for were actually delivered.

(3) To be allowable, fees must be for necessary, non-duplicative services. Allowable fees for general management services, including the portion of a management fee not allocated to specific services such as accounting, are limited to:

(a) The maximum allowable compensation under WAC 275-38-730 of the licensed administrator and, if the facility has at least eighty set-up beds, of an assistant administrator; less

(b) Actual compensation received by the licensed administrator and by the assistant administrator, if any. In computing maximum allowable compensation under WAC 275-38-730 for a facility with at least eighty set-up beds, include the maximum compensation of an assistant administrator even if no assistant administrator is employed;

(c) For IMR facilities of fifteen or fewer beds, the maximum allowable compensation will be the cost of forty hours per week of wages and salaries of PMRP in level C and D IMR contracting with the department, less the actual compensation received by the QMRP.

(4) A management fee paid to or for the benefit of a related organization will be allowable to the extent the fee does not exceed the lesser of (a) the limits set out in subsection (3) of this section, or (b) the lower of the actual cost to the related organization of providing necessary services related to resident care and training under the agreement, or the cost of comparable services purchased elsewhere. Where costs to the related organization represents joint facility costs, the measurement of such costs shall comply with WAC 275-38-735.

(5) Central office joint facility costs for general management services, including the portion of a management expense not allocated to specific services, shall be subject to the management fee limits determined in subsections (3) and (4) of this section.

NEW SECTION

WAC 275-38-745 ALLOWABLE INTEREST.

(1) The contractor's necessary and ordinary interest for working capital and capital indebtedness will be allowable.

(a) To be necessary, interest must be incurred in connection with a loan satisfying a financial need of the contractor and be for a purpose related to resident care and training. Interest expense relating to business opportunity or goodwill will not be allowed.

(b) To be ordinary, interest must be at a rate not in excess of what a prudent borrower would have to pay at the time of the loan in an arm's-length transaction in the money market.

(c) Interest expense shall include amortization of bond discounts and expenses related to the bond issue. Amortization shall be over the period from the date of sale to the date of maturity or, if earlier, the date of extinguishment of the bonds.

(2) Interest paid to or for the benefit of a related organization will be allowed only to the extent the actual interest does not exceed the cost to the related organization of obtaining the use of the funds.

NEW SECTION

WAC 275-38-750 OFFSET OF INTEREST INCOME. (1) In computing allowable costs, interest income from the investment or lending of nonrestricted funds shall be deducted from allowable interest expense.

(2) Interest income from the investment or lending of restricted funds shall not be deducted from allowable interest expense.

NEW SECTION

WAC 275-38-760 OPERATING LEASES OF FACILITIES AND EQUIPMENT. Rental or lease costs under arm's-length operating leases of facilities and/or equipment shall be allowable to the extent the cost is not in excess of arm's-length rental or lease costs of comparable facilities or equipment.

NEW SECTION

WAC 275-38-765 RENTAL EXPENSE PAID TO RELATED ORGANIZATIONS. The expense of renting facilities or equipment from a related organization shall be allowable to the extent the rental does not exceed the related organization's costs of owning (e.g., depreciation, interest on a mortgage) or leasing the assets, computed in accordance with this chapter.

NEW SECTION

WAC 275-38-770 CAPITALIZATION. The following costs shall be capitalized:

(1) Expenses for equipment with historical cost in excess of one hundred fifty dollars per unit and a useful life of more than one year from the date of purchase.

(2) Expenses for equipment with historical cost of one hundred fifty dollars or less per unit if either:

(a) The item was acquired in a group purchase where the total cost exceeded one hundred fifty dollars; or

(b) The item was part of the initial stock of the IMR facility.

(3) Effective January 1, 1981, for settlement purposes for periods subsequent to that date, and for purposes of setting rates for periods beginning July 1, 1982, and subsequently, subsection (1) of this section shall be applied with the sum "five hundred dollars" replacing the sum "one hundred fifty dollars."

(4) Expenditures for building improvements and leasehold improvements, if required or authorized by the lease agreement, in excess of five hundred dollars and involving one or more of the following:

(a) Increase the interior floor space of the structure;

(b) Increase paved areas outside the structure adjacent to or providing access to the structure;

(c) Modification of the exterior or interior walls of the structure;

(d) Installation of additional heating, cooling, electrical or water-related equipment;

(e) Remodeling or redecorating enhancing the value of the structure sufficiently to justify an increase in service charges to residents;

(f) Increase the useful life of the structure by two years or more;

(g) For a leasehold improvement, the asset shall be amortized over the asset's useful life in accordance with American hospital association guidelines.

NEW SECTION

WAC 275-38-775 DEPRECIATION EXPENSE. Depreciation expense on depreciable assets required in the regular course of providing resident care and training will be an allowable cost. The depreciation expense shall be:

(1) Identifiable and recorded in the contractor's accounting records, and

(2) Computed using the depreciation base, lives and methods specified in WAC 275-38-780.

NEW SECTION

WAC 275-38-780 DEPRECIABLE ASSETS. (1) Tangible assets of the following types where a contractor has an economic interest through ownership are subject to depreciation:

(a) Building – The basic structure or shell and additions thereto.

(b) Building Fixed Equipment – Attachments to buildings, such as wiring, electrical fixtures, plumbing, elevators, heating system, and air conditioning system. The general characteristics of this equipment are:

(i) Affixed to the building and not subject to transfer, and

(ii) An estimated life longer than ten years, but shorter than the life of the building where affixed.

(c) Major Movable Equipment – Such items as beds, wheelchairs, desks, and x-ray machines. The general characteristics of this equipment are:

(i) A relatively fixed location in the building;

(ii) Capable of being moved as distinguished from building equipment;

(iii) A unit cost sufficient to justify ledger control;

(iv) Sufficient size and identity to make control feasible by means of identification tags; and

(v) A minimum life of approximately three years. Effective January 1, 1981, for settlement purposes for periods subsequent to that date, and for purposes of setting rates for periods beginning July 1, 1982, and subsequently, this equipment shall be characterized by a minimum life of greater than one year.

(d) Minor Equipment – Such items as waste baskets, bed pans, syringes, catheters, silverware, mops, and buckets properly capitalized. No depreciation shall be taken on items not properly capitalized (see WAC 275-38-770). The general characteristics of minor equipment are:

(i) In general, no fixed location and subject to use by various departments;

(ii) Small in size and unit cost;

(iii) Subject to inventory control;

(iv) Fairly large number in use; and

(v) Generally, a useful life of one to three years.

(e) Land Improvements – Such items as paving, tunnels, underpasses, on-site sewer and water lines, parking lots, shrubbery, fences, walls, etc., where replacement is the responsibility of the contractor.

(f) Leasehold Improvements – Betterments and additions made by the lessee to the leased property, which become the property of the lessor after the expiration of the lease.

(2) Land is not depreciable. The cost of land includes the cost of such items as off-site sewer and water lines, public utility charges necessary to service the land, governmental assessments for street paving and sewers, the cost of permanent roadways and grading of a nondepreciable nature, and the cost of curbs and sidewalks, replacement of which is not the responsibility of the contractor.

NEW SECTION

WAC 275-38-785 DEPRECIATION BASE. (1) The depreciation base shall be the historical cost of the contractor in acquiring the asset from an unrelated organization and preparing depreciation base for use, less goodwill and less accumulated depreciation incurred during periods the assets have been used in or as a facility by the contractor, such accumulated depreciation to be measured in accordance with subsection (4) of this section and WAC 275-38-790, 275-38-795, and 275-38-800. If the department challenges the historical cost of an asset or a contractor is not able to provide adequate documentation of the historical cost of an asset, the department may have the fair market value of the asset at the time of purchase established by appraisal. The fair market value of items of equipment will be established by appraisals performed by vendors of the particular type of equipment. When these appraisals are conducted, the depreciation base of the asset will not exceed fair market value. Estimated salvage value shall be deducted from historical cost where the straight-line or sum-of-the-years digits method of depreciation is used.

(2) Effective January 1, 1981, for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently, subsection (1) of this section shall be applied with the phrase "in an arm's-length transaction" replacing the phrase "from an unrelated organization."

(3) Effective July 1, 1982, in all cases subsection (1) of this section shall be applied with the phrase "in an arm's-length transaction" replacing the phrase "from an unrelated organization."

(4) Where depreciable assets are acquired from a related organization, the contractor's depreciation base shall not exceed the base the related organization had or would have had under a contract with the department.

NEW SECTION

WAC 275-38-790 DEPRECIATION BASE—DONATED OR INHERITED ASSETS. (1) The depreciation base of donated assets, as defined in WAC 275-38-001, or of assets received through testate or intestate distribution, shall be the lesser of:

(a) Fair market value at the date of donation or death, less goodwill. Estimated salvage value shall be deducted from fair market value where the straight-line or sum-of-the-years digits method of depreciation is used; or

(b) The depreciation base under the cost-related reimbursement program of the owner last contracting with the department, if any.

(2) If the donation or distribution is between related organizations, the base shall be the lesser of:

(a) Fair market value, less goodwill and, where appropriate, salvage value, or

(b) The depreciation base the related organization had or would have had for the asset under a contract with the department.

NEW SECTION

WAC 275-38-795 LIVES. (1) The contractor shall use lives no shorter than guideline lives contained in the internal revenue service class life ADR system or published by the American hospital association in computing allowable depreciation. The shortest life which may be used for buildings is thirty years.

(2) Lives shall be measured from the date of the most recent arm's-length acquisition of the asset.

(3) Building improvements shall be depreciated over the remaining useful life of the building, as modified by the improvement, but not less than fifteen years.

(4) Improvements to leased property which are the responsibility of the contractor under the terms of the lease shall be depreciated over the useful life of the improvement.

(5) A contractor may change the estimate of an asset's useful life to a longer life for purposes of depreciation.

NEW SECTION

WAC 275-38-800 METHODS OF DEPRECIATION. (1) Buildings, land improvements, and fixed equipment shall be depreciated using the straight-line method. Major-minor equipment shall be depreciated using either the straight-line method, the sum-of-the-years digits method, or declining balance method not to exceed one hundred fifty percent of the straight-line rate. Contractors electing to take either the sum-of-the-years digits method or the declining balance method of depreciation on major-minor equipment may change to the straight-line method without permission of the department.

(2) The annual provision for depreciation shall be reduced by the portion allocable to use of the asset for purposes not both necessary and related to resident care and training.

(3) No further depreciation shall be claimed after an asset has been fully depreciated unless a new depreciation base is established pursuant to WAC 275-38-785.

NEW SECTION

WAC 275-38-805 RETIREMENT OF DEPRECIABLE ASSETS. (1) Where depreciable assets are disposed of through sale, trade-in, scrapping, exchange, theft, wrecking, or fire or other casualty, depreciation shall no longer be taken on the assets. No further depreciation shall be taken on permanently abandoned assets.

(2) Where an asset has been retired from active use but is being held for stand-by or emergency service, and

the department has determined that the asset is needed and can be effectively used in the future, depreciation may be taken, as prescribed in WAC 275-38-775 through 275-38-800.

NEW SECTION

WAC 275-38-810 HANDLING OF GAINS AND LOSSES UPON RETIREMENT OF DEPRECIABLE ASSETS. Settlement periods prior to January 1, 1981, and rate periods prior to July 1, 1982.

(1) For settlement purposes for periods prior to January 1, 1981, and for rate-setting purposes for periods prior to July 1, 1982, gains and losses on the retirement of depreciable assets either during the period of participation in the program or within twelve months following termination, shall be treated in accordance with this section.

(2) A gain or loss on the retirement of an asset shall be the difference between the remaining undepreciated base and any proceeds received for, or to compensate for loss of, the asset. For purposes of subsections (3) and (4) of this section, the total gain shall be reduced by one percent for each month of ownership of an asset with an expected useful life of one hundred months or longer. For an asset with an expected useful life of less than one hundred months, total gain shall be reduced by the portion thereof equal to the ratio of the actual life of the asset from the most recent arm's-length acquisition up to the date of retirement to the assets expected useful life.

(3) If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset.

(4) If the retired asset is not replaced, or if the contractor is terminating the contract, the gain or loss shall be spread over the actual life of the asset up to the date of retirement, provided a loss will only be so spread if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset. The difference between reimbursement actually paid for depreciation in any period beginning on or after January 1, 1978, and the reimbursement for depreciation having been paid with the base adjusted to reflect the gain or loss, will be computed. Where the difference results from a gain, the difference shall be recovered by the department. Where the difference results from a loss, the difference will be added to allowable costs for purposes of determining settlement.

NEW SECTION

WAC 275-38-812 HANDLING OF GAINS AND LOSSES UPON RETIREMENT OF DEPRECIABLE ASSETS—OTHER PERIODS. (1) This section shall apply in the place of WAC 275-38-810 effective January 1, 1981, for purposes of settlement for settlement periods prior to that date, and for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently.

(2) A gain or loss on the retirement of an asset shall be the difference between the remaining undepreciated base and any proceeds received for, or to compensate for loss of, the asset.

(3) If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset.

NEW SECTION

WAC 275-38-815 RECOVERY OF EXCESS OVER STRAIGHT-LINE DEPRECIATION. If a contractor terminates the contract without selling or otherwise retiring equipment which was depreciated using an accelerated method, depreciation schedules relating to these assets for periods the contractor participated in the program shall be adjusted. The difference between reimbursement actually paid for depreciation in any period beginning on or after January 1, 1978, and the reimbursement which would have been paid for depreciation if the straight-line method had been used, will be recovered by the department.

NEW SECTION

WAC 275-38-820 UNALLOWABLE COSTS. (1) Costs will be unallowable if not documented, necessary, ordinary, and related to the provision of services to IMR residents.

(2) Unallowable costs include, but are not limited to, the following:

(a) Costs of items or services not covered by the Medicaid program. Costs of nonprogram items or services will be unallowable even if indirectly reimbursed by the department as the result of an authorized reduction in resident contribution.

(b) Costs of services and items provided to IMR residents covered by the department's medical care program but not included in IMR services respectively. Items and services covered by the medical care program are listed in chapter 388-86 WAC.

(c) Costs associated with a capital expenditure subject to Section 1122 approval (part 100, Title 42 C.F.R.) if the department found the capital expenditure was not consistent with applicable standards, criteria or plans. If the department was not given timely notice of a proposed capital expenditure, all associated costs will be nonallowable as of the date the costs are determined not to be reimbursable under applicable federal regulations.

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained.

(e) Costs of outside activities (e.g., costs allocable to the use of a vehicle for personal purposes, or related to the part of a facility leased out for office space).

(f) Salaries or other compensation of officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to resident care and training.

(g) Costs in excess of limits or violating principles set forth in this chapter.

(h) Costs resulting from transactions or the application of accounting methods circumventing the principles of the prospective cost-related reimbursement system.

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities or supplies purchased elsewhere.

(j) Bad debts.

(k) Charity and courtesy allowances.

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and cost incurred to improve community or public relations.

(m) Vending machine expenses.

(n) Expenses for barber or beautician services not included in routine care.

(o) Funeral and burial expenses.

(p) Costs of gift shop operations and inventory.

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except those used in resident activity programs or in IMR programs where clothing is a part of routine care.

(r) Fund-raising expenses, except those directly related to the resident activity program.

(s) Penalties and fines.

(t) Expenses related to telephones, televisions, radios, and similar appliances in residents' private accommodations.

(u) Federal, state, and other income taxes.

(v) Costs of special care services, except where authorized by the department.

(w) Expenses of key-man insurance and other insurance or retirement plans not in fact made available to all employees.

(x) Expenses of profit-sharing plans.

(y) Expenses related to the purchase and/or use of private or commercial airplanes in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to resident care.

(z) Personal expenses and allowances of owners or relatives.

(aa) All expenses of maintaining professional licenses or membership in professional organizations.

(bb) Costs related to agreements not to compete.

(cc) Goodwill and amortization of goodwill.

(dd) Expenses related to vehicles in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to resident care.

(ee) Legal and consultant fees in connection with a fair hearing against the department where a decision is rendered in favor of the department or where otherwise the determination of the department stands.

(ff) Legal and consultant fees in connection with a lawsuit against the department are nonallowable.

(gg) Lease acquisition costs and other intangibles not related to resident care and training.

(hh) Interest charges assessed by the state of Washington for failure to make timely refund of overpayments and interest expenses incurred for loans obtained to make such refunds.

NEW SECTION

WAC 275-38-830 PROSPECTIVE REIMBURSEMENT RATES. The department will determine prospective reimbursement rates for IMR services provided to residents. Each rate represents the contractor's maximum compensation for one resident day of care and training of a resident determined by the department to require IMR care and training.

NEW SECTION

WAC 275-38-835 PROGRAM SERVICES NOT COVERED BY THE REIMBURSEMENT RATE. Medical services which are part of the department's medical care program but not included in IMR services are not covered by the prospective reimbursement rate. Payment is made directly to the provider of service in accordance with chapter 388-87 WAC. Items and services covered by the medical care program are listed in chapter 388-86 WAC.

NEW SECTION

WAC 275-38-840 PROSPECTIVE REIMBURSEMENT RATE FOR NEW CONTRACTORS.

(1) A prospective reimbursement rate for a new contractor will be established within sixty days following receipt by the department of a properly completed projected budget (see WAC 275-38-520). The reimbursement rate will be effective as of the effective date of the contract.

(2) The prospective reimbursement rate will be based on the contractor's projected cost of operations, and on costs and payment rates of the prior contractor, if any, and/or of other contractors in comparable circumstances.

(3) If a properly completed projected budget is not received at least sixty days prior to the effective date of the contract, the department will establish a preliminary rate based on the other factors specified in subsection (2) of this section. The preliminary prospective rate will remain in effect until an initial prospective rate can be set.

(4) Where a change of ownership is involved which is not an arm's-length transaction as defined in WAC 275-38-001, the new contractor's prospective rates in the administration and operation and property cost areas will be no higher than the rates of the old contractor, adjusted if necessary to take into account economic trends.

NEW SECTION

WAC 275-38-845 RATE DETERMINATION.

(1) Each contractor's reimbursement rate will be determined prospectively at least once each calendar year to be effective July 1, and will be adjusted for inflation January 1, using factors specified in WAC 275-38-855(3). Rates may be adjusted more frequently to take

into account program changes, as specified in WAC 275-38-855(4).

(2) Where the contractor participated in the program during all or part of the prior fiscal period, the property and return on equity rates, and the nonwage component of administration and operations rate, will be determined based on the contractor's allowable costs in the prior period.

NEW SECTION

WAC 275-38-850 COST CENTERS. A contractor's overall reimbursement rate for IMR residents consists of the total of five component rates, each covering one cost center. The five cost centers are:

- (1) Residential care and habilitative services;
- (2) Food;
- (3) Administration and operations;
- (4) Property; and
- (5) Return on equity.

NEW SECTION

WAC 275-38-855 METHOD OF RATE DETERMINATION. (1) Data used in determining rates will be taken from the most recent complete, desk-reviewed annual cost report, and other documents submitted by each contractor.

(2) Data containing obvious errors, data for facilities out of compliance with any condition at any time during the reporting period, and data for facilities with average occupancy ratios of less than eighty-five percent for the report period, will be excluded from the determination of predicted costs and rate upper limits for WAC 275-38-870 and 275-38-875.

(3)(a) Semiannual adjustments for inflation will be:

- (i) 5.0 percent for rates effective July 1, 1981, through December 31, 1981.
- (ii) 4.25 percent for rates effective January 1, 1982, through June 30, 1982.
- (iii) 1.625 percent for rates effective July 1, 1982, through December 31, 1982.
- (iv) 1.625 percent for rates effective January 1, 1983, through June 30, 1983.

(b) Property and return on equity rates will not be adjusted for inflation.

(4) Where new standards are imposed, or the department wishes to encourage additional services or otherwise change the program, a cost-related adjustment will be made to the appropriate cost area rates of each contractor affected by the program change. Adjustments will be made until reported costs used in setting rates reflect the new standards or program changes.

(5) For rate determinations effective July 1, 1982, through June 30, 1983, the department shall establish a redistribution pool consisting of overpayments to contractors for 1981, indicated by preliminary settlements, less one hundred twenty thousand dollars. This pool shall be distributed to contractors pursuant to WAC 275-38-860 and 275-38-870.

NEW SECTION

WAC 275-38-860 RESIDENT CARE AND HABILITATIVE SERVICES COST CENTER RATE.

(1) The resident care and habilitative services cost center reimbursement rate will reimburse for the necessary and ordinary costs of providing routine nursing, residential and habilitative services to residents in accordance with WAC 275-38-040 and 275-38-045; accordingly, the department has established five levels of care. These levels are: Level A, level B, level C, level D, and level E.

(2) Effective July 1, 1982, through June 30, 1983, the residential care and habilitative services cost center rate will be computed according to this section.

(a) As used in this section, "desk-reviewed residential care and habilitative services cost" shall be allowable residential care and habilitative services costs as determined by desk reviews conducted in accordance with WAC 275-38-595.

(b) If a contractor's weighted residential care and habilitative services rate for 1981 as computed in accordance with department regulations and instructions is equal to or greater than the contractor's desk-reviewed 1981 residential care and habilitative services costs, the department shall reimburse the residential care and habilitative services cost center at the desk-reviewed 1981 residential care and habilitative services costs plus any residential care and habilitative services funds shifted to other cost centers pursuant to WAC 275-38-635, as adjusted for inflation.

(c) If a contractor's residential care and habilitative services rate for 1981 is less than the contractor's desk-reviewed 1981 residential care and habilitative services costs, the department shall reimburse the contractor's residential care and habilitative services cost at the contractor's January 1, 1982 residential care and habilitative services reimbursement rate, less one and one-half percent, as adjusted for inflation, plus an allowance from the redistribution pool. The total reimbursement paid to a contractor for residential care and habilitative services, including any allowance from the redistribution pool, shall not exceed the contractor's 1981 desk-reviewed residential care and habilitative services costs, as adjusted for inflation. The total of allowances distributed pursuant to subsection (2)(c) of this section shall not exceed the total amount in the redistribution pool. If the total of funds in the redistribution pool is equal to or exceeds the total amount of underfunding for residential care and habilitative services for all contractors, each contractor's allowance shall be the amount the contractor was underfunded for residential care and habilitative services, if any, where underfunding is defined as any excess of 1981 desk-reviewed cost over the 1981 rate in this cost center, as adjusted for inflation. If the total of funds in the redistribution pool is less than the total residential care and habilitative services underfunding for all contractors, the allowance distributed to each contractor shall be a percentage of the amount a contractor was underfunded, as defined in subsection (2)(c) of this section, for residential care and habilitative services, if any was experienced by the contractor. The percentage shall be computed by dividing the total of funds in the

pool by the total amount of underfunding for all contractors.

(3) To residential care and habilitative services cost center rates determined in accordance with subsections (2)(b) and (c) of this section, a residential care and habilitative services enhancement shall be added. The enhancement shall be distributed among facilities proportionately based upon residential care and habilitative services cost center rates and shall not be adjusted for inflation. The total of enhancements distributed to contractors shall be six hundred thousand dollars.

(4) In addition to the reimbursement rate, each contractor may be assigned a range of residential care and habilitative services hours representing the maximum and minimum number of hours the department will purchase. The range will depend on the assigned level of care in each facility. For purposes of establishing an hourly range of service hours the calculation of hours will include resident life direct care staff, licensed nursing personnel, qualified mental retardation professionals, staff training, and staff responsible for activities. The range by level is:

3.1-6.1 for IMR level A residents, 2.7-5.4 for IMR level B residents, 2.1-3.6 for IMR level C residents, 1.2-2.4 for IMR level D residents, and a maximum of 5.0 for level E residents. Standard hours for each facility will be calculated based upon staffing data annual cost reports or other certified documents as required in the above ranges. The standard hours for each level will not fall below the minimum staffing levels as established in WAC 275-38-045. When the department requires new standards or makes program changes requiring more or less residential care and habilitative services, the range will be adjusted as of the effective date of the new standard or program change.

NEW SECTION

WAC 275-38-865 FOOD COST CENTER RATE. (1) The food cost center rate will reimburse for the necessary and ordinary costs of procuring food, dietary supplements, and beverages for meals and between-meal nourishment for residents.

(2) Effective July 1, 1982, through June 30, 1983, food reimbursement will be at the January 1, 1982 rate, adjusted for inflation.

NEW SECTION

WAC 275-38-870 ADMINISTRATION AND OPERATIONS COST CENTER RATE. (1) The administration and operations cost center reimbursement rate will include reimbursement for the necessary and ordinary costs of overall management of the facility, operation and maintenance of the physical plant, resident transportation, dietary service (other than the cost of food and beverages), laundry service, medical and habilitative supplies, taxes, and insurance.

(2) For rates effective July 1, 1982, through June 30, 1983, a contractor's administration and operations wage

component reimbursement rate will be set pursuant to subsection (2) of this section.

(a) If a contractor's administration and operations wage component rate for 1981, is greater than or equal to the contractor's desk-reviewed 1981 wage component costs, the department shall reimburse the contractor's wage component at the desk-reviewed 1981 administration and operations wage component costs, as adjusted for inflation.

(b) If a contractor's administration and operations wage component rate for 1981 is less than the contractor's desk-reviewed 1981 wage component costs, the department shall reimburse the contractor's wage component costs at the January 1, 1982, reimbursement rate, as adjusted for inflation.

(c) It is further provided, if any funds remain in the redistribution pool established pursuant to WAC 275-38-855(5) after distribution to contractors pursuant to WAC 275-38-860, the department shall distribute the funds to contractors underfunded in the wage component area, as determined by subsection (2)(b) of this section, according to the following rules:

(i) If the amount remaining in the redistribution pool exceeds or is equal to the total amount the contractors were underfunded in the wage component center, each contractor's allowance shall be the amount the contractor was underfunded for costs in this component, if any, where underfunding is defined as any excess of 1981 desk-reviewed cost over the 1981 rate in this component, as adjusted for inflation.

(ii) If the amount remaining in the redistribution pool is less than the total amount the contractors were underfunded in the wage component area, each contractor shall receive an allowance which shall be a percentage of the amount the contractor was underfunded as defined in subsection (2)(c)(i) of this section. The percentage shall be computed by dividing the amount remaining in the redistribution pool by the total amount of underfunding in the wage component center for all contractors.

(iii) The distribution shall not exceed the total amount of underfunded wage component costs for all contractors nor the amount remaining in the redistribution pool, if any.

(3) For rates effective July 1, 1982, through June 30, 1983, a contractor's administration and operations non-wage component reimbursement rate will be calculated as follows:

(a) Allowable administration and operations costs, including wages of administrators, assistant administrators, and administrators-in-training, but excluding wages of other support staff, will be taken from the most recent desk-reviewed annual cost report.

(b) Effective July 1, 1982, through June 30, 1983, if any amounts were shifted into the administration and operations cost area during the period covered by the most recent annual cost report, an annualized amount will be subtracted from administration and operations non-wage costs determined by the following formula:

$$AS = SS \times DR$$

(i) "AS" is the amount to be subtracted from administration and operations nonwage costs;

(ii) "SS" is the amount of the savings shifted into the administration and operations cost area; and

(iii) "DR" is the deficiency ratio, defined as the ratio of:

(A) Administration and operations nonwage costs minus the nonwage component of the administration and operations prospective rate; to

(B) Total administration and operations costs minus the total administration and operations prospective rate;

(C) This ratio may not be less than zero nor more than one.

(c) Adjusted costs will be updated using factors specified in WAC 275-38-855(3).

(d) Reimbursement for this portion of administration and operations will be limited to the eighty-fifth percentile of costs, adjusted as described in subsection (3)(b) of this section, of all reporting facilities, except facilities may be grouped by factors other than ownership or legal organization characteristics, which could reasonably influence cost requirements for administration and operations.

NEW SECTION

WAC 275-38-875 PROPERTY COST CENTER RATE. Property reimbursement for both leased and owner-operated facilities will not exceed the predicted cost plus one standard deviation of the necessary and ordinary costs of depreciation, and interest, of owner-operated facilities utilizing a multiple regression formula developed by the bureau of nursing home affairs pursuant to WAC 388-96-743. Effective July 1, 1982, through June 30, 1983, depreciation and interest costs of owner-operated facilities, for mortgages entered into prior to July 1, 1979, will be reimbursed to the extent the depreciation and interest costs do not exceed the reimbursement rate payable for the property cost center as of June 30, 1979, or July 1, 1979, whichever is higher, adjusted to meet any discrepancies as determined by the federal government between the reimbursements made and the approved state medicaid plan, and adjusted for any approved capitalized additions or replacements. Any leased facility operated as an intermediate care facility for the mentally retarded prior to July 1, 1979, will be reimbursed to the extent that the property cost exceed the upper limit of the multiple regression formula.

NEW SECTION

WAC 275-38-880 RETURN ON INVESTMENT. (1) Effective July 1, 1982, through June 30, 1983, the department will pay a return on equity to proprietary contractors utilizing applicable medicare rules and regulations as of July 1, 1979, with the following modifications:

(a) Monthly equity calculations will not be used. A desk review of reported equity will be conducted pursuant to WAC 275-38-595. The average ratio among proprietary contractors of current assets to expenses will be

computed by the bureau of nursing home affairs pursuant to WAC 388-96-750. The standard deviation of the ratio and the average ratio plus one standard deviation will also be computed. Current assets in excess of the average ratio plus one standard deviation will not be allowed unless the contractor can document the excess is ordinary, necessary, and related to resident care and training. No adjustments will be made to reported equity insofar as changes reflect additions to fixed assets which are ordinary, necessary, and related to resident care and training.

(b) Goodwill is not includable in the determination of net equity.

(c) Net equity and the payment for net equity shall be calculated as described in subsections (2) and (3) of this section.

(2) A contractor's net equity will be calculated using the appropriate items from the contractor's most recent desk reviewed cost report utilizing the definition of equity capital in WAC 275-38-001 and applying relevant medicare rules and regulations as of July 1, 1979, with the modifications described in subsection (1) of this section.

(3) The contractor's net equity will be multiplied by the medicare rate of return on equity capital for the twelve-month period ending on the date of the closing date of the contractor's cost report. The amount will be divided by the contractor's annual resident days for the cost report period to determine a rate per resident day. Where a contractor's cost report covers less than a twelve-month period, annual resident days will be estimated using the contractor's reported resident days.

(4) The information on which the return on equity is calculated is subject to field audit. If a field audit determines the desk-reviewed reported equity exceeds the equity documented and calculated in conformance with medicare rules and regulations as modified by this section, the contractor's return on equity rate for the rate period a return on equity rate calculated on the basis of the cost report was in effect shall be recalculated using the determinations of the field audit. Any payments in excess of the rate shall be refunded to the department as part of the settlement procedure established by WAC 275-38-630. In particular, subsections (4), (5), and (6) of WAC 275-38-630 shall apply.

NEW SECTION

WAC 275-38-885 UPPER LIMITS TO REIMBURSEMENT RATE. The reimbursement rate shall not exceed the contractor's customary charges to the general public for the services covered by the rate, except that public facilities rendering such services free of charge or at a nominal charge will be reimbursed according to the methods and standards set out in this chapter. The contractor shall immediately inform the department if the department's reimbursement rate does exceed customary charges for comparable services. If necessary, the rate will be adjusted in accordance with WAC 275-38-900. Rates will not exceed the limits set in 42 CFR 447.316.

NEW SECTIONWAC 275-38-895 NOTIFICATION OF RATES.

The department will notify each contractor in writing of the department's prospective reimbursement rate. Unless otherwise specified at the time the reimbursement rate is issued, the rate will be effective from the first day of the month the rate is issued until a new rate becomes effective. If a rate is changed as the result of an appeal in accordance with WAC 275-38-960, the rate will be effective as of the date the rate appealed from became effective.

NEW SECTIONWAC 275-38-900 ADJUSTMENTS REQUIRED DUE TO ERRORS OR OMISSIONS.

(1) Prospective rates are subject to adjustment by the department as a result of errors or omissions by the department or by the contractor. The department will notify the contractor in writing of each adjustment and of the effective date, and of any amount due to the department or to the contractor as a result of the rate adjustment. Rates adjusted in accordance with this section will be effective as of the effective date of the original rate.

(2) If a contractor claims an error or omission based upon incorrect cost reporting, amended cost report pages shall be prepared and submitted by the contractor. Amended pages shall be accompanied by the certification required by WAC 275-38-560 and a written justification explaining why the amendment is necessary. Such amendments shall not be accepted for settlement purposes unless the amendments meet the requirements of WAC 275-38-570, but may be used for purposes of revising a prospective rate. If changes made by the amendments are determined to be material by the department according to standards established by the department, such amended pages shall be subject to field audit. If a field audit determines the amendments are incorrect or otherwise unacceptable, any rate adjustment based on the amendment shall be null and void. Payments based upon the rate adjustment shall be subject to repayment as provided in subsection (3) of this section.

(3) The contractor shall pay an amount he or she owes the department resulting from an error or omission, or commence repayment in accordance with a schedule determined by the department, within sixty days after receipt of notification of the rate adjustment, unless the contractor contests the department's determination in accordance with the procedures set forth in WAC 275-38-960. If the determination is contested, the contractor shall pay or commence repayment within sixty days after completion of these proceedings. If a refund is not paid when due, the amount thereof may be deducted from current payments by the department.

(4) The department shall pay any amount owed the contractor as a result of a rate adjustment within thirty days after the department notifies the contractor of the rate adjustment.

(5) No adjustments will be made to a rate after the annual settlement for the period the rate was effective has become final.

NEW SECTION

WAC 275-38-905 REQUESTS FOR REVISION OF A PROSPECTIVE RATE. (1) A contractor may at any time request in writing a revision of the current rate. Each request shall include a detailed explanation of significant changes in the factors used to establish the rate, or of significant changes in actual costs incurred or anticipated.

(2) The department will inform a contractor of the disposition of a request within sixty days after receipt of the request and of any documentation necessary to support the request. Unless otherwise specified, a revised rate shall be effective as of the first day of the month in which the rate is issued.

(3) A formal request is not required for a rate increase granted to all contractors to cover the cost of meeting new federal or state requirements.

NEW SECTIONWAC 275-38-910 PUBLIC REVIEW OF RATE-SETTING METHODS AND STANDARDS.

The department will provide all interested members of the public with an opportunity to review and comment on proposed rate-setting methods and standards each year before setting rates.

NEW SECTION

WAC 275-38-915 PUBLIC DISCLOSURE OF RATE-SETTING METHODOLOGY. Without identifying individual IMR facilities, the department will make available to the public full information regarding the department's rate-setting methodology.

NEW SECTION

WAC 275-38-920 BILLING PERIOD. A contractor shall bill the department for care provided to medical care recipients from the first through the last day of each calendar month.

NEW SECTIONWAC 275-38-925 BILLING PROCEDURES.

(1) A contractor shall bill the department each month by completing and returning the IMR statement provided by the department. The IMR statement shall be completed and filed in accordance with instructions issued by the department.

(2) A contractor shall not bill the department for service provided to a resident until an award letter relating to the resident has been received. At that time the contractor may bill for service provided back through the date the resident was admitted or became eligible.

(3) Billing shall not cover the day of a resident's death, discharge, or transfer from the IMR facility.

NEW SECTIONWAC 275-38-930 CHARGES TO RESIDENTS.

(1) The department will notify a contractor of the amount each resident is required to pay for care provided under the contract and the effective date of such required contribution. It is the contractor's responsibility

to collect that portion of the cost of care from the resident, and to account for any authorized reduction from his or her contribution in accordance with procedures established by the department.

(2) If a contractor receives documentation showing a change in the income or resources of a resident which will mean a change in his or her contribution toward the cost of care, this shall be reported in writing to the regional services office, DDD, within seventy-two hours. If necessary, appropriate corrections shall be made in the next IMR statement, and a copy of documentation supporting the change shall be attached. If increased funds for a resident are received by a contractor, the normal amount shall be allowed for clothing, personal, and incidental expense, and the balance applied to the cost of care.

(3) The contractor shall accept the reimbursement rate established by the department as full compensation for all services the contractor is obligated to provide under the contract. The contractor shall not seek or accept additional compensation from or on behalf of a resident for any or all such services.

NEW SECTION

WAC 275-38-935 PAYMENT. (1) The department will reimburse a contractor for service rendered under the IMR contract and billed for in accordance with WAC 275-38-925.

(2) The amount paid will be computed using the appropriate rate assigned to the contractor.

(3) For each resident, the department will pay an amount equal to the appropriate rate or rates, multiplied by the number of resident days each rate was in effect, less the amount the resident is required to pay for his or her care (see WAC 275-38-930).

NEW SECTION

WAC 275-38-940 SUSPENSION OF PAYMENT. (1) Payments to a contractor may be withheld by the department in each of the following circumstances:

(a) A required report is not properly completed and filed by the contractor within the appropriate time period, including any approved extensions. Payments will be released as soon as a properly completed report is received.

(b) Auditors or other authorized department personnel in the course of his or her duties are refused access to an IMR or are not provided with existing appropriate records. Payments will be released as soon as such access or records are provided.

(c) A refund in connection with an annual settlement or rate adjustment is not paid by the contractor when due. The amount withheld will be limited to the unpaid amount of the refund.

(d) Payment for the final thirty days of service under a contract will be held pending final settlement when the contract is terminated.

(2) No payment will be withheld until written notification of the suspension is given to the contractor, stating the reason therefor.

NEW SECTION

WAC 275-38-945 TERMINATION OF PAYMENTS. All payments to a contractor will end no later than thirty days after any of the following occurs:

(1) A contract expires, is terminated or is not renewed;

(2) A facility license is revoked; or

(3) A facility is decertified as a Title XIX facility.

NEW SECTION

WAC 275-38-950 DISPUTES. (1) If a contractor wishes to contest the way a rule, contract provision, or policy statement relating to the prospective cost-related reimbursement system was applied to the contractor by the department, (e.g., in setting a reimbursement rate or determining a disallowance at audit), the contractor shall first pursue the administrative review process set out in WAC 275-38-960.

(2) The administrative review process in WAC 275-38-960 need not be exhausted if a contractor wishes to challenge the legal validity of a statute, rule, contract provision or policy statement.

NEW SECTION

WAC 275-38-955 RECOUPMENT OF UNDISPUTED OVERPAYMENTS. The department is authorized to withhold from the IMR current payment all amounts found by proposed or final settlement to be overpayments not identified by the IMR and challenged as overpayments as part of a good-faith administrative or judicial review. Contested amounts retained by the IMR pursuant to this section may be subject to recoupment by the department from the IMR current payment upon completion of judicial and administrative review procedures to the extent the department's position or claims are upheld.

NEW SECTION

WAC 275-38-960 ADMINISTRATIVE REVIEW PROCESS. (1) Within thirty days after a contractor is notified of an action or determination the contractor wishes to challenge, the contractor shall request in writing the director of the division of developmental disabilities or his or her designee review such determination. The request shall be signed by the contractor or the licensed administrator of the facility, shall identify the challenged determination and the date thereof, and shall state as specifically as practicable the grounds for the contractor's or licensed administrator's contention the determination was erroneous. Copies of any documentation the contractor intends to rely on to support the contractor's position shall be included with the request.

(2) After receiving a request meeting the criteria in subsection (1) of this section, the director of the division of developmental disabilities will contact the contractor to schedule a conference for the earliest mutually convenient time. The conference shall be scheduled for no later than thirty days after a properly completed request is received unless both parties agree in writing to a specific later date.

(3) The contractor and appropriate representatives of the department shall attend the conference. In addition, representatives selected by the contractor may attend and participate. The contractor shall bring to the conference, or provide to the department in advance of the conference, any documentation the contractor intends to rely on to support the contractor's contentions. The parties shall clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than thirty days after the initial session unless both parties agree in writing to a specific later date.

(4) Unless informal agreement has been reached at the conference, a written decision by the director of the division of developmental disabilities will be furnished to the contractor within sixty days after the conclusion of the conference.

(5) If the contractor desires review of an adverse decision of the director of the division of developmental disabilities, the contractor shall within thirty days following receipt of such decision request a fair hearing in writing in accordance with the administrative procedure act, chapter 34.04 RCW.

WSR 82-10-033
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 1797—Filed April 30, 1982]

I, David A. Hogan, Director, Division of Administration of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Deductible—Medically indigent, amending WAC 388-100-030.

I, David A. Hogan, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is these rules are necessary to implement chapter 19, Laws of 1982 1st ex. sess., which contained an emergency clause and is presently in effect.

Such rules are therefore adopted as emergency rules to take effect on May 1, 1982.

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 30, 1982.

By David A. Hogan
 Director, Division of Administration

AMENDATORY SECTION (Amending Order 1684, filed 7/29/81)

WAC 388-100-030 DEDUCTIBLE. A deductible of ~~((fifteen))~~ five hundred dollars per family over a twelve-month period is required.

(1) Only ~~((eligible))~~ family members that meet the eligibility requirements in WAC 388-100-010(1) through (4) can accumulate expenses against the deductible.

(2) The accumulation of the deductible ~~((commences with the date of certification not to exceed))~~ may begin up to seven working days prior to the date of application. The department may on an exception ~~((to policy))~~ basis waive the seven-day rule if a person fails to apply for medical reasons or other good cause.

(3) Only medical services as specified in WAC 388-100-035 are countable toward meeting the deductible requirement.

(4) The expenses incurred against the deductible are the liability of the applicant/recipient.

(5) If the deductible has not been satisfied during the ~~((certification))~~ three-month base period beginning with the month of application, the remaining amount is applied to any subsequent ((acute and emergent certification period which begins)) applications within twelve months of the initial application.

WSR 82-10-034
ADOPTED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Order 82-16—Filed April 30, 1982]

I, Sam Kinville, director of the Washington State Department of Labor and Industries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to allowing the department to cancel bonds posted as security for premium payment if the employer's account is in good standing.

This action is taken pursuant to Notice No. WSR 82-07-022 filed with the code reviser on March 11, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 51.04.020 which directs that the Director of the Department of Labor and Industries has authority to implement the provisions of Title 51 RCW, Industrial Insurance.

This rule is promulgated under the general rule-making authority of the director of the Department of Labor and Industries as authorized in Title 51 RCW, Industrial Insurance.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as

appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 29, 1982.

By Sam Kinville
Director

AMENDATORY SECTION (Amending Order 80-23, filed 11/13/80)

WAC 296-17-351 PERIODIC REVIEW OF CASH DEPOSIT. The supervisor of industrial insurance through the audit and collection section of the division of industrial insurance will periodically review the cash deposit or bond of all employers and all new employers or employers resuming operations pursuant to RCW 51.16.110.

The department will cancel the cash deposit or bond having been made by an employer who has been conducting a business or trade and who has been reporting premium payments to the department for at least 12 consecutive calendar quarters: PROVIDED, HOWEVER, The cancellation of the deposit or bond shall be contingent upon:

(1) The initial deposit or bond is deemed by the department as having adequately represented the premiums covering the first three full calendar months of operations.

(2) The employer's quarterly reports and premium payments covering any such 12 consecutive quarterly reporting periods have been made in accordance with the provisions as set forth in Title 51 RCW and in accordance with WAC 296-17-310: PROVIDED FURTHER, In the event cancellation of the deposit or bond has been made on behalf of any employer and such employer subsequently fails to submit reports and payments, as required, such employer shall, upon request be required to reinstate the deposit or bond.

WSR 82-10-035
ADOPTED RULES
THE EVERGREEN
STATE COLLEGE

[Order 82-1, Motion No. 82-9—Filed April 30, 1982]

Be it resolved by the board of trustees of The Evergreen State College, acting at Olympia, Washington, that it does promulgate and adopt the annexed rules relating to regular meeting time, WAC 174-104-010.

This action is taken pursuant to Notice Nos. WSR 82-06-008 and 82-09-009 filed with the code reviser on February 19, 1982 and April 9, 1982. Such rules shall take effect pursuant to RCW 28B.19.050(2).

This rule is promulgated under the general rule-making authority of The Evergreen State College as authorized in RCW 28B.40.120(11).

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as

appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 15, 1982.

By Daniel J. Evans
President

AMENDATORY SECTION (Amending Order 78-1, Resolution Motion 78-7, filed 4/7/78)

WAC 174-104-010 REGULAR MEETINGS. A regular meeting of the Board of Trustees shall be held once each month unless dispensed with by the Board of Trustees, on the campus of The Evergreen State College beginning at ~~((10:30 a.m.))~~ 1:30 p.m. on the second Thursday of the month, except that when such Thursday shall be a legal holiday, the meeting shall be held on the Friday immediately following such second Thursday.

WSR 82-10-036
EMERGENCY RULES
DEPARTMENT OF AGRICULTURE
[Order 1763—Filed April 30, 1982]

I, M. Keith Ellis, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to brucellosis and the importation of animals, chapter 16-54 WAC.

I, M. Keith Ellis, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is WAC 16-54-082(c) causes undue hardship on the cattle producers in the state of Washington and needs to be re-evaluated by the industry, prior to the next grazing season.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to chapters 16-36 and 16-44 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 30, 1982.

By M. Keith Ellis
Director

AMENDATORY SECTION (Amending Order 1752, filed 4/14/82)

WAC 16-54-082 DOMESTIC BOVINE ANIMALS. All domestic bovine animals (including bison) except those for immediate slaughter at a federally inspected establishment, or to a quarantined registered feed lot, or beef breed cattle or slaughter only dairy breed cattle consigned to a state-federal approved

stockyard, shall be accompanied by a health certificate (WAC 16-54-030) and shall meet the following requirements:

(1) Tuberculosis. All beef and dairy cattle must originate from herds not under quarantine in a not less than modified accredited area.

(2) Brucellosis. Cattle originating from states other than Washington: All domestic bovine animals (including bison) moving into Washington, except those consigned to quarantined registered feed lots, or to federally inspected slaughter establishments for immediate slaughter, or beef breed cattle or slaughter only dairy breed cattle consigned to a state-federal approved stockyard, shall be moved on a permit issued by the animal health division of the department of agriculture and an official interstate health certificate, and shall meet the following requirements:

(a) All cattle must be negative to an official brucellosis test conducted within forty-five days prior to date of entry and will be quarantined on the premises of destination and kept separated from all other cattle for retest not less than thirty nor more than sixty days from the date of previous test, except that the following classes of cattle are exempt from these test requirements:

(i) Calves under six months of age.

(ii) Steers and spayed heifers.

(iii) Officially vaccinated dairy cattle under twenty months of age and officially vaccinated beef cattle under twenty-four months of age.

(iv) Immediate slaughter cattle going directly to a federally inspected slaughter establishment.

(v) Cattle consigned directly to a quarantined registered feed lot.

(vi) Cattle from certified brucellosis free herds.

(vii) Beef breed cattle eligible for brucellosis testing coming from contiguous states certified brucellosis free may be moved to state-federal approved livestock markets in Washington to meet entry health requirements. Cattle of the beef breeds from such equal status states and having the same import requirements as Washington are exempt from second test and quarantine requirements if found brucellosis negative on entry.

(b) After January 1, 1979, all female dairy cattle must be identified as official brucellosis calfhood vaccines before entry. Except the following classes of cattle are exempt from this requirement:

(i) Calves under four months of age.

(ii) Those cattle consigned directly to a federally inspected slaughter plant.

(iii) Those cattle consigned directly to a quarantined registered feed lot.

(iv) Spayed heifers.

(c) Herd owners desiring to move cattle into Washington for temporary grazing purposes must obtain a prior permit from the animal health division and (~~All brucellosis test eligible cattle moving on a temporary grazing permit must be officially brucellosis tested negative within twelve months of entry into Washington. They must~~) originate in a county or other political subdivision of equal status where brucellosis has not been

diagnosed in the preceding twelve months, or (~~officially brucellosis~~) tested negative to brucellosis with thirty days of (~~prior to~~) entry.

Reviser's note: RCW 34.04.058 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 82-10-037

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Order 1761—Filed April 30, 1982]

I, M. Keith Ellis, director of the Department of Agriculture, do promulgate and adopt at 406 General Administration Building, AX-41, Olympia, Washington, the annexed rules relating to the basic fee for the brand inspection of cattle and calves, WAC 16-96-130.

I, M. Keith Ellis, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is must be effective May 1, 1982, in order to coincide with termination of prior cooperative agreement with the Oregon Department of Agriculture.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 16.57.220 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 30, 1982.

By M. Keith Ellis
Director

AMENDATORY SECTION (Amending Order 1753, filed January 21, 1982)

WAC 16-96-130 BRAND INSPECTION FEES.

The fee for inspecting cattle and calves of or for brands, and/or any other method of identifying cattle and calves, shall be forty-five cents per head, except at those public livestock markets in Oregon, which are declared to be brand inspection points for Washington, where the fee shall be thirty cents per head.

Reviser's note: RCW 34.04.058 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 82-10-038
ADOPTED RULES
DEPARTMENT OF AGRICULTURE
 [Order 1762—Filed April 30, 1982]

I, M. Keith Ellis, director of the Department of Agriculture, do promulgate and adopt at 406 General Administration Building, Olympia, Washington, the annexed rules relating to the basic fee for the brand inspection of cattle and calves, WAC 16-96-130.

This action is taken pursuant to Notice No. WSR 82-07-090 filed with the code reviser on March 24, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 16.57.220 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 30, 1982.

By M. Keith Ellis
 Director

AMENDATORY SECTION (Amending Order 1753, filed January 21, 1982)

WAC 16-96-130 BRAND INSPECTION FEES. The fee for inspecting cattle and calves of or for brands, and/or any other method of identifying cattle and calves, shall be forty-five cents per head, except at those public livestock markets in Oregon, which are declared to be brand inspection points for Washington, where the fee shall be thirty cents per head.

Reviser's note: RCW 34.04.058 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 82-10-039
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 82-43—Filed April 30, 1982]

I, Rolland A. Schmitt, director of the Washington State Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to subsistence fishing.

I, Rolland A. Schmitt, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is this order allows a subsistence fishery for chinook salmon.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 30, 1982.

By Rolland A. Schmitt
 Director

NEW SECTION

WAC 220-32-05900C KLUCKITAT RIVER—SUBSISTENCE *Notwithstanding the provisions of WAC 220-32-059, effective immediately through May 31, 1982, those individuals possessing treaty fishing rights pursuant to the Yakima treaty may take, fish for or possess salmon for subsistence purposes with dip net gear from 12:00 noon Thursday, to 12:00 noon Monday in that portion of the Klickitat River between the swinging bridge, approximately one and one-half miles upstream, and a monument located in Section 25, Township 3N, Range 12E, a distance of 25 feet downstream from the entrance to the upper Klickitat Falls Fishway No. 5.*

WSR 82-10-040
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 82-42—Filed April 30, 1982]

I, Rolland A. Schmitt, director of the Washington Department of Fisheries, do promulgate and adopt the annexed rules relating to commercial fishing regulations.

I, Rolland A. Schmitt, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is maximize commercial harvest opportunity during periods when recreational fishery is not open in the same area.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 30, 1982.

By Rolland A. Schmitten
Director

NEW SECTION

WAC 220-44-02000A SEASONS Notwithstanding the provisions of WAC 220-44-020, it shall be unlawful to take, fish for or possess salmon taken for commercial purposes in that portion of Coastal Salmon Management and Catch Reporting Area 4 north of Point of the Arches and west of a line drawn from Tatoosh Island to Bonilla Point on Vancouver Island and inside the 3 mile limit during weekly closed periods extending from 11:59 p.m. Friday to 12:01 A.M. Monday when the recreational salmon fishing season in the above mentioned area is legally open.

WSR 82-10-041
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 82-44—Filed April 30, 1982]

I, Rolland A. Schmitten, director of the State Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing rules.

I, Rolland A. Schmitten, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is no commercially harvestable surplus of herring currently available.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED April 30, 1982.

By Rolland A. Schmitten
Director

NEW SECTION

WAC 220-49-02000J CLOSED AREA—HERRING Notwithstanding the provisions of WAC 220-49-020, effective immediately until further notice, it is unlawful to take, fish for or possess herring for commercial purposes with any type of gear in Marine Fish-Shellfish Catch Reporting Areas 20A, 20B, 21A or 21B.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-49-02000I CLOSED AREA—HERRING

WSR 82-10-042
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
[Filed May 3, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning:

Amd WAC 356-18-100 ~~Accrued vacation leave—((Computation—How made))~~ Disposition.
Amd WAC 356-26-030 Register designation;

that such agency will at 10:00 a.m., Thursday, June 10, 1982, in the Board Hearing Room, Department of Personnel, 600 South Franklin, Olympia, WA, conduct a hearing relative thereto.

The adoption, amendment, or repeal of such rules will take place immediately following such hearing.

The authority under which these rules are proposed is RCW 41.06.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 8, 1982, and/or orally at 10:00 a.m., Thursday, June 10, 1982, Board Hearing Room, Department of Personnel, 600 South Franklin, Olympia, WA.

Dated: April 30, 1982

By: Leonard Nord
Secretary

STATEMENT OF PURPOSE

Amend WAC 356-18-100.

Title: Vacation leave—Computation—How made.

Purpose: Outlines purposes for payment of accumulated vacation leave.

Statutory Authority: RCW 41.06.150.

Summary: Due to a change in law (S.S.B. 5007), employees will not be able to cash in unused vacation leave upon termination of employment (except in the case of death) effective July 1, 1982.

Reasons: Change in law (Substitute Senate Bill 5007) requires revision to existing rule.

Responsibility for Drafting: Bill B. Turney, Department of Personnel, 600 South Franklin, MS: FE-11, Olympia, WA, Phone: 753-7125; Implementation: All agencies; and Enforcement: Department of Personnel.

Comments: Proposed change to reflect Substitute Senate Bill 5007 to be effective July 1, 1982.

Amend WAC 356-26-030.

Title: Register designation.

Purpose: Specifies the composition, method of ranking, life of register and special provisions of registers used in the State Civil Service System.

Statutory Authority: Chapter 41.06 RCW.

Summary: Proposal adds a new register entitled "agency reemployment" which would give priority in hiring to candidates who have previously held permanent status with the hiring agency.

Reasons: To simplify the reemployment process for former permanent employees of an agency.

Responsibility for Drafting: Robert Conner, Personnel Officer, Department of Social and Health Services, Office Building 2, MS: OB-14, Olympia, WA, Phone: 753-4070; Implementation: All agencies; and Enforcement: Department of Personnel.

Proposed by: Department of Social and Health Services, Governmental Agency.

AMENDATORY SECTION (Amending Order 120, filed 5/12/78)

WAC 356-18-100 ACCRUED VACATION LEAVE—(~~COMPUTATION—HOW MADE~~) DISPOSITION. When an employee separates from service by reason of resignation, layoff, dismissal, or retirement (~~or death, and is entitled to cash credit or payment for any unliquidated vacation leave, compensation shall be computed by using the formula published by the Office of Financial Management~~) agencies or departments shall provide methods whereby all accumulated vacation leave shall be taken as vacation leave. In the case of death, compensation for unused vacation leave shall be computed and paid as prescribed by the Office of Financial Management. No payment for unused vacation leave shall be made upon termination of employment except in case of death.

(1) Employees may defer the payment of their accumulated vacation leave for which otherwise entitled for a period of 30 working days if the separation resulted from a reduction-in-force and there is a reasonable probability of reemployment, or if the separation resulted from employees returning to classified positions from exempt positions under the provision of RCW 41.06.070(22), RCW 41.06.100, or WAC 356-30-045.

(2) If employees are (~~paid for the accumulated~~) on vacation leave and are again (re)employed in a pay status within the period of (time represented by) the ((number of days for which)) vacation ((pay was received employees must return the payment for the remaining vacation days)) leave, then the vacation must stop. The remaining vacation days will be credited to the employee by the employing agency. ((Employees will be credited with the number of vacation days represented by the returned payments at the rate of their last salary:))

(3) The separation cited in (1) above will not be regarded as a break in service for purposes of computing the rates of crediting vacation leave prescribed in WAC 356-18-090, provided the employees return to employment other than by certification from the open competitive register.

Reviser's note: RCW 34.04.058 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.

AMENDATORY SECTION (Amending Order 147, filed 9/16/80)

WAC 356-26-030 REGISTER DESIGNATION. (1) Agency Reduction-in-Force.

(a) Composition.

(i) The departmental reduction-in-force register will consist of appropriate classes and the names of all employees who have permanent status and have been notified they are scheduled for reduction-in-force; or held permanent status prior to separation due to a reduction-in-force; or who have accepted a voluntary demotion in a class in lieu of a reduction-in-force; or were in a trial service period with another department and separated due to reduction-in-force; or who were separated due to disability within the last year as provided in WAC 356-35-010 and who have submitted to the Director of Personnel a current physician's statement that they are physically able to perform the duties of the class for which the register is established.

(ii) The employee's name shall appear for all classifications for which he/she is not disabled in which he/she held permanent status or in which he/she served more than six months on a position which

would have meant permanent status had it been under the jurisdiction of the State Personnel Board at the time.

(b) Method of Ranking.

(i) This register will be ranked according to seniority.

(c) Life of Register.

(i) An eligible's name will normally remain on this register for three years.

(d) Special Provisions.

(i) Employees appointed from this register will assume the same status they held prior to the reduction-in-force. Persons on this register will indicate the geographic areas in which they are available. Appointment of persons from this register to seasonal positions will be as provided in WAC 356-30-130.

(2) Service-Wide Reduction-in-Force.

(a) Composition.

(i) This register will consist of the same names as the agency reduction-in-force register.

(b) Method of Ranking.

(i) This register will be ranked according to seniority.

(c) Life of Register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special Provisions.

(i) Employees appointed from this register will assume the same status they held prior to the reduction-in-force. Persons on this register will indicate the geographic areas and departments for which they are available. Appointment of persons from this register to seasonal positions will be as provided in WAC 356-30-130.

(3) Dual-Agency Reversion.

(a) Composition.

(i) This register will contain the names of employees who while serving a trial service period in another agency were either voluntarily or involuntarily reverted to their former class and status.

(b) Method of Ranking.

(i) This register will be ranked according to total unbroken classified service.

(c) Life of Register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special Provisions.

(i) This register refers to the agency from which promoted and the agency from which reverted. Employees appointed from this register will assume the status they held prior to promotion. Persons on this register will indicate the geographic area in which they are available.

(4) Agency Reemployment.

(a) Composition.

This register shall contain the names of all past permanent employees who have submitted a request and an application for reemployment within two years from the date of separation, provided that the names of employees separated for cause while performing similar duties shall not be placed on this register except with the approval of the agency from which they were separated for cause. This register shall also contain the names of those employees who have been in reversion or reduction-in-force status and have been offered and declined employment. The Director of Personnel may extend the time during which an employee may apply for reemployment if the Director of Personnel has determined that a need for eligibles exists in a certain class and/or geographical area.

(b) Method of Ranking.

This register shall be unranked.

(c) Life of Register.

An eligible's name will normally remain on this register for two years.

(d) Special Provisions.

Persons on this register will indicate the geographic areas for which they are available.

~~((4))~~ (5) Agency Promotional.

(a) Composition.

(i) This register will be established by appropriate classes and shall include the names of those permanent employees, or past permanent employees who have been separated due to reduction-in-force within the last year who have received a passing final grade in the total promotional examination and are eligible to be certified. The names of past permanent employees who were separated due to disability within the last year as provided in WAC 356-35-010 shall also be included on this register provided that they submit to the Director of Personnel a physician's statement that they are physically able to perform the

duties of the class for which the register is established and they have received a passing final grade as required for other promotional applicants.

(b) Method of Ranking.

(i) This register shall be ranked according to final score from the highest to the lowest.

(c) Life of Register.

(i) An eligible's name will normally remain on this register for an indefinite period unless replaced by a register established by the use of a substantially new examination.

(d) Special Provisions.

(i) An employee may convert any current open competitive rating to this register upon achieving permanent status.

~~((5))~~ (6) Service-Wide Reversion.

(a) Composition.

(i) This register will contain the names of employees who while serving a trial service period in another agency were either voluntarily or involuntarily reverted to their former class and status.

(b) Method of Ranking.

(i) This register will be ranked according to total unbroken classified service.

(c) Life of Register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special Provisions.

(i) This register refers to all agencies, except the two which are involved with the dual-agency transaction. Persons on this register will indicate the geographic areas and agencies for which they are available.

~~((6))~~ (7) Transfer.

(a) Composition.

(i) This register shall contain the names of all permanent employees who have submitted a request to be considered for transfer.

(b) Method of Ranking.

(i) This register will be unranked.

(c) Life of Register.

(i) An eligible's name shall normally remain on this register for one year.

(d) Special Provisions.

(i) To use this register, the employee must transfer either within the same class or the same pay range having the same salary range number.

~~((7))~~ (8) Voluntary Demotion.

(a) Composition.

(i) This register shall contain the names of all permanent employees who have submitted a request for and are eligible under the rules to be considered for a voluntary demotion.

(b) Method of Ranking.

(i) This register shall be unranked. However, employees subject to reduction-in-force shall have priority.

(c) Life of Register.

(i) An eligible's name shall normally remain on this register for one year.

(d) Special Provisions.

(i) Employees appointed from this register to a class not previously held will serve a trial service period. All examination ratings for the class from which demoted shall be nullified; however, the employee may be elevated to the class from which demoted with permanent status without benefit of certification provided permanent status was achieved at the higher level.

~~((8))~~ (9) Service-Wide Promotional.

(a) Composition.

(i) This register shall contain the names of those permanent employees or past permanent employees who have been separated due to reduction-in-force within the last year who have obtained a passing final grade in the total promotional examination. The names of past permanent employees who were separated due to disability within the last year as provided in WAC 356-35-010 shall also be included on this register provided that they submit to the Director of Personnel a physician's statement that they are physically able to perform the duties of the class for which the register is established and they have received a passing final score as required for other promotional applicants.

(b) Method of Ranking.

(i) This register shall be ranked according to final score, from the highest to the lowest.

(c) Life of Register.

(i) An eligible's name will normally remain on this register for an indefinite period unless replaced by a register established by the use of a substantially new examination.

(d) Special Provisions.

(i) An employee may convert any current open competitive rating to this register upon achieving permanent status. Persons on this register will indicate the geographic areas and agencies for which they are available.

~~((9))~~ (10) Reemployment.

(a) Composition.

(i) This register shall contain the names of all past permanent employees who have submitted a request and an application for reemployment within two years from the date of separation, provided that the names of employees separated for cause while performing similar duties shall not be placed on this register except with the approval of the agency from which they were separated for cause. This register shall also contain the names of those employees who have been in reversion or reduction-in-force status and have been offered and declined employment. The Director of Personnel may extend the time during which an employee may apply for reemployment if the Director of Personnel has determined that a need for eligibles exists in a certain class and/or geographical area.

(b) Method of Ranking.

(i) This register shall be unranked.

(c) Life of Register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special Provisions.

(i) Persons reemployed from this register will serve a probationary period. The former employee may limit or enlarge upon his/her area of availability either by department or geographic area.

~~((10))~~ (11) Open Competitive.

(a) Composition.

(i) This register will contain the names of all persons who have passed the entrance examination.

(b) Method of Ranking.

(i) This register shall be ranked by the final score.

(c) Life of Register.

(i) An eligible's name will normally remain on this register for one year unless changed by the Director of Personnel.

(d) Special Provisions.

(i) Persons on this register will indicate the geographic areas for which they are available.

WSR 82-10-043

EMERGENCY RULES

DEPARTMENT OF LICENSING

[Order 681-DOL—Filed May 3, 1982]

I, John Gonzalez, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to filing UCC statements on standard forms; accepting UCC filings made pursuant to RCW 62A.11-105(2) prior to July 1, 1982; and setting an effective date for filings made pursuant to RCW 62A.11-105(2).

I, John Gonzalez, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is in the change from county to state Uniform Commercial Code (UCC) filing on certain types of collateral, the UCC requires secured parties to refile in order to maintain their priority in after-acquired collateral. These emergency rules allow secured parties to make these refilings on either the current or the new standard forms over a two-month period, as the

department cannot process thousands of filings on the single effective day of the act.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 62A.9-409(1) and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED May 3, 1982.

By John Gonzalez
Director

NEW SECTION

WAC 308-400-053 ADDITIONAL STANDARD FORMS. (1) *Effective immediately, the new standard UCC filing forms contained in WAC 308-400-040, 308-400-042, 308-400-044, 308-400-046, and 308-400-048 will also be accepted as standard forms to which the current UCC standard form filing fees apply.*

(2) *This rule shall expire at midnight, June 30, 1982.*

NEW SECTION

WAC 308-400-063 FILINGS ON AFTER-ACQUIRED COLLATERAL. (1) *Prior to July 1, 1982, the department of licensing will accept financing statements filed pursuant to RCW 62A.11-105(2) to perfect security interests in collateral to be acquired by the debtor subsequent to July 1, 1982. The department will regard statements filed pursuant to RCW 62A.11-105(2) as effective on July 1, 1982, regardless of the date and hour of filing marked on the statement.*

(2) *If a filing on collateral should be perfected at the county under the current Uniform Commercial Code, the secured party still must file at the county to perfect his security interest in such collateral until July 1, 1982 even though he has prefiled with the department.*

(3) *This rule shall expire at midnight, June 30, 1982.*

WSR 82-10-044
NOTICE OF PUBLIC MEETINGS
COMMUNITY COLLEGE
DISTRICT 12

[Memorandum—April 30, 1982]

The following change in location in the regular meeting schedule of the Board of Trustees of Community College District 12 is from Thursday, June 10, 1982, Garrett Heyns Education Center, to Wednesday, June 9, 1982, 7:30 p.m., Board Room, Olympia Technical Community College.

WSR 82-10-045
NOTICE OF PUBLIC MEETINGS
TRAFFIC SAFETY COMMISSION
[Memorandum—May 3, 1982]

Time: Thursday, May 6, 1982 – 2:00 p.m.

Place: Governor's Conference Room
Legislative Building
Olympia, Washington

WSR 82-10-046
NOTICE OF PUBLIC MEETINGS
HOSPITAL COMMISSION
[Memorandum—April 30, 1982]

The State Hospital Commission will meet in Seattle at the Seattle Hyatt, SeaTac on Thursday, May 20, 1982. The hospitals scheduled for informal hearing have previously filed with the commission their annual budget and rate requests and their requests for amendments to their previously approved budget and rates. Staff findings and recommendations will be prepared and transmitted to the scheduled hospitals and to members of the Hospital Commission in accordance with WAC 261-40-135. Such information is on file in the commission's office and is available for inspection.

Meetings of the State Hospital Commission are also scheduled for June 10 and 24 at the Seattle Hyatt, SeaTac, and July 22, 1982 at the Seattle Hyatt, SeaTac. The meeting of July 8, 1982 has been cancelled.

WSR 82-10-047
EMERGENCY RULES
DEPARTMENT OF
EMERGENCY SERVICES
[Order 82-04—Filed May 3, 1982]

I, Hugh H. Fowler, director of the Department of Emergency Services, do promulgate and adopt at 4220 East Martin Way, Olympia, WA, the annexed rules relating to the filing of emergency rules for permitted entry and/or occupation, Mt. St. Helens restricted zone, chapter 118-03 WAC.

I, Hugh H. Fowler, Director, Department of Emergency Services, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is Governor's Executive Order 82-04.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to chapters 43.06 and 38.52 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act

(chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED May 3, 1982.

By Hugh H. Fowler
Director

Chapter 118-03 WAC
MT. ST. HELENS CLOSURE — RULES FOR PERMITTED ENTRY AND/OR OCCUPATION

NEW SECTION

WAC 118-03-015 PURPOSE. The purpose of this chapter is to adopt emergency rules, regulations, and guidelines to implement Executive Order 82-04, prohibiting any person or persons with certain exceptions from entering the high risk danger zone known as the Restricted Zone of the Mt. St. Helens volcano as described in that Executive Order, and providing entry permit procedures for persons excepted. These rules may be amended from time to time as conditions warrant. The Executive Order issued by the Governor effective March 26, 1982, recognizes the continuing danger from additional eruptions, earthquakes, and other related events from Mt. St. Helens.

These rules are based on hazard assessments dated September 21, 1981 and December 3, 1981. The possibility exists that the Mt. St. Helens volcano could suddenly increase in volcanic activity. In that event, a Fallback Zone could be established by an executive order from the Governor.

NEW SECTION

WAC 118-03-035 DEFINITIONS. "Restricted Zone" shall mean that high hazard area immediately adjacent to or surrounding the Mt. St. Helens volcano closed to public access by the Governor of the state of Washington pursuant to the Revised Code of Washington (hereinafter RCW) 43.06.010, 43.06.210, 43.06.220, 38.52.050, and 38.52.010. The Restricted Zone boundary area may change from time to time as conditions warrant. "Fallback Zones" shall mean areas immediately adjacent to or surrounding the Restricted Zone closed to public access by the Governor of the state of Washington pursuant to RCW 43.06.010, 43.06.210, 43.06.220, 38.52.050, and 38.52.010. Fallback Zones may be instituted from time to time as conditions warrant. The abbreviation "DES" as used hereinafter shall mean the Washington State Department of Emergency Services. The term "Director" used hereinafter shall mean the Director of the Department of Emergency Services. "DOL" shall mean the Washington State Department of Licensing. "News media" shall include journalists, publishers, television and radio broadcast persons who are regularly engaged in the business of publishing or broadcasting. "ECC" shall mean the Emergency Coordinating Center located at the U.S. Forest Service Office in Vancouver, Washington. "Individual(s)" shall mean a person, partnership, joint

venture, private or public corporation, association, firm, public service company, public utility district, or any other entity, public or private, however organized. "Control" shall mean to lease or rent. "DLE" shall mean Driver's License Examiner. "USFS" shall mean United State Forest Service. "USGS" shall mean United States Geological Survey.

NEW SECTION

WAC 118-03-055 EXEMPTED PERSONNEL. Consistent with Executive Order 82-01, the following shall be exempted from rules prohibiting entry and/or occupation of the Restricted Zone, subject to the limitations in paragraphs below.

(1) U.S. Geological Survey personnel who are performing official duties related to scientific evaluation and hazard assessment requiring their presence in the Restricted Zone.

(2) U.S. Forest Service personnel in performance of their official duties requiring entry into the Restricted Zone.

(3) U.S. Army Corps of Engineers personnel in performance of their official duties requiring their presence in the Restricted Zone.

(4) Search and rescue personnel registered or identified pursuant to RCW 38.52.010(5) on official search and rescue missions within the Restricted Zone. The sheriffs of Cowlitz, and Skamania Counties or their designee(s) shall have the authority to approve entry and/or occupation by search and rescue personnel under their supervision.

(5) Federal, state, county or local law enforcement and fire fighting personnel whose jurisdictions are within the Restricted Zone and who are on official business within the Restricted Zone.

(6) If permitted by the Director, or his designee(s), federal, state, county or local administrative personnel on official business within the Restricted Zone.

(a) The Director of DES, or his designee(s), shall have the authority to approve entry and/or occupation of state, county and local administrative personnel on official business.

(b) Federal administrative personnel, other than those exempted in section (1), (2) and (3) above, will be required to obtain and possess a permit.

(7) Individual(s) whose official permanent residence is within the Restricted Zone, provided they comply with the requirements and conditions under WAC 118-03-135 and WAC 118-03-215.

(8) Individual(s) with a legitimate business reason for being within the Restricted Zone, provided their entry is approved by the DES Director or his designee(s).

(9) Persons to own, lease, or rent property for recreational purposes may be admitted upon showing substantial need to enter the Restricted Zone provided they are approved by the DES Director or his designee(s).

NEW SECTION

WAC 118-03-075 CONDITIONS FOR ENTRY.

(1) All permit holders must have two-way communications available within the Restricted Zone with a base

station located outside of the zone. The base station must be monitored at all times while the permittee is in the Restricted Zone. The base station emergency phone number must be on file with DES.

(2) The Restricted Zone will be open only when volcanic monitoring instruments are functioning properly. The Restricted Zone will be closed when volcanic monitoring instruments are unreliable. The Restricted Zone will be closed also during eruptions, when there is an alert issued by the U.S. Geological Survey, and occasionally during advisories issued by the U.S. Geological Survey.

(3) Overnight stays in the Restricted Zone will be granted only by special permission from the Director of DES or his designee. The permit holder must be doing work requiring nighttime operations and have constant radio communications. Otherwise, entry and occupancy of the Restricted Zone will normally be limited to the period between one-half hour before sunrise to one-half hour before sunset, as established by the National Weather Service.

(4) The permit for entry into the Restricted Zone will contain specified routes of travel, duration of stay, type of vehicle or aircraft and description, destination, evacuation route, alternative routes, and names of those entering.

(5) Helicopters entering the Restricted Zone must obtain a mission number from the ECC. Information required is the number of people entering, destination and estimated entry and departure times. All aircraft are to monitor aircraft radio frequency 118.6 MHZ.

(6) Entry into the crater will be limited to scientists, media permit holders, and other officials on official business with supervision by the USFS.

(7) Permit holders must be able to leave the Restricted Zone within one hour.

(8) Permit holders will leave the Restricted Zone when ordered by proper authorities.

(9) Anyone entering the Restricted Zone must have with them either a Restricted Zone permit or a Restricted Zone contractor's permit card.

(10) It is strongly recommended that all who enter the Restricted Zone carry emergency gear and a first aid kit. Recommended minimal emergency equipment should include: hard hat, respirator or face mask, goggles, water and food.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 118-03-095 WASHINGTON STATE DEPARTMENT OF LICENSING TO PROCESS PERMITS. The DOL shall process Restricted Zone entry permit applications at the following locations:

Longview, 773 Third Avenue, 98632
 Vancouver, 915 MacArthur Blvd., 98661
 Morton, 141 North 2nd, 98356 (P.O. Box 774)
 Centralia, 112 Harrison Ave., 98531
 Seattle, King County Administrative Bldg.
 Room 615, 500 4th Avenue

The DOL, under the direction of the Director of DES or his designee(s), may issue a permit for entry to the Restricted Zone, only to such individuals and for such purposes as are clearly permitted by this chapter and Executive Order. The DOL shall compile a daily status list of approved and denied entry permits to the Restricted Zone. DOL shall also maintain a daily status list of those permanent residents or property owners who are currently occupying their property within the Restricted Zone. Permanent residents or property owners will keep DOL advised by mail of the names and numbers of visitors and the dates that the visitors will be present.

Phone Numbers of DOL Offices

Longview — 206-577-2235 or 2236
 Vancouver — 206-696-6671 or 6672
 Morton — 206-496-5637
 Centralia — 206-736-2855 or 2856
 Seattle — 206-464-5846

NEW SECTION

WAC 118-03-115

APPLICATION/PROCESSING PROCEDURES — NON-PERMANENT RESIDENTS. (1) Individuals desiring access to the Restricted Zone should contact one of the designated DOL Driver's License Examiners at the locations listed during regular business hours, Tuesday through Saturday, 8:30 a.m. to 5 p.m., and complete an application form for a permit stating the nature and need for access and sign the waiver contained on the application form. Federal, state and local governmental personnel on official business will be required to complete and submit a permit application form. Upon completion and submission of this application to DOL, the application will be approved or disapproved within five (5) regular working days by DOL. After approval of the application a permit will be issued immediately.

(2) Individuals who are employers or government entities applying for a permit under WAC 118-03-235 may complete and submit an industrial application form to be issued an industrial permit which would allow the entry and/or occupation within the Restricted Zone by its authorized employees, contractors or agents for business reasons.

(3) DOL will screen applicants according to the criteria published herein and will issue permits to those who have demonstrated a need to enter and/or occupy the Restricted Zone. The DLE will assure that all pertinent data such as time of entry, duration of need, and mode of travel has been presented and will inform the applicant of entry requirements as stated herein.

(4) DOL will provide the Director, DES; the Director, USFS Emergency Coordination Center, and the sheriffs of Cowlitz, and Skamania Counties with a daily list of permits issued.

NEW SECTION

WAC 118-03-135 PERMIT AND WAIVER ISSUANCE PROCEDURES — PERMANENT RESIDENTS. (1) Permanent resident applicants must present proof of ownership or control of real property or

personal property being used as a residence and a permanent residence status at the time of application.

(2) Permanent resident applications eighteen (18) years of age and older shall be required to obtain a permit and sign a waiver.

(3) Permanent resident applicants between sixteen (16) years of age or older, but who have not attained eighteen (18) years of age, shall obtain a permit and their parent/guardian must sign a waiver on their behalf.

(4) All permanent resident applicants under sixteen (16) years of age must be included on the application of their parent/guardian.

(5) DOL will maintain a current list of permanent residents with permits within the Restricted Zone.

(6) Permanent residents must have either a proven two-way communications system for warning or be a part of a local government warning and evacuation system.

NEW SECTION

WAC 118-03-155 PERMIT AND WAIVER ISSUANCE PROCEDURES — RECREATION PROPERTY OWNERS, RENTERS, OR LESSEES. (1) Recreation property owners, renters, or lessees must comply with the following conditions:

(a) Applicants must present proof of ownership or control of real property or personal property.

(b) Applicants eighteen (18) years of age and older shall be required to obtain a permit and sign a waiver.

(c) Applicants between sixteen (16) years of age or older, but who have not attained eighteen (18) years of age, shall obtain a permit and their parent/guardian must sign a waiver on their behalf.

(d) Applicants under sixteen (16) years of age must be included on the application of their parent/guardian.

(2) DOL will maintain a current list of recreation property owners, renters, or lessees with permits within the Restricted Zone.

(3) Recreation property owners, renters, or lessees must have either a proven two-way communications system for warning or be a part of a local government warning and evacuation system.

NEW SECTION

WAC 118-03-175 PERMIT AND WAIVER ISSUANCE PROCEDURES — VISITORS TO PERMANENT RESIDENTS OR RECREATIONAL PROPERTY OWNERS. (1) Visitors must maintain a signed waiver on file with DOL.

(a) All visitors eighteen (18) years of age and older shall sign a waiver.

(b) All visitors between sixteen (16) years of age or older, but who have not attained eighteen (18) years of age must have a waiver signed on their behalf by their parent or guardian.

(c) All visitors under sixteen (16) years of age must be included on the waiver signed by their parent or guardian.

(2) Permanent residents or recreational property owners must notify DOL by mail in advance of the names of

visitors and the dates the visitors will be with them in the Restricted Zone.

(3) Visitor(s) will obtain their pending permit that is being held at the DOL office where the visitor permit application was mailed.

NEW SECTION

WAC 118-03-195 PERMIT AND WAIVER ISSUANCE PROCEDURES — MEDIA AND SCIENTIFIC RESEARCH. (1) Media permit applications will be reviewed by a Mt. St. Helens Review Committee composed of members of the media community.

(2) Scientific research permit applications will be reviewed by a Mt. St. Helens Scientific Research Review Committee composed of members of the scientific community.

(3) Requests for permits by both media and scientific research personnel will be forwarded to the USFS Volcano Center coordinator for distribution and consideration by the appropriate review committee.

(4) Applicants must meet all criteria contained in WAC 118-03-075 and 118-03-235.

NEW SECTION

WAC 118-03-215 CONDITIONS FOR ENTRY — PERMANENT RESIDENTS AND RECREATION PROPERTY OWNERS. (1) Individuals who establish proof of permanent residence in communities or areas within the Restricted Zone will be issued a permit by DOL.

(2) Movement within the Restricted Zone will be restricted to the most direct access/exit route, the generally recognized boundaries of the community and service and supply locations with the zone.

(3) The permit does not allow the holder unlimited movement or access to any other areas within the Restricted Zone unless a specific permit has been issued.

NEW SECTION

WAC 118-03-235 CONDITIONS FOR ENTRY — EMPLOYEES, CONTRACTORS, AND AGENTS OF INDIVIDUAL(S) OR GOVERNMENT ENTITY(S) ISSUED INDUSTRIAL PERMITS. (1) Individual(s) or governmental entity(s) issued a permit under WAC's 118-03-055, 118-03-115, and 118-03-275 shall:

(a) Have a method to identify the location(s) of each authorized employee, agent and contractor who is within the Restricted Zone for the permittee's business.

(b) Inform each authorized employee, agent and contractor of predesignated escape routes.

(c) Monitor the local sheriff's department or other governmental agency radio frequency which is established for transmitting emergency messages related to Mt. St. Helens.

(d) Maintain a daily check-in and check-out procedure for all authorized employee(s), agent(s) and contractor(s) who are within the Restricted Zone under the permittee's business.

(e) Issue an identification card, tag or other form of identification approved by the Director of DES or his

designee to each authorized employee, agent and contractor who is within the Restricted Zone for the permittee's business.

(f) Provide the foreman of each work crew, or one member of each group working together with a two-way radio and require them to make regular contact with a central dispatcher.

(g) Inform each employee, agent and contractor authorized to enter the Restricted Zone for permittee's business that they must be able to leave the Restricted Zone within one hour.

(h) Make every reasonable effort to ensure compliance from their authorized employee(s), agent(s), and contractor(s) according to WAC's 118-03-075, 118-03-235, and all other applicable safety regulations and procedures.

(2) Individual(s) other than government entity(s) shall indemnify the United States, the state of Washington, all political subdivisions thereof and their officer(s), agent(s) and employee(s), against all claims and liabilities which may be asserted against them for any damages, injuries, or losses suffered by any person while within the Restricted Zone or as a result of entering or occupying this zone under the authority of the industrial permit.

(3) Entry and occupancy of the Restricted Zone for industrial permittees will be authorized as per WAC 118-03-075(3).

(a) Industrial permits will be good for the length of contract, not to exceed three months.

(b) Industrial permits may be renewed upon approval of the Director of DES or his designee(s).

(4) Entry and occupancy of the Restricted Zone for continuous 24-hour periods by industrial permittees will be permitted on a case-by-case basis by the Director of DES or his designee(s) upon a showing of overriding necessity.

(5) Each individual(s) at the time of application for an industrial permit issued under WAC 118-03-055 and 118-03-115 or prior to application must file with DES an evacuation, emergency communication and warning plan.

(6) The evacuation plan must include the following:

(a) A description of the areas of operation by township, range, and section.

(b) Number of personnel to be engaged within these areas.

(c) Type and number of vehicles to be used for evacuation.

(d) Primary and alternate escape routes to be used.

(7) The emergency communication and warning plans must include the following:

(a) Manner in which the industrial permit holder would receive notification of a volcanic event.

(b) Procedures which the industrial permit holder would use to warn his/her personnel in the Restricted Zone.

NEW SECTION

WAC 118-03-255 INDUSTRIAL PERMIT REAPPLICATION PROCEDURE. (1) Industrial permits issued for the Restricted Zone prior to February 5, 1982,

are valid until the expiration date on the permit has been attained and then only if all requirements under WAC 118-03-235 have been complied with.

(2) Industrial permittee(s) may request a new permit prior to the existing permit date via telephone or personal contact with/or in person to the DLE whose DOL office issued the application and permit.

(3) The DLE must be advised of the date and approximate time an authorized agent of the industrial permittee will arrive to sign and pickup the new permit.

(4) The industrial permittee must also give all necessary information required to process the application.

(5) On assigned day, the authorized industrial agent must go to the DOL identify him/herself to the DLE, review the application form and permit for accuracy, and sign the waiver.

NEW SECTION

WAC 118-03-275 FEDERAL, STATE, AND LOCAL GOVERNMENT ADMINISTRATIVE PERSONNEL. Federal, state or local government administrative personnel on official business shall be authorized entry into the Restricted Zone when:

(1) Such entry will not burden official search and rescue missions or other emergency operations in the Restricted Zone, and

(2) Such entry is limited, to the extent possible, to specified destination(s) and route(s) within the Restricted Zone, and

(3) Approval for permit issue has been made by the Director, DES or his designee(s), and

(a) Such entry is necessary to provide for the health, safety, and welfare of citizens in the disaster area, or

(b) Such entry is necessary to assess damages caused by volcanic activity for the purpose of mitigating further damage or providing for the well being of disaster victims, or

(c) Such entry will provide information necessary for federal, state or local officials responsible for disaster response.

NEW SECTION

WAC 118-03-295 OTHER PERMIT APPLICANTS. The Director, DES, or his designee(s) may authorize persons not included in the above specific categories to enter the Restricted Zone when:

(1) Such entry be limited, to the extent possible, to specified destinations and routes within the Restricted Zone, and

(2) Such entry will not burden official search and rescue missions or other emergency operations, and

(3) Such entry is limited in duration and by type of transportation to minimize, to the extent consistent with urgency of the entry, the safety of those granted entry permits, and

(a) Such entry is necessary for or will contribute to the health, safety, and welfare of the citizens in the disaster area, or

(b) Such entry is necessary for maintenance of privately owned property within the Restricted Zone, or

(c) Such entry is necessary or will contribute to the successful mitigation of damages caused by volcanic activity.

NEW SECTION

WAC 118-03-315 REVOCATION AND SUSPENSION. (1) In the event that volcanic activity or other events increase the danger already present in the Restricted Zone, permits, except permanent residents and scientific personnel approved by the Director of DES or his designee(s), may be suspended or revoked by the Director, DES, or his designee(s). This decision will be based on available scientific information and/or joint evaluation by the USFS (ECC Director) and DES. This evaluation will be made on a daily basis or as necessary. Notification of revocation/suspension will be made by DES in accordance with established DES operational procedures.

(2) The Director of DES or his designee(s) may suspend or revoke any permit issued under this chapter of the Washington Administrative Code upon the failure of the permit holder(s) to meet the conditions of the permit of this chapter.

NEW SECTION

WAC 118-03-335 UNIFORM PROCEDURAL RULES. The Washington State Department of Emergency Services, hereinafter designated as the Department, adopts as its own rules or practice all those uniform procedural rules promulgated by the Code Reviser, now codified in the Washington Administrative Code, WAC 1-08-005 through 1-08-590, as now or hereafter amended, subject to any additional rules the Department may add from time to time. The Department reserves the right to make whatever determination is fair and equitable should any question not covered by its rules come before the Department, said determination to be in accordance with the spirit and intent of the law.

WSR 82-10-048
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed May 3, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Deductible—Medically indigent, amending WAC 388-100-030.

It is the intention of the secretary to adopt these rules on an emergency basis effective May 1, 1982.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
 Division of Administration
 Department of Social and Health Services
 Mailstop OB-33 C

Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Washington, Phone (206) 753-7015, by May 26, 1982. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Wednesday, June 9, 1982, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, June 16, 1982, in William B. Pope's Office, 3rd Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 77.08.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 9, 1982, and/or orally at 10:00 a.m., Wednesday, June 9, 1982, Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: April 30, 1982

By: David A. Hogan

Division of Administration

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Regarding: Amending WAC 388-100-030.

The purpose of the rule or rule change is to reduce the deductible in the limited casualty program from \$1,500 to \$500.

The Reason These Rules are Necessary: To implement chapter 19, Laws of 1982 1st ex. sess.

Person or Persons Responsible for the Drafting, Implementation and Enforcement of the Rule: James Sparks, Program Manager, Division of Medical Assistance, Mailstop: LK-11, Phone: 3-7313.

These rules are not necessary as a result of federal law, federal court decision or state court decision.

AMENDATORY SECTION (Amending Order 1684, filed 7/29/81)

WAC 388-100-030 DEDUCTIBLE. A deductible of ~~((fifteen))~~ five hundred dollars per family over a twelve-month period is required.

(1) Only ~~((eligible))~~ family members that meet the eligibility requirements in WAC 388-100-010(1) through (4) can accumulate expenses against the deductible.

(2) The accumulation of the deductible ~~((commences with the date of certification not to exceed))~~ may begin up to seven working days prior to the date of application. The department may on an exception ~~((to policy))~~ basis waive the seven-day rule if a person fails to apply for medical reasons or other good cause.

(3) Only medical services as specified in WAC 388-100-035 are countable toward meeting the deductible requirement.

(4) The expenses incurred against the deductible are the liability of the applicant/recipient.

(5) If the deductible has not been satisfied during the ~~((certification))~~ three-month base period beginning with the month of application, the remaining amount is applied to any subsequent ~~((acute and emergent certification period which begins))~~ applications within twelve months of the initial application.

WSR 82-10-049
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS
 [Filed May 3, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Pilotage Commissioners intends to adopt, amend, or repeal rules concerning pilotage associations; that such agency will at 9 a.m., Thursday, June 10, 1982, in the Washington State Ferries Conference Room, Pier 52, Seattle, Washington 98104, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 9 a.m., Thursday, June 10, 1982, in the Washington State Ferries Conference Room, Pier 52, Seattle, Washington 98104.

The authority under which these rules are proposed is RCW 88.16.035.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 9, 1982, and/or orally at 9 a.m., Thursday, June 10, 1982, Washington State Ferries Conference Room, Pier 52, Seattle, Washington 98104.

Dated: April 29, 1982
 By: Judith L. Weigand
 Assistant Attorney General

STATEMENT OF PURPOSE

The Association of Pilots in the Puget Sound Pilotage District has changed its name from Puget Sound Pilots Association to Port Angeles Pilots Association. Currently WAC 296-116-085 and 296-116-320 refer to the association by its former name. The Board of Pilotage Commissioners has decided to neutralize the reference to the Association in order to avoid future discrepancies.

WAC 296-116-205 refers to the Willapa Bay Pilotage District. This reference is being deleted, since that district is no longer in existence.

Statutory Authority: RCW 88.16.035.

This Rule has been Drafted by: Judith L. Weigand, Assistant Attorney General, 5th Floor, Highways Licenses Building, Olympia, WA 98504, 753-4051.

This Rule has been Proposed by a Governmental Agency: Board of Pilotage Commissioners, Pier 52, Seattle, WA 98104, (206) 464-7818.

This rule will be enforced by the Board of Pilotage Commissioners.

AMENDATORY SECTION (Amending Order 76-12, filed 4/22/76)

WAC 296-116-085 ASSOCIATION BY-LAWS. (~~The Puget Sound Pilots Association~~) The association of pilots for the Puget Sound pilotage district, together with the (~~Grays Harbor Pilots Association~~) association of pilots for the Grays Harbor pilotage district, shall maintain on file with the Commission a current copy of their respective association by-laws and amendments. Hereafter they shall file with the Commission each new amendment adopted by their respective groups in order that the Board may be kept informed of association acts and activities.

AMENDATORY SECTION (Amending Order 79-5, Resolution 79-5, filed 10/18/79)

WAC 296-116-205 VESSEL CERTIFICATION. (1) Upon boarding a vessel in the Puget Sound pilotage district or Grays Harbor (~~and Willapa Bay~~) pilotage district, a pilot shall request on the form provided in WAC 296-116-2051 that the master of the vessel certify that: (a) The engine room is properly staffed, able to maneuver, and all related equipment is in good order; (b) there are no defects listed against the ship by the United States Coast Guard which would prevent it from sailing; (c) the vessel is not leaking oil; (d) the vessel is experiencing no propulsion or maneuvering difficulties.

If the master is unable to certify that all of the above conditions are met, he shall be asked to certify that the United States Coast Guard captain of the port has been notified of said deficiencies and has authorized the vessel to proceed.

If the master is unable or unwilling to certify that either of the above are the case, the pilot shall not offer pilotage services to said vessel. Instead, the pilot shall disembark from the vessel as soon as practicable, immediately inform the captain of the port of the conditions and circumstances by the best possible means and forward a written report to the board of pilotage commissioners no later than 24 hours after disembarking from the vessel. Any Washington licensed pilot who offers pilotage services to a vessel on which the master has failed to make a certification required by this section shall be subject to the penalties provided in RCW 88.16.100 and 88.16.150.

(2) Upon boarding vessels in either the Puget Sound pilotage district or the Grays Harbor (~~and Willapa Bay~~) pilotage district, the pilot shall also request to see the vessel's SOLAS certificate, and the Federal Maritime Commission certificate of financial responsibility.

The pilot shall also inspect the following of the ship's equipment and conditions and indicate their suitability:

VHF radio, channels 13, 14; radar; gyrocompass; rudder angle indicator; whistle; wheelhouse staffed by an officer and helmsman, one of whom speaks English; local, up-to-date charts; and wheelhouse to engine room communications.

(3) The form appearing in WAC 296-116-2051 shall be used by pilots and masters in complying with the above requirements.

(4) Forms completed by masters and pilots which indicate that the vessel is in compliance and nondeficient shall be forwarded to the offices of the board of pilotage commissioners where they will be retained for a period of at least six months. Forms indicating a vessel not in compliance or deficient and forms upon which either the master or the pilot have failed to make the required certification shall be forwarded to the board of pilotage commissioners and retained for a period of at least twelve months.

AMENDATORY SECTION (Amending Order 79-6, Resolution 79-6, filed 3/4/80)

WAC 296-116-320 RETIREMENT FUND CONTRIBUTION. With respect to \$750 per month for a full-time pilot and \$375 per month for a half-time pilot retirement fund contributions:

(1) Each active pilot member of the (~~Puget Sound Pilots Association~~) association of pilots for the Puget Sound pilotage district shall make a retirement fund contribution of \$750 per month for a full-time pilot and \$375 per month for a half-time pilot for retirement purposes which shall be accumulated and payable upon death or retirement only, and shall be deposited in a joint account in the name of the individual pilot and (~~Puget Sound Pilots~~) the association, in a qualified public depository approved for the purpose by the board: PROVIDED, HOWEVER, The board grants further authority, subject to the following withdrawal limitations, for a portion or all of the retirement fund contributions for pilots on and after July 18, 1975, to be placed into trust programs limited to interest bearing notes, interest bearing accounts, investments, and accumulations of money in short-term money funds, and participation in Bank Pooled Bond Funds. These investments would be for self-employed individuals, so as to qualify said programs under applicable federal laws for deferral of income benefits and other personal advantages. Funds may also be put in fixed income accounts designed to comply with HR-10 Self-Employed Individuals Tax Retirement Act of 1962, as amended by the Employee Retirement Income Security Act of 1974, when such trust plans are submitted to the board for prior approval. Participation in such approved self-employment retirement plans shall be conditioned upon the following:

(a) Once established these plans shall not be terminated except upon the death or retirement of the participating pilot.

(b) Each participating pilot shall issue to the trustee of the self-employment retirement plan signed instructions directing the trustee to give advance notice to the office of the chairperson of the Board of Pilotage Commissioners of any application for distribution or termination of an established self-employment retirement plan. Any pilot, or any person acting on behalf of said pilot's estate, making such an application for distribution or termination at any time other than upon the event of death or retirement of the pilot, shall be directed by the board to withdraw such application.

(c) Should a pilot have not elected retirement prior to age 70 1/2, said pilot shall be permitted to receive a distribution in whatever form he elects, under the provisions of his self-employment retirement plan, thereby complying with the mandatory distribution requirements of the above-mentioned retirement laws, provided that any and all funds so distributed be immediately deposited into a joint account in the name of the individual pilot and (~~Puget Sound Pilots~~) the association of pilots for the Puget Sound pilotage district, in a qualified public depository approved for the purpose by the board, and thereafter withdrawn only upon actual death or retirement.

(d) It is to be understood by any pilot electing to direct contributions toward these self-employed plans and trust programs, that such activity is at their own financial choosing and the general approval by the board for such arrangement is not to be taken as any kind of recommendation or positive approval by the board as to these types of programs. This contribution of \$750 per month for a full-time pilot and \$375 per month for a half-time pilot shall be derived from the pilot's gross revenues.

(2) On quarterly reports required under RCW 88.16.110, the pilot shall state for the preceding quarter the total retirement fund contribution received, through that quarter and shall itemize all withdrawals or payments from such fund. Further, the pilot shall reflect what portion of his retirement funds, on a quarterly basis, have been diverted into KEOGH approved investment retirement plans.

(3) All persons hereafter licensed by the board to pilot on the waters of Puget Sound under the provisions of the Pilotage Act, chapter 88.16 RCW shall be deemed to have agreed to and be bound by the foregoing.

(4) These regulations have been enacted pursuant to the Board of Pilotage Commissioners' authority to fix rates of pilotage as set forth hereinabove. Failure to comply with any aspect of these regulations controlling the use of the \$750 per month for a full-time pilot and \$375 per month for a half-time pilot contribution amount granted for retirement purpose shall result in disciplinary action pursuant to RCW 88.16.120 and such violation may be charged as a misdemeanor pursuant to RCW 88.16.150.

WSR 82-10-050
EMERGENCY RULES
DEPARTMENT OF
NATURAL RESOURCES
[Order 376—Filed May 3, 1982]

I, Brian J. Boyle, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington, the annexed rules relating to implementing the provisions of the Forest Products Industry Recovery Act of 1982, which is sections 3 through 9 of chapter 222, Laws of 1982.

I, Brian J. Boyle, Commissioner of Public Lands, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is the Forest Products Industry Recovery Act of 1982 became effective on April 3, 1982. Section 8 of the act directs the Commissioner of Public Lands to adopt regulations necessary to administer the act, but the act

must be implemented even though regulations are not adopted. Permanent regulations cannot be adopted in time to implement some of the act, and therefore, emergency regulations are necessary for the orderly implementation and administration of the act.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to section 8, chapter 222, Laws of 1982 which directs that the Commissioner of Public Lands has authority to implement the provisions of the Forest Products Industry Recovery Act of 1982.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED May 3, 1982.

By Brian J. Boyle
Commissioner of Public Lands

NEW SECTION

WAC 332-140-010 INTRODUCTION AND GENERAL DEFINITIONS. (1) *The regulations in this chapter are promulgated by the Commissioner of Public Lands of the State of Washington to implement the Forest Products Industry Recovery Act of 1982. Unless provided otherwise herein or unless the context clearly requires otherwise, the following definitions apply to this chapter and to the act:*

(a) "The act" means the Forest Products Industry Recovery Act of 1982, which is section 3 through section 9 of Chapter 222, Laws of 1982.

(b) "ARRF" means the Access Road Revolving Fund referred to in the contract and in RCW 79.38.050.

(c) "Assignment" means the assignment of rights or delegation of duties by a purchaser of a sale or contract to another.

(d) A purchaser "commences operations" on a sale by engaging in removals on that sale or by commencing road construction, falling, bucking, or other contract requirements.

(e) A timber sale contract or timber sale which was "purchased," "entered into," or "purchased at auction" in reference to certain dates specified in sections 4, 5 and 6 of the act refers to the date on which the public auction was held at which such contract or sale was offered.

(f) "Default" means, in reference to a sale, that the purchaser's operating authority on such sale has expired and on which there are forest products yet to be removed. Under section 6 of the act, a purchaser may default a sale by giving notification which specifies that the purchaser is waiving all its rights to the sale. Upon receipt of the notification by the department, the purchaser's operating authority on the sale expires.

(g) "Department" means the Department of Natural Resources of the State of Washington.

(h) "Existing," in reference to a sale, means a sale on which the operating authority has not expired and on which there are forest products yet to be removed.

(i) "Expiration date," in reference to a sale, means the date on which the operating authority expires on that sale under the terms of the contract.

(j) To "identify" a sale means to state the name of the sale and its application number.

(k) "Merchantable" forest products means those forest products included in a sale which are "merchantable" as that term is used in the contract and does not include "cull" or "utility" forest products as those terms are defined in the contract.

(l) "MBF" means thousand board feet Scribner Scale of forest products.

(m) "MMBF" means million board feet Scribner Scale of forest products.

(n) The "operating authority" on a sale refers to the dates stated in the contract during which the purchaser is to remove the forest products which are the subject of the sale.

(o) A "partial cut" sale is one other than a clearcut and on which only part of existing forest products are designated to be removed.

(p) "Performance security" means the surety bond, cash bond, savings account assignment, irrevocable bank letter of credit, or other form of security which insures the faithful performance by the purchaser of the terms of the contract.

(q) "Purchaser" means the purchaser of a sale and any affiliate, subsidiary or parent company thereof. "Affiliate" means a person, corporation or other business entity which is allied with or closely connected to another in a practical business sense, or is controlled or has the power to control the other or where both are controlled directly or indirectly by a third person, corporation or other business entity. "Affiliate" includes a joint venture. "Parent company" shall mean a corporation which owns at least a majority of shares of another corporation. The corporation whose shares are so owned is a "subsidiary" of the parent company.

Purchasers shall be required, upon request of the department, to produce satisfactory written documentation of the relationship between any two or more persons, corporations or other business entities which they or the department claim should be treated as one purchaser under the provisions of the act.

(r) "Timber sale contract," "sale contract," "contract," "timber sale," "sale of timber," and "sale" all mean the sale of and the contract to remove and pay for forest products which were sold by the department at auction by voice or sealed bid and which had, at time of auction, a minimum appraised value of over twenty thousand dollars. The terms "sale" or "contract" shall be used in these regulations. All of the foregoing terms are considered to be synonymous as referred to in the act and these regulations.

(s) "Person" as used in section 5(2) of the act means the business entity which purchased the sale and executed the contract.

(t) "Window sale" means a sale which is referred to in subsection (2) below.

(2) Window Sales. (a) As referred to in these regulations and in sections 4, 5 and 6 of the act, sales or contracts "entered into," "purchased," or "purchased at

auction" between January 1, 1978 and July 1, 1980 means those sales for which the auction was held after January 1, 1978 and before July 1, 1980.

(b) "Lincoln Day Blowdown" sales are those sales identified by the department which were prepared and sold as a result of damage to the timber caused primarily by the Lincoln Day windstorm which occurred on or about February 13, 1979. Such term does not include sales sold because of other reasons or sales sold because timber which was damaged by the Lincoln Day storm was further substantially damaged by later storms or other causes. The following sales are the only Lincoln Day blowdown sales which were auctioned from July 1, 1980 through December 31, 1980 on which there are forest products remaining to be removed:

(i) Lower Wasankari, Application No. 40694

(ii) Piedmont Blowdown, Application No. 42799

(iii) Miller Road Blowdown, Application No. 42817

(iv) 4 Corners Blowdown, Application No. 43196

(v) Key Boundary, Application No. 42078

(vi) Peaks Pickens, Application No. 42933

(vii) Three Sisters Blowdown, Application No. 42493

(viii) Little Boy Blew, Application No. 42163

(ix) Miller Pickup Blowdown, Application No. 43474

(x) Shay, Application No. 42133

(3) Full Reservation of Rights. These regulations are being adopted because of the presumption that enacted laws are valid. However, all existing, past and future purchasers should be aware that claims have been made that the act is invalid and that there is a possibility that the act or portions thereof may be challenged in court, even by the department or other governmental agency or entity.

Any purchaser who requests relief under the act does so at its own risk as to the validity of the act and the possibility of judicial orders or decrees affecting it. The department makes no warranty of the validity of the act and reserves the right to immediately terminate, rescind, or otherwise refuse to grant relief under the act if all or a portion of the act is declared invalid, whether such court order or decision is obtained by others or itself. The department further reserves the right to secure all rights, monies, charges, damages or claims that it would otherwise have been entitled to if the act or portions thereof are declared invalid, and to take such action as may be necessary to secure the same.

NEW SECTION

WAC 332-140-020 EXTENSION PROCEDURE. Requests for extensions under the act shall be in writing. Extensions will be granted only by a written extension document. Extensions granted under the act shall only be on a quarterly (3 month) basis and shall be for 3, 6, 9 or 12 months, except as provided in WAC 332-140-050(2)(c). An extension will not be granted for less time than is reasonably required, as determined by the department, to remove all of the forest products remaining on the sale being extended.

NEW SECTION

WAC 332-140-030 NEW PLAN OF OPERATIONS REQUIRED. Within 10 days after the effective date of these emergency regulations, each purchaser currently operating on a window sale must file and obtain approval for a new plan of operations on such sale. A new plan of operations must be filed and approved for all other window sales on which the purchaser commences operations prior to July 15, 1982 before the purchaser commences operations.

NEW SECTION

WAC 332-140-040 EXTENSION TIME CREDITS. This section implements section 4 of the act.

(1) **Introduction.** "Extension time credit" means the number of calendar days a purchaser receives by engaging in or agreeing to engage in the removal of forest products on a sale which qualifies under subsection (2) below. Extension time credit can be received only for removals engaged in after April 3, 1982. This credit can only be used to extend window sales which exist at the time of the application for an extension of such sale. There are two ways to receive extension time credit. First, a purchaser can "earn" the credit. The extension time credit is "earned" only after the purchaser has satisfactorily engaged in the removals. Second, a purchaser can receive "conditional" credit by agreeing to engage in removals in the future.

(2) **Sales upon which purchaser may earn credit.** The following sales are sales on which the purchaser may earn extension time credit:

(a) All sales auctioned prior to April 3, 1982, but only if and to the extent that the purchaser agrees to and engages in removals on that sale prior to December 31, 1983.

(b) Sales auctioned on or after April 3, 1982, which, in the prospectus and contract, are identified by the department as sales on which extension time credit may be earned, but only if and to the extent that the purchaser agrees to and engages in removals on that sale prior to the sale's expiration date or December 31, 1983, whichever is sooner. Up to 60% of the number of sales auctioned in 1982 and 1983 may be so designated by the department.

(3) **Amount of extension time credit.** One calendar day of extension time credit is earned for each acre of forest products which the purchaser satisfactorily removes and for which a logging or operating release has been issued, except that on partial cut sales or units on which less than 10 MBF/acre is satisfactorily removed, the following schedule shall be used to compute the number of days of extension time credit which may be earned:

Department's presale cruise volume of forest products (average board feet per acre)	Acres of forest products to be removed to earn one day of Extension Time Credit
9,000 to 9,999	1.1
8,000 to 8,999	1.2
7,000 to 7,999	1.4
6,000 to 6,999	1.5
5,000 to 5,999	2.0
4,000 to 4,999	2.5

3,000 to 3,999	3.3
2,000 to 2,999	5.0
Less than 2,000	10.0

Extension time credit will be computed on the foregoing basis, despite whether the removal of the forest products actually takes a longer or shorter time. The volume of forest products and acreage of a sale shall be the volume and acreage stated in the contract. Extension time credit is earned for time spent on yarding, loading and hauling activities only and not for road construction, falling and bucking, or for other contract requirements.

(4) **Request to earn extension time credit.** To earn extension time credit on a sale qualifying under subsection (2) above, a purchaser must submit a written request to the department prior to commencing operations on the sale. This request must identify the sale(s) on which the purchaser wishes to operate to earn extension time credit. The department shall determine the amount of extension time credit available to be earned on a sale in accordance with subsection (3) above. The department and the purchaser shall enter into a written agreement on a form provided by the department which sets forth the limitations of subsection (2) above as well as the amount of extension time credit which can be earned by engaging in such removals. The department shall establish an extension time credit account for the purchaser. After extension time credit is earned on a sale, the department will credit the purchaser's extension time credit account with the proper number of days of extension time credit. The account shall be debited from time to time as extension time credit is used under subsection (9) below. The purchaser which earns the extension time credit may not assign that credit to another purchaser.

(5) **Request to receive extension time credit for engaging in removals from April 3, 1982 through May 14, 1982.** If a purchaser wishes to receive extension time credit for engaging in removals from April 3, 1982 through May 14, 1982, it must submit a written request to the department on or before May 14, 1982. This request must identify the sale on which the purchaser wishes to receive the credit. The department shall determine the proper number of days of extension time credit in accordance with subsection (3) above and shall credit the purchaser's extension time credit account accordingly. If a purchaser fails to meet the foregoing deadline, it shall not receive credit for engaging in removals from April 3, 1982 up through the time it submits a request on that sale under subsection (4) above.

(6) **Conditional Extension Time Credit.** If a purchaser needs to extend a window sale and does not have a sufficient amount of extension time credit in its extension time credit account to do so, the purchaser may submit a written request to the department to receive conditional extension time credit. The request must identify the window sale to be extended and the sale on which the purchaser will agree to engage in removals to receive the conditional credit.

The department and the purchaser shall enter into an agreement, on a form provided by the department, which identifies the sale being extended, the sale on which the purchaser agrees to engage in removals, the amount of extension time credit being conditionally granted, and

the date by which the purchaser must complete the removals agreed upon. Failure of the purchaser to complete the removals by the foregoing date subjects the purchaser to subsection (8) below. A purchaser which receives conditional extension time credit may not assign that credit to another purchaser.

(7) Performance security required for agreements involving conditional credit. An agreement extending a sale using conditionally granted extension time credit shall be secured by the initial deposit and the performance security on the sale being extended and by the initial deposit of the sale on which the purchaser agrees to engage in removals. An adequate amount of the deposits and such security, as determined by the department, must be maintained until the purchaser completes the removals as agreed to, or can substitute the conditionally granted credit with credit actually earned after the date of the agreement referred to above.

(8) Purchaser's failure to engage in removals. If the purchaser fails to meet the completion date for removals as stated in the agreement referred to in subsection (6) above, all of the conditional extension time credit granted on that sale will be disallowed, and the sale(s) which was extended using the conditional extension time credit shall not receive such credit. The purchaser shall receive no extension time credit for the removals engaged in. The department shall notify the purchaser in writing of a failure to meet the completion date. Within 30 days of the date of mailing or personal service of this notice, the purchaser must pay for any extension granted, to the extent that it was granted using conditional credits, as that extension fee would have been computed under the contract as limited only by section 9 of the act. In addition, the purchaser shall pay an additional interest charge on the value of that portion of the extension granted using conditional credit at 12 percent per annum from the date the extension was granted through the date of actual payment by the purchaser. If the purchaser fails to make this payment within 30 days following the above notice, the purchaser's operating authority on the sale shall terminate, and the department may recover damages against the purchaser and its surety as allowed by law.

(9) Use of extension time credit to extend a window sale. (a) Credit earned and credited to the purchaser's extension time credit account may be used by the department to extend a window sale upon written application by the purchaser. Extensions under section 4 of the act will be granted only by written extension agreement. The purchaser must deliver to the department a properly executed extension agreement on or before the expiration date of the sale which the purchaser wishes to extend under section 4 of the act. Failure to meet the above deadline will disqualify the sale for an extension under section 4 of the act.

(b) The purchaser may use the extension time credit earned or conditionally granted to extend as many window sales as it selects. Sales may be extended for 3, 6, 9 or 12 months only, but the purchaser may apply as much credit as it has earned toward the extension. Extension time credit earned may be applied together with

cash or road credit in any combination toward the extension fee. Conditionally granted extension time credit may also be used, but only if needed.

(c) Days of extension time credit earned shall be applied to a sale without regard to whether the extension is during the operating season, closed or winter season, or shutdowns, except that contract termination date adjustments under contract clause 14-4 may still be made.

(d) The department will grant no extension under section 4 of the act after December 31, 1983, except that the department may exercise its rights under subsection (8) above after December 31, 1983.

NEW SECTION

WAC 332-140-050 PAID EXTENSION CREDIT. This section implements section 5 of the act.

(1) Section 5(1). (a) Qualifying sales. Only window sales which exist as of the date of the application under this subsection qualify for a paid extension credit under section 5(1) of the act.

(b) Written application. To qualify for the paid extension credit, an extension agreement, properly executed by the purchaser and surety (if applicable), must be received by the department at least one working day prior to the then current expiration date of the sale on which the purchaser seeks a paid extension credit. No credits will be granted under section 5(1) of the act if the purchaser does not meet the foregoing deadline.

(c) Amount of paid extension credit. The amount of the paid extension credit on a sale shall be equal to the total amount of the extension fees paid by the purchaser on that sale after April 3, 1982 by cash or road credits.

(d) Same sale. The paid extension credit shall be applied, dollar for dollar, to payments for forest products only on the same sale as the extension fee is paid by the purchaser. The paid extension credit may not be used to pay ARRF charges.

(e) Length of extensions. The extensions granted on a sale under section 5(1) of the act shall only be 3, 6, 9 or 12 months in length. The department's authority to grant extensions under section 5(1) of the act expires on December 31, 1984.

(2) Section 5(2). (a) Qualifying sales. Section 5(2) of the act applies only to extensions which were requested, paid for, and for which the extension agreements were executed on or before April 2, 1982. Section 5(2) of the act applies to all sales existing as of the date of the purchaser's application hereunder. Extensions of sales for which extensions were paid after April 2, 1982 do not qualify for an equivalent extension under section 5(2) of the act. A person may not receive a credit under section 5(2) of the act for minimum fee (\$100) extensions granted before April 3, 1982, but only for extensions paid in cash by the purchaser.

(b) Written application. A person wishing to receive an extension on a sale under section 5(2) of the act must make a written application to the department which identifies the sale, the amount of extension time claimed under section 5(2) of the act, and the dates and periods of past extensions purchased on that sale.

(c) If a person satisfies the provisions of (2)(a) and (b) above, the department shall, without any charge,

grant the person applying for an extension under section 5(2) of the act an extension equal in time to the total time of the extensions on that sale which were paid by the person extending the sale, up to a total of twelve months.

NEW SECTION

WAC 332-140-060 DEFAULTS. This section is to implement section 6 of the act.

(1)(a) Qualifying sales. Section 6 of the act applies only to window sales which were in existence as of April 3, 1982 or for which a payment is made after April 3, 1982 under section 7 of the act to reinstate the sale.

(b) Written notification. The purchaser must provide the department with written notification on or before July 14, 1982 stating that the purchaser elects to terminate or default a sale under section 6 of the act. Such notification must state that the purchaser is giving up all of its rights under that contract as of the date of the notification. The notification must be accompanied by a sworn written statement by an authorized representative of the purchaser which identifies the names of all affiliates, subsidiaries, and parent companies of the purchaser which purchased a window sale. The department shall provide the form for this statement. The notification must also be accompanied by a \$2,500 cash administrative fee. The notification will be considered received by the department only when the fee and sworn statement are received by the department.

(c) Limitation on sales to be defaulted. The following limitations apply to the sales which a purchaser may terminate or default under section 6 of the act.

(i) The purchaser may default on the sale(s) of its choice of which it was the purchaser as of April 3, 1982 if the sale qualifies under subsection (1)(a) above and if the cumulative volume remaining on those sales for which notification is given does not exceed 15 MMBF of forest products as of the date of the notification. The volume remaining on a sale shall be computed by the department by subtracting the volume of merchantable forest products removed from the department's presale cruise volume of merchantable forest products stated in the contract.

(ii) No sales which have been assigned after April 3, 1982 may be terminated or defaulted.

(iii) Only entire sales may be defaulted. A purchaser may not default on part of a sale under section 6 and choose to retain any right to remove forest products from any part of the same sale.

(iv) A sale may be terminated or defaulted even though the purchaser has operated on it and removed forest products from the sale, subject to the further limitations of subsection (1)(d) below.

(v) A sale on which all of the forest products have been removed may not be terminated or defaulted under section 6 of the act.

(d) Limitations on defaults of sales on which operations have occurred. A sale which otherwise qualifies for termination or default under section 6 of the act and this section may be defaulted subject to the following obligations and reservations:

(i) All forest products must be paid for which were removed from the sale and all due ARRF payments and other payments due must be paid, including all payments for forest products and ARRF deferred under a Deferred Payment Agreement. The department reserves the full right to take appropriate action against the purchaser and its surety to recover all applicable damages for a failure of the purchaser to make the foregoing payments on or before the receipt of the notification of default.

(ii) All outstanding contract requirements (other than removal of forest products) which arose as a result of the purchaser's activities on the sale must be performed prior to the notification of default under (1)(b) above. These requirements include, but are not limited to, slash disposal preparation work, stream cleanout, falling non-merchantable forest products, road maintenance, ditching, waterbarring and fire trail construction. If the purchaser fails to perform the foregoing outstanding requirements, the department shall determine the current cost of performing that work and charge the purchaser therefor. If the purchaser fails to promptly pay such charges, the department may take appropriate action to recover the same from the purchaser and its surety.

(iii) The purchaser and its surety are not released from any liability or duty to indemnify the department which arose as a result of the acts or omissions of the purchaser or its delegate relating to the sale being defaulted.

(2) No refunds or credits. Upon notification under subsection (1)(b) above, the department shall make no refunds nor give any credits of any cash payments made to the department in connection with the contract which is being defaulted. Such cash payments include, but are not limited to, the initial deposit, extension fees, cash advance payments, and cash performance bonds, whether the foregoing deposits or payments are used or unused. All such sums shall be retained by the department.

(3)(a) Road credits. Upon receipt of notification under subsection (1)(b) above, the department shall compute the road credit which is provided by section 6(3) of the act. The credit shall only be allowed for road construction which was specifically required to be constructed under the contract. Loggers' choice roads and spurs not required to be constructed do not qualify for a road credit.

(b) Amount of road credit. The amount of the road credit shall be determined based upon the percentage of road work satisfactorily completed in each road construction phase. The phases of road construction are those separate phases expressly identified in the road appraisal work forms used by the department in the presale appraisal. The percentages of satisfactory completion shall be applied to the road construction cost estimates as stated in the department's road construction presale appraisal.

(c) Reduction of credit. The total amount of the road credit as computed in subsection (3)(b) above shall be reduced by the difference between the costs, as determined by the department, of correcting road work which

was unsatisfactorily performed and the cost of completing such road work as computed in the department's original presale road construction appraisal.

(d) Amortization. The amount of the road credits shall be further reduced by the same percentage as the percentage of forest products removed on that sale. The percentage of forest products removed shall be computed by dividing the volume of merchantable forest products removed by the volume stated in the contract.

(4) Application of Road Credit. (a) Road credit will be applied only upon written application of the purchaser and after the department has determined the amount of the road credit. Such credit may be applied to one-half of any required payment for stumpage, cash deposits for performance security, or extension fee on a sale. Road credits cannot be applied to the initial deposit on a sale nor to a payment made under section 7 of the act.

(b) Road credit will only be applied to sales of that purchaser which are situated on land of the same trust and beneficiary as the sale on which the road credit is given. If the sale on which the road credit is given is situated on land of more than one trust and beneficiary the total road credit for the sale shall be divided in proportion to the acreage of each trust and beneficiary and applied separately and only to sales situated on the same trust and beneficiary.

(5) A purchaser whose sale expires or expired without removing all of the forest products from the sale and which sale does not qualify to be terminated or defaulted by the purchaser under section 6(1) of the act remains fully liable to the department for whatever damages that may be recovered under law notwithstanding the provisions of the act. This includes a sale which had expired as of April 3, 1982 and which the purchaser does not reinstate under section 7 of the act on or before July 14, 1982.

NEW SECTION

WAC 332-140-070 REINSTATEMENT OF SALES. This section implements section 7 of the act.

(1) Qualifying sales. Section 7 of the act applies to sales on which the operating authority had expired as of April 3, 1982 which otherwise would qualify for extension under sections 4 or 5 of the act or to be defaulted under section 6 of the act. The purpose of section 7 of the act is to allow the purchaser to make a payment to reinstate such a sale and thereby make that sale eligible for relief under sections 4, 5, 6 and 9 of the act. A reinstatement payment made under section 7 of the act is not considered an extension payment for purposes of section 5 of the act.

(2) Application for Reinstatement. To reinstate a sale under section 7 of the act, the purchaser must make written application to the department for reinstatement on or before July 14, 1982.

(3) Reinstatement Payment. To be effective, an application for reinstatement under section 7 of the act must be accompanied by a payment equal to the extension payment for that sale computed from the date the sale or previous extension thereof expired through the date the application is received. The amount of this payment

shall be computed as provided in the contract for extensions. The interest limitation of section 9 of the act does not apply to the extension computation under the provisions of section 7 of the act and this section. Road credits under section 6 of the act may not be used to make the reinstatement payments required by section 7 of the act.

NEW SECTION

WAC 332-140-090 EXTENSION INTEREST RATE LIMITATION. This section implements section 9 of the act.

(1) Section 9 of the act applies to extensions on sales which were auctioned on or before December 30, 1980 for which extensions are granted after April 3, 1982 but before December 31, 1984. In computing the fees for such extensions, the department shall use the interest rate stated in the contract or 13 percent, whichever is less, in computing the interest charge on the unpaid portion of the contract which forms part of the extension fee.

(2) Reinstatement payments made under section 7 of the act are not subject to the interest rate limitation of section 9 of the act.

NEW SECTION

WAC 332-140-100 MT. ST. HELENS SALES EXCLUDED. Sections 2 through 9 of the act do not apply to any sales sold before or after any eruption of Mt. St. Helens and which include or included timber damaged by any such eruption.

WSR 82-10-051
PROPOSED RULES
COMMISSION ON
ASIAN-AMERICAN AFFAIRS
[Filed May 4, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Commission on Asian-American Affairs intends to adopt rules concerning organization and operation of the commission, commission meetings, petitions for rule-making action, communications with the commission, and public records disclosure.

The formal adoption, amendment, or repeal of such rules will take place at 9:30 a.m., Saturday, June 19, 1982, in the Asian-American Alliance Office, Lakewood Community Center, 912 Lakewood Drive S.W., Tacoma, WA.

The authority under which these rules are proposed is RCW 43.117.050, 34.04.020, 34.04.060, 42.17.250, 42.17.260 and 42.30.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to Friday, June 18, 1982.

Dated: May 4, 1982
By: Robert C. Hargreaves
Assistance Attorney General

STATEMENT OF PURPOSE

The Washington State Commission on Asian-American Affairs has filed with the code reviser a notice of its intention to adopt rules, the titles of which are reflected on the copies of the proposed rules shown below. The rules are being proposed for adoption under the agency's general rule-making power contained in RCW 43.117.050, and pursuant to and in order to effectuate the statutory mandate to adopt such rules found in RCW 34.04.020, 34.04.060, 42.17.250, 42.17.260 and 42.30.070.

The proposed rules describe the organization and operation of the commission, when commission meetings are held, how to petition the commission for rule-making action, communications with the commission, and public records disclosure. The agency heretofore has not adopted any rules or regulations, and is proposing to do so at this time in order to comply with statutory directive, as outlined above.

The rules were drafted by the undersigned assistant attorney general, assigned to counsel the commission, and they will be implemented and enforced by Vivian Luna, executive director of the commission, whose address and phone number is: 1575 South Cherry, Olympia, WA 98504, 753-7053 Scan, 234-7053; or 671 South Jackson, Suite 206, Seattle, WA 98104, 464-5820 Scan, 575-5820.

The rules are being proposed for adoption by the Commission on Asian-American Affairs.

Chapter 34-02

GENERAL PROVISIONS

WAC	
34-02-010	Organization and Operation of the Commission on Asian-American Affairs
34-02-020	Commission Meetings
34-02-030	Petitions for Rule Making Action
34-02-040	Communications with the Commission

NEW SECTION

WAC 34-02-010 ORGANIZATION AND OPERATION OF THE COMMISSION ON ASIAN-AMERICAN AFFAIRS. (1) The Commission on Asian-American Affairs, hereinafter referred to as the commission, is a commission in the office of the governor established by RCW 43.117.030. The commission exists to improve the well-being of Asian-Pacific Americans by helping to insure their participation in the fields of government, business and education, and to aid Asian-Pacific Americans in obtaining governmental services in order to promote the health, safety and welfare of all residents of this state. The duties and responsibilities of the commission are more particularly described in chapter 43.117 RCW. The twelve (12) members of the commission are appointed by the governor.

(2) All basic policy decisions are made by the commission at its regular and special meetings. To assist in policy formulation, and to otherwise assist in carrying out its various duties and responsibilities, the commission has an executive director, appointed by the governor based on commission recommendations, a staff hired by the executive director, and three standing committees comprised of commission members. The committees are:

(a) the executive committee, which is responsible for conducting certain commission business and for undertaking specific tasks delegated by the commission;

(b) the nominations committee, which is responsible for developing and implementing procedures by which to recommend commission and executive director appointees, and for such other tasks as may be delegated by the commission; and

(c) the public relations committee, which is responsible for reviewing major news releases and other information designed to increase the public's knowledge of the commission or Asian-Pacific Americans.

Other committees may be formed at any time by the commission for the purpose of addressing various issues affecting Asian-Pacific Americans.

(3) The commission maintains a central administrative office at 1515 South Cherry, Olympia, Washington, 98504, and a field office at 671 South Jackson, Suite 206, Seattle, Washington, 98104.

NEW SECTION

WAC 34-02-020 COMMISSION MEETINGS. (1) Regular meetings of the commission are held on the third Saturday of January, March, June, September and November. Notice of the time and place of the regular meetings will be published annually in the January edition of the Washington state register. A copy of the schedule of regular meetings may also be obtained upon request from the commission.

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

(3) In addition to the meeting notices specified above, the commission staff will publicize information about all commission meetings in the communities in which the meetings are to be held.

NEW SECTION

WAC 34-02-030 PETITIONS FOR RULE MAKING ACTION. (1) Any interested person may petition the commission requesting the promulgation, amendment or repeal of any rule. The petition may be in any form, so long as the following information is contained therein:

(a) Name and address of the person, organization or corporation requesting the promulgation, amendment or repeal of the rule. If the request is being made by an organization or corporation, the name of a designated individual for contact must be provided.

(b) Text or substance of the proposed rule or amendment, or specific reference to the appropriate rule in cases where repeal is requested.

(c) Full explanation for the requested promulgation, amendment or repeal of rules.

(2) Within thirty (30) days after submission of a petition, or at the next meeting of the commission if the commission does not meet within thirty (30) days, the commission will formally consider the petition and shall, within thirty (30) days thereafter, either deny the petition in writing (stating reasons for the denial) or initiate rule-making proceedings in accordance with chapter 34.04 RCW (Administrative Procedure Act).

NEW SECTION

WAC 34-02-040 COMMUNICATIONS WITH THE COMMISSION. Any and all written communications with the commission, including but not limited to requests for information or copies of agency records, or submittals of any nature, shall be addressed to the Commission on Asian-American Affairs, in care of the executive director, at either the commission's Olympia or Seattle office. The address for each office appears in WAC 34-02-010(3).

NEW SECTION

WAC 34-04-010 PURPOSE. The purpose of this chapter shall be to insure compliance by the Commission on Asian-American Affairs with the provisions of chapter 1, Laws of 1973, Initiative Measure No. 276, and in particular sections 25 through 32 of that act, now codified as RCW 42.17.250 through RCW 42.17.320, concerning disclosure of public records.

NEW SECTION

WAC 34-04-020 DEFINITIONS. The following definitions shall apply to this chapter: (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the commission regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof, and all papers, maps, magnetic or paper tapes,

photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) "Commission" means the Commission on Asian-American Affairs, created pursuant to chapter 43.117 RCW, and shall also refer to the commission's executive director and staff, where appropriate.

NEW SECTION

WAC 34-04-030 PUBLIC RECORDS AVAILABLE. All public records of the commission are deemed to be available for public inspection and copying, except as otherwise provided by RCW 42.17-.260, 42.17.310, as now and/or hereafter amended, and by WAC 34-04-090.

NEW SECTION

WAC 34-04-040 PUBLIC RECORDS OFFICER. The commission's executive director shall be the public records officer for the commission. The public records officer shall be responsible for implementation of the commission's rules and regulations regarding inspection and copying of public records, and for insuring compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW.

NEW SECTION

WAC 34-04-050 RECORDS INDEX. The commission will make available to any person upon request a current index which provides identifying information as to the following records:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statutes and regulations which have been adopted by the commission;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the commission relating to any regulatory, supervisory or enforcement responsibilities of the commission, whereby the commission determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(2) The current index promulgated by the commission shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection and copying.

(3) Identifying information contained in the index will indicate in which of the commission's offices the public record is kept.

NEW SECTION

WAC 34-04-060 OFFICE HOURS. Public records shall be available for inspection and copying during normal office hours. For purposes of this chapter, normal office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

NEW SECTION

WAC 34-04-070 REQUESTS FOR PUBLIC RECORDS. In accordance with the requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, and to protect public records from damage or disorganization, and to prevent excessive interference with essential functions of the commission, 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 commission which shall be available at either of its offices. The form shall be presented to the public records officer, or to any member of the commission's staff, if the public records officer is not available, at either commission office during normal office hours. The request shall include the following information:

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

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

(c) The nature of the request;

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

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

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to assist the member of the public in appropriately identifying the public record requested.

NEW SECTION

WAC 34-04-080 COPYING. No fee shall be charged for the inspection of public records. The commission shall charge a fee of \$.25 per page for providing copies of public records and for use of the commission's copy equipment. This charge is the amount necessary to reimburse the commission for its actual costs incident to such copying.

NEW SECTION

WAC 34-04-090 EXEMPTIONS. (1) The commission reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 34-04-070 is exempt from disclosure under the provisions of RCW 42.17.260 and 42.17.310.

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

(3) All denials of requests for public records shall be accompanied by a written statement specifying the reason for the denial.

NEW SECTION

WAC 34-04-100 REVIEW OF DENIALS OF PUBLIC RECORDS REQUESTS. (1) Any person who objects to the denial of a request for public records may petition for prompt review of such decision by submitting a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Following receipt of a written request for review of a decision denying a request for public records, the public records officer or other authorized staff member denying the request shall refer it to the chairperson of the commission. The chairperson, or designee, shall immediately consider the matter and either affirm or reverse such denial. The request shall be returned with the final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the request has been returned with a decision or until the close of the second business day following denial or inspection, whichever occurs first.

NEW SECTION

WAC 34-04-110 PROTECTION OF PUBLIC RECORDS. In order to properly protect the public records in the custody of the commission, the following guidelines shall be adhered to by any person inspecting such public records:

(1) No public records shall be removed from the offices of the commission;

(2) Inspection of any public records shall be conducted in the presence of a designated commission employee;

(3) No public records may be marked or defaced in any manner during inspection;

(4) Public records which are maintained in a file jacket, or in a chronological order, may not be dismantled except for purposes of copying and then only by a designated employee of the commission;

(5) Access to file cabinets, shelves, vaults, etc., is restricted to commission personnel.

NEW SECTION

WAC 34-04-120 ADOPTION OF FORM. The commission hereby adopts for use by all persons requesting inspection or copying of its records, the form set out below, entitled "Request for Public Records."

We have received your request for copies of our public records. Please complete the attached form and return it with the proper payment to the address below. We will forward to you those requested copies which are not exempt from disclosure when we receive this form. Thank you.

Return to:

Commission on Asian-American Affairs
c/o Executive Director
1515 South Cherry
Olympia, WA 98504

or

671 South Jackson, Suite 206
Seattle, WA 98104

REQUEST FOR PUBLIC RECORDS

Date Time

Name

Address

.....

Description of Records

.....

.....

I certify that the information obtained through this request for public records will not be used for commercial purposes.

.....
Signature

Number of copies

Number of pages

Per page charge \$.25

Total charge \$

WSR 82-10-052
PROPOSED RULES
FOREST PRACTICES BOARD
[Filed May 4, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Forest Practices Board of the state of Washington intends to adopt, amend, or repeal rules concerning the conduct of forest practices, Title 222 WAC.

A State Environmental Policy Act Environmental Checklist has been completed and a threshold determination made the proposed action does not have a significant adverse impact on the environment. A Proposed Declaration of Nonsignificance has been issued. This declaration is on file at the Department of Natural Resources SEPA Public Information Center and has been circulated to the appropriate state agencies and all counties of the state. After the review period, a Final Declaration of Nonsignificance will be issued unless comments received indicate that the proposed rule change may be significant;

that such agency will at 9:30 a.m., Thursday, June 24, 1982, in Conference Room 301, Department of Natural Resources, Public Lands Building, conduct a hearing relative thereto.

The adoption, amendment, or repeal of such rules will take place immediately following such hearing.

The authority under which these rules are proposed is RCW 76.09.040 and 76.09.050 which directs that the Forest Practices Board has authority to implement the provisions of chapter 76.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 3, 1982, and/or orally at the above scheduled hearing.

Dated: May 3, 1982
By: Arden Olson
Executive Secretary

STATEMENT OF PURPOSE

Purpose: To expedite the approval process for forest practices applications pertaining to rights-of-way crossing more than one forest landowner.

Adopting Agency: Forest Practices Board of the state of Washington.

Implementation: The forest practices regulations are administered primarily by the Department of Natural Resources.

Statutory Authority: RCW 76.09.040 and 76.09.050.

Summary of Rules: The current rules require the landowner's signature on a forest practices application. Where numerous landowners are crossed by a utility transmission right-of-way, obtaining all of the landowner's signatures on one application presents numerous problems and complicates the process. The proposed rule change allows the applicant for a right-of-way development to sign in lieu of the landowner, provided that the applicant submits a copy of the right-of-way document showing the applicants interest to cut, remove or dispose of timber and develop said right-of-way. A copy of advance written notice to the landowner of the applicants intent to carry out a forest practice on the subject property must accompany the forest practices application.

Agency Personnel Involved: Arden Olson, Executive Secretary for the Forest Practices Board, Division Manager, Division of Private Forestry and Recreation, Department of Natural Resources, Public Lands Building, Olympia, Washington 98504, Telephone: (206) 753-5315; and James R. Johnston, Assistant Attorney General, 310 Public Lands Building, Olympia, Washington 98504, Telephone: (206) 753-5318.

Proponent of Rules: The rules are proposed by the Forest Practices Board.

Agency Comments: None.

Court Action: None.

AMENDATORY SECTION (Amending Order 263, filed 6/16/76)

WAC 222-20-010 APPLICATIONS AND NOTIFICATIONS—POLICY. (1) No Class II, III or IV forest practices shall be commenced or continued unless the department has received a notification for Class II forest practices, or approved an application for Class III or IV forest practices pursuant to the act. Where the time limit for the department to act on the application has expired, and

none of the conditions in WAC 222-20-020(1) exist, the operation may commence.

(2) At the option of the applicant, applications or notifications may be submitted to cover a single forest practice or any number of forest practices within reasonable geographic or political boundaries as specified by the department. Long range plans may be submitted to the department for review and consultation.

(3) The department shall prescribe the form and contents of the notification and application, which shall specify what information is needed for a notification, and the information required for the department to approve or disapprove the application.

(4) Applications and notifications for operations not converting to another use shall be signed by the landowner, the timber owner and the operator; or the operator and accompanied by a consent form signed by the timber owner and the landowner. A consent form may be another document if it is signed by the landowner(s) and it contains a statement acknowledging that he is familiar with the Forest Practices Act, including the provisions dealing with conversion to another use (RCW 76.09.060(3)). Where the application is not signed by the landowner, the department shall, provided all the other requirements contained in chapter 222-20 WAC are met, approve the application without the signature of the landowner if:

(a) The operator or timber owner provides legal evidence of timber rights, ownership, or other legal rights;

(b) The timber owner or operator posts a bond securing compliance with the requirements of the Forest Practices Regulations (as determined necessary by the department), and

(c) The operator or timber owner provides evidence of reasonably advance notification to the landowner of the proposed forest practice and that the landowner has been requested to sign the application, a copy of which has been made available to the landowner; PROVIDED, That in lieu of such evidence the applicant may submit a sworn statement indicating inability to locate the landowner after a reasonable good faith attempt to locate and notify the landowner of the proposed forest practice.

(5) Applications for conversions for purposes limited to the development of an easement or right of way interest may be signed by the owner of such interest as the forest landowner: PROVIDED, The owner of such interest shall submit to the department as an attachment to the application (a) a copy of the right of way document which evidences the interest owner's right to cut, remove, or dispose of timber and to develop the easement or right of way and (b) a copy of any assignment(s) if the present interest holder is other than the original grantee and (c) a copy of advance written notification to the landowner of the interest owner's intent to carry out a forest practice on the subject property.

(6) Where an application for a conversion is not signed by the landowner or accompanied by a consent form, as outlined in (4) above, the department shall not approve the application.

~~((6))~~ (7) Transfer of the approved application or notification to a new landowner, timber owner or operator requires written notice by the original landowner or applicant to the department and should include the original application or notification number. In the case of a transfer of an application previously approved without the landowner's signature the new timber owner or operator must submit a bond securing compliance with the requirements of the Forest Practices Regulations as determined necessary by the department. If an application or notification indicates that the landowner or timber owner is also the operator, or an operator signed the application, no notice need be given regarding any change in subcontractors or similar independent contractors working under the supervision of the operator of record.

~~((7))~~ (8) Applications and notifications must be delivered to the department at the appropriate area office. Delivery should be in person or by registered or certified mail.

~~((8))~~ (9) Applications and notifications shall be considered received on the date and time shown on any registered or certified mail receipt, or the written receipt given at the time of personal delivery, or at the time of receipt by general mail delivery. Applications or notifications that are not complete, or are inaccurate will not be considered officially received until the applicant furnishes the necessary information to complete the application. If a notification or application is delivered in person to the department by the operator or his authorized agent, the department shall immediately provide a dated receipt. In all other cases, the department shall immediately mail a dated receipt to the applicant.

WSR 82-10-053
NOTICE OF PUBLIC MEETINGS
URBAN ARTERIAL BOARD
 [Memorandum—May 4, 1982]

Beginning at 9:30 a.m., Thursday, May 20, 1982

1. Minutes from UAB meeting on April 15, 1982.
2. Review proposed projects for authorization of Urban Arterial Trust Funds for the preliminary phase.
3. Selection of procedure to outline the UAB Six Year Construction Program to the 1983 Legislature.
4. Review proposed financial plans for future UAB program.
5. Review future staff requirements.

WSR 82-10-054
ATTORNEY GENERAL OPINION
Cite as: AGLO 1982 No. 11
 [May 3, 1982]

OFFICES AND OFFICERS—STATE—LIQUOR CONTROL BOARD—INTOXICATING LIQUOR—SALE OF CONFISCATED LIQUOR IN STATE LIQUOR STORES

The Washington State Liquor Board may sell, through state liquor stores and agencies, unopened liquor which has been lawfully confiscated by the Board or by other governmental agencies.

Requested by:

Honorable Robert D. Hannah
 Chairman
 Liquor Control Board
 Capitol Plaza Building
 Olympia, Washington 98504

WSR 82-10-055
PROPOSED RULES
DEPARTMENT OF REVENUE
 [Filed May 5, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Revenue intends to adopt, amend, or repeal rules concerning:

- | | | |
|-----|------------------|---|
| New | WAC 458-40-18670 | Definitions for 7/1/82 through 12/31/82. |
| New | WAC 458-40-18671 | Stumpage value areas—Map for 7/1/82 through 12/31/82. |
| New | WAC 458-40-18672 | Hauling distance zones—Maps for 7/1/82 through 12/31/82. |
| New | WAC 458-40-18673 | Timber quality code numbers—Tables for 7/1/82 through 12/31/82. |
| New | WAC 458-40-18674 | Stumpage values—Tables for 7/1/82 through 12/31/82. |
| New | WAC 458-40-18675 | Harvester adjustments—Tables for 7/1/82 through 12/31/82. |
| New | WAC 458-40-18676 | Small harvester option for period 7/1/82 through 12/31/82. |
| New | WAC 458-40-18677 | Definitions for small harvester option for 7/1/82 through 12/31/82. |

New	WAC 458-40-18678	Taxable stumpage value for 7/1/82 through 12/31/82.
Amd	WAC 458-40-18600	General.
Amd	WAC 458-40-19000	Timber pole volume table for west of Cascade Summit for the calendar period 7/1/82 through 12/31/82.
Amd	WAC 458-40-19001	Timber piling volume table for west of Cascade Summit for the calendar period 7/1/82 through 12/31/82.
Amd	WAC 458-40-19002	Timber pole volume table for east of Cascade Summit for the calendar period 7/1/82 through 12/31/82.
Amd	WAC 458-40-19003	Timber piling volume table for east of Cascade summit for the calendar period 7/1/82 through 12/31/82.
Amd	WAC 458-40-19004	Conversion definitions and factors for the calendar period 7/1/82 through 12/31/82;

that such agency will at 10:00 a.m., Tuesday, June 8, 1982, in the Large Conference Room, General Administration Building, Olympia, Washington, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 10:30 a.m., Wednesday, June 30, 1982, in the Director's Office, 415 General Administration Building, Olympia, WA 98504.

The authority under which these rules are proposed is RCW 84.33.071.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 8, 1982, and/or orally at 10:00 a.m., Tuesday, June 8, 1982, Large Conference Room, 1st Floor, General Administration Building, Olympia, Washington 98504.

Dated: May 5, 1982

By: John B. Conklin
Supervisor, Forest Tax Section

STATEMENT OF PURPOSE

This statement of purpose, prepared in compliance with RCW 34.04.045, accompanies proposed rules to be promulgated by the Department of Revenue as follows:

Title: Tables for determination of stumpage values, new sections WAC 458-40-18670 through 458-40-18678 and amendatory sections WAC 458-40-18600 and 458-40-19000 through 458-40-19004.

Purpose: To establish the values for reporting and payment of the timber excise tax levied by RCW 84.33.071.

Statutory Authority: RCW 84.33.071, which directs the Department of Revenue to prepare tables of stumpage values before June 30 and December 31 of each year to be used for the six month periods thereafter.

Summary and Reasons for the Rule: The tables set out the value of stumpage for each species or subclassification of timber within designated areas having similar growing, harvesting and marketing conditions. These values are to be used for computing the timber excise tax due quarterly by timber harvesters upon timber harvested for sale or for commercial industrial use during the period July 1, 1982 through December 31, 1982.

Drafters of the Rule: John Conklin, (206) 753-2871; Robert Hawley, (206) 753-1385; and Robert Smith, (206) 753-1385; all are located at Evergreen Plaza

Building, Room 303, 711 South Capitol Way, Olympia, WA 98501.

Rule Implementation and Enforcement: Trevor W. Thompson, Director, Property Tax, Evergreen Plaza Building, 711 South Capitol Way, Olympia, WA 98501, (206) 753-5503.

Proposer of the Rule: Department of Revenue, General Administration Building, Olympia, WA 98504.

Comments and Recommendations: None.

Federal Law or Court Action Citation: No federal laws involved or action requested by the courts.

AMENDATORY SECTION (Amending Order FT-81-4, filed 12/31/81)

WAC 458-40-18600 GENERAL. Pursuant to the duty imposed by RCW 84.33.071 to prepare tables of stumpage values for each species of timber and consistent with the duty to make allowances for age, size, quality, costs of removal, accessibility to point of conversion, market conditions, and all other relevant factors, the department has promulgated rules and prepared tables which prescribe stumpage values and make allowances for the relevant factors.

WAC 458-40-18600, (~~458-40-18661~~) 458-40-18670 through (~~458-40-18666~~) 458-40-18675 and 458-40-19000 through 458-40-19004 are promulgated for the calendar period (~~7/1/82~~) 7/1/82 through (~~6/30/82~~) 12/31/82 pursuant to the rule-making requirements, and procedures prescribed or authorized by chapter 34.04 RCW.

NEW SECTION

WAC 458-40-18670 DEFINITIONS FOR 7/1/82 THROUGH 12/31/82. (1) Acceptable Log Scaling Rule. The acceptable log scaling rule shall be the Scribner Decimal C Log Scale Rule or other prevalent measuring practice, provided that such other prevalent measuring practice shall be an acceptable scaling procedure and provided that such procedure shall be submitted to the department for approval prior to the time of harvest.

(2) Approved Log Scaling and Grading Rules.

(a) West of the Cascade Summit—Approved Scaling and Grading Rule. With respect to the reporting of timber harvested from private lands in areas west of the Cascade summit, which areas are designated as stumpage value areas 1, 2, 3, 4, 5, and 11 in the stumpage value area map of WAC 458-40-18671, the methods and procedures published by the Columbia River Log Scaling and Grading Bureau, Grays Harbor Log Scaling and Grading Bureau, and the Puget Sound Log Scaling and Grading Bureau and published as the "Official Log Scaling and Grading Rules" by the Puget Sound Log Scaling and Grading Bureau, Tacoma, Washington are approved by the department for use in those areas.

(b) East of the Cascade Summit—Approved Scaling Rule. With respect to the reporting of timber harvested from private lands in areas east of the Cascade summit, which areas are designated as stumpage value areas 6, 7, 8, 9, and 10 in the stumpage value area map of WAC 458-40-18671, the methods and procedures published by the United States Forest Service under the title "National Forest Log Scaling Handbook" procedures are approved by the department for use in those areas. This log scaling handbook is published under the title FSH 2409-11 National Forest Log Scaling Handbook, Forest Service, United States Department of Agriculture.

(c) East of the Cascade Summit—Established Grading Rule. Because the National Forest Log Scaling Handbook does not contain grading rules, a separate computation shall be made to arrive at the proper grade for purposes of determining the timber quality code number for timber harvested east of the Cascade summit. The grade for quality classification purposes of the timber harvested from private land east of the Cascade summit shall be determined by the number of sawable sixteen foot logs per thousand feet net Scribner Decimal C Log Scale. The computation shall be made under the following three-step procedure:

(i) Step 1. The highest possible total number of sawable sixteen foot logs which could be recovered shall be determined by dividing the sum total of length of all sawable logs harvested by the number sixteen.

(ii) Step 2. The average net volume per sixteen foot recoverable log shall be determined by dividing the total volume harvested (net log scale) by the total number of sixteen foot logs as determined in Step 1.

(iii) Step 3. The total number of logs per thousand board feet (MBF) shall be determined by dividing one thousand by the average net volume as determined in Step 2.

(3) Codominant Trees. Trees whose crowns form the general level of the crown cover and receive full light from above, but comparatively little light from the sides.

(4) Department. Department, for the purposes of this chapter, shall mean the department of revenue of the state of Washington.

(5) Dominant Trees. Trees whose crowns are higher than the general level of the canopy and who receive full light from the sides as well as from above.

(6) Forest Excise Tax Payment. Every person who is engaged in business as a harvester of timber from privately owned land shall pay a forest excise tax which shall be equal to the taxable stumpage value of timber harvested for sale or for commercial or industrial use and multiplied by the appropriate rate as provided in RCW 84.33.071.

(7) Harvester. Harvester shall mean every person who from his own privately owned land or from privately owned land of another under a right or license granted by lease or contract, either directly or by contracting with others, takes timber for sale or for commercial or industrial use. It does not include persons performing under contract the necessary labor or mechanical services for a harvester.

(8) Harvested Timber—When Determined. Timber shall be considered harvested at the time when in the ordinary course of business the quantity thereof by species is first definitely determined.

(9) Harvest Type. Harvest type shall be a term referring to the grouping of harvested timber by age and type of harvest and shall include and is limited to the following harvest types:

(a) Merchantable Sawtimber, All Ages—The removal of timber east of the Cascade summit shall be reported as "merchantable sawtimber, all ages", unless the harvest type comes within the definition in this chapter of "special forest products harvest".

(b) Old Growth Final Harvest. The removal of any timber from a harvest unit that is 100 years of age or older and west of the Cascade summit shall be reported as "old growth final harvest" unless the harvest type comes within the definition in this chapter of "special forest products harvest".

(c) Special Forest Products. The removal of Christmas trees (except as provided in RCW 84.33.170), shake blocks and boards, and posts and other western redcedar products shall be reported as "special forest products harvest".

(d) Thinning. The removal of timber from a harvest unit meeting all the following conditions:

(i) Harvest unit located west of the Cascade summit;
 (ii) Timber that is less than 100 years of age;
 (iii) The total merchantable volume which is removed is less than forty percent of the total merchantable volume of the harvest unit prior to harvest;

(iv) Not more than forty percent of the total volume removed is from the dominant and codominant trees;

(v) The trees removed in the harvest operation shall be distributed over the entire harvest unit.

(e) Young Growth Final Harvest. The removal of any timber from a harvest unit that is less than 100 years of age and does not meet the definition of thinning in paragraph (d) above and west of the Cascade summit shall be reported as "young growth final harvest" unless the harvest type comes within the definition in this chapter of "special forest products harvest" or within the definition of "thinning harvest".

(10) Harvest Unit. A harvest unit is a harvest area having the same forest excise tax permit number, stumpage value area, hauling distance zone, harvest type, harvest adjustments and harvester. A harvest unit may include more than one section.

(11) MBF. As used herein MBF shall mean one thousand board feet measured in Scribner Decimal C Log Scale Rule.

(12) Sawlog. Sawlog shall mean any log large enough to produce one-third of its gross volume in sound lumber or other products that can be sawed.

(13) Small Harvest. A small volume adjustment is allowed where the total net volume harvested per taxpayer (excluding conifer and hardwood utility does not exceed 1,000 MBF per calendar year and does not exceed 500 MBF per quarter.

(14) Species. Species designation is a biologically-based grouping of harvested timber and shall include but is not limited to the following designations of species and subclassifications thereof (as defined in

Agriculture Handbook No. 541 Checklist of United States Trees (Native and Naturalized)):

(a) West of the Cascade summit:

(i) "Douglas-fir", "western hemlock", "true fir", "western redcedar", "noble fir", "Sitka spruce", "Alaska-cedar", "red alder", and "cottonwood" shall be reported as separate species where designated as such in the stumpage value tables of WAC 458-40-18674.

(ii) In areas west of the Cascade summit, species designations for the harvest type "special forest products" shall be "western redcedar" (shake blocks and boards), western redcedar flatsawn and shingle blocks "western redcedar and other" (posts), "Douglas-fir", "true fir and others", (Christmas trees).

(b) East of the Cascade summit:

(i) "Ponderosa pine", "lodgepole pine", "western white pine", "Douglas-fir", "western hemlock", "true fir", "western redcedar", "western larch" and "Engelmann spruce" shall be reported as separate species where designated as such in the stumpage value tables of WAC 458-40-18674.

(ii) In areas east of the Cascade summit, species designations for the harvest type "special forest products" shall be "western redcedar" (flatsawn and shingles), "western larch" (flatsawn and shingle blocks), "lodgepole pine and other" (posts), "pine" (Christmas trees), "Douglas-fir and other" (Christmas trees).

(c) All areas:

(i) "Other conifer", as used in the stumpage value tables, shall be all other conifers not separately designated in the applicable stumpage value tables.

(ii) "Hardwood", and "other hardwood", as used in the stumpage value tables, shall be all hardwoods not separately designated in the applicable stumpage value tables.

(iii) "Utility", "conifer utility", and "hardwood utility" are separate species as defined by the "Official Log Scaling and Grading Rules" published by the Puget Sound Log Scaling and Grading Bureau and shall be reported as separate species where designated as such in the stumpage value tables.

(15) Stumpage Value Area. A stumpage value area is an area with specified boundaries which contains timber having similar growing, harvesting, and marketing conditions. Presently, there are eleven such stumpage value areas designated in the state of Washington as shown under WAC 458-40-18671. Stumpage value areas 1, 2, 3, 4, 5, and 11 are located west of the Cascade summit and stumpage value areas 6, 7, 8, 9, and 10 are located east of the Cascade summit.

(16) Stumpage Value of Timber. The stumpage value of timber shall be the appropriate value for each species of timber harvested, or for each species of "special forest product" reported, as set forth in the stumpage value tables under WAC 458-40-18674.

(17) Timber. Timber shall include forest trees, standing or down, on privately owned land, and except as provided in RCW 84.33.170 includes Christmas trees, shake blocks and boards, posts and other western redcedar products.

(18) Timber Quality Code Number. The timber quality code number is a number assigned to the harvest of a particular species within a harvest type under WAC 458-40-18673, and is based upon the constituent percentage of log grade specifications within the total volume of timber harvested for that particular species.

NEW SECTION

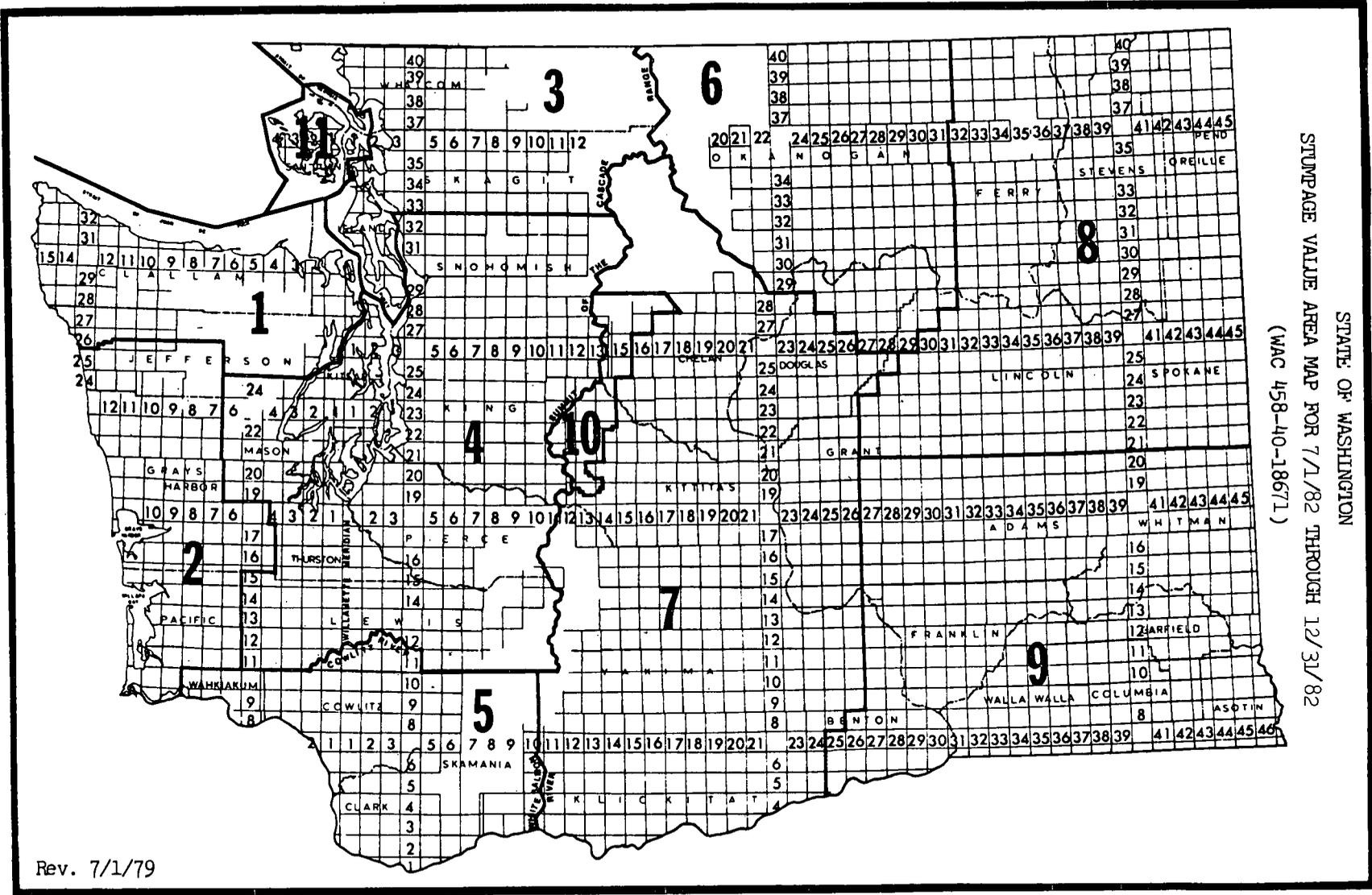
WAC 458-40-18671 STUMPAGE VALUE AREAS—MAP FOR 7/1/82 THROUGH 12/31/82. In order to allow for differences in market conditions and other relevant factors throughout the state as required by RCW 84.33.071(3) the department has created a map designating areas containing timber having similar growing, harvesting, and marketing conditions. The stumpage value area map shall be used for the determination of stumpage values.

The stumpage value area map shown herein shall be used to determine the proper stumpage value table to be used in calculating the taxable stumpage value under WAC 458-40-18674.

The following stumpage value area map is hereby adopted for use during the period of July 1, 1982 through December 31, 1982:

STATE OF WASHINGTON

STUMPAGE VALUE AREA MAP FOR 7/1/82 THROUGH 12/31/82
(MAC 458-40-18671)



Rev. 7/1/79

NEW SECTION

~~WAC 458-40-18672~~ HAULING DISTANCE ZONES—MAPS FOR 7/1/82 THROUGH 12/31/82. In order to allow for differences in hauling costs and other relevant factors as required by RCW 84.33-.071, the department has designated zones within each stumpage value area which have similar accessibility to conversion points and other similar hauling cost factors.

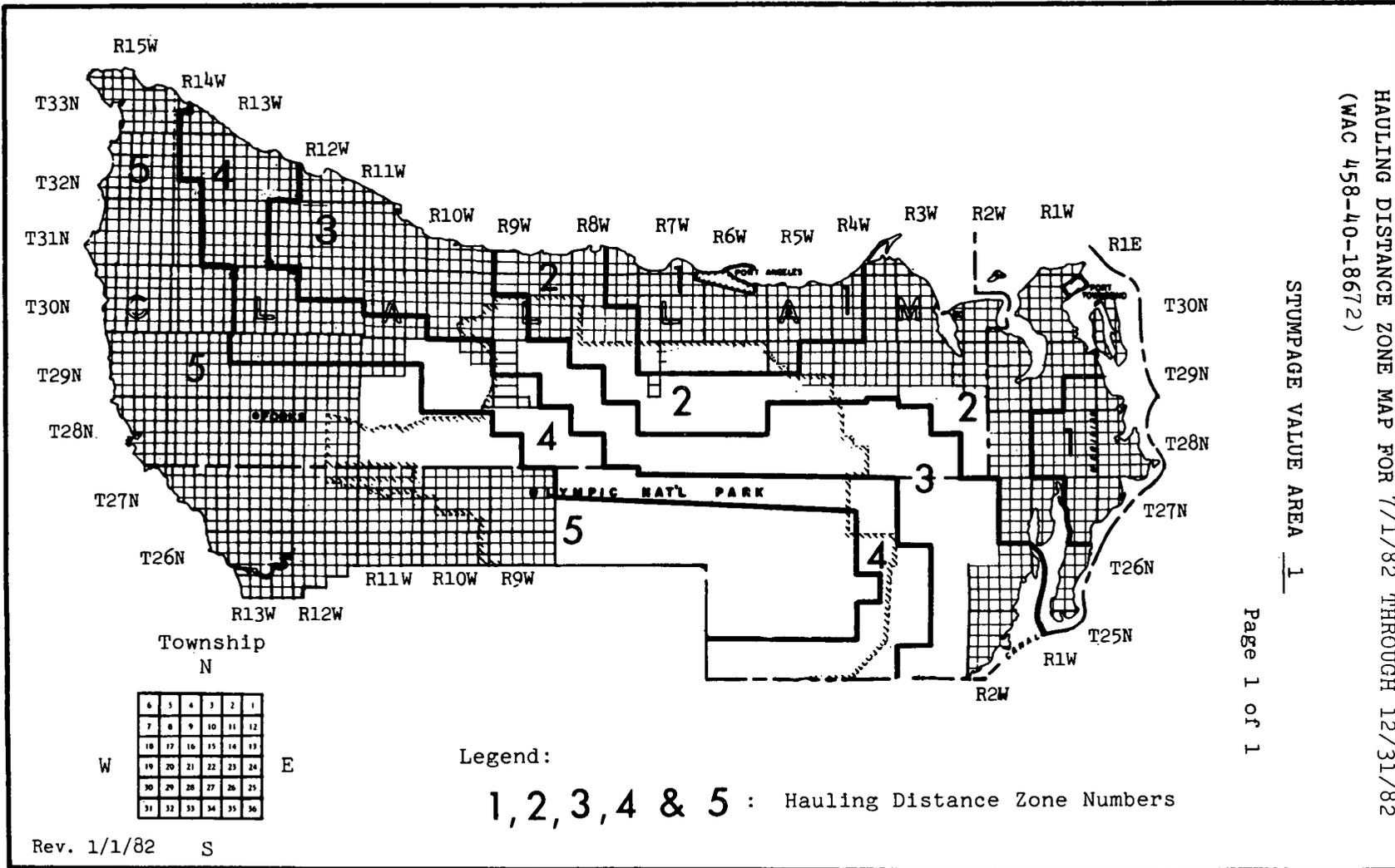
The hauling distance zone numbers on the following hauling distance zone maps establish the hauling distance zone numbers which are to be used in computing timber harvest value under the stumpage value tables of ~~WAC 458-40-18674~~.

The following hauling distance zone maps designating zones established by the department as having similar hauling costs for transportation of forest products to the market, are hereby adopted for use during the period of July 1, 1982 through December 31, 1982:

HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/31/82
(WAC 458-40-18672)

STUMPAGE VALUE AREA 1

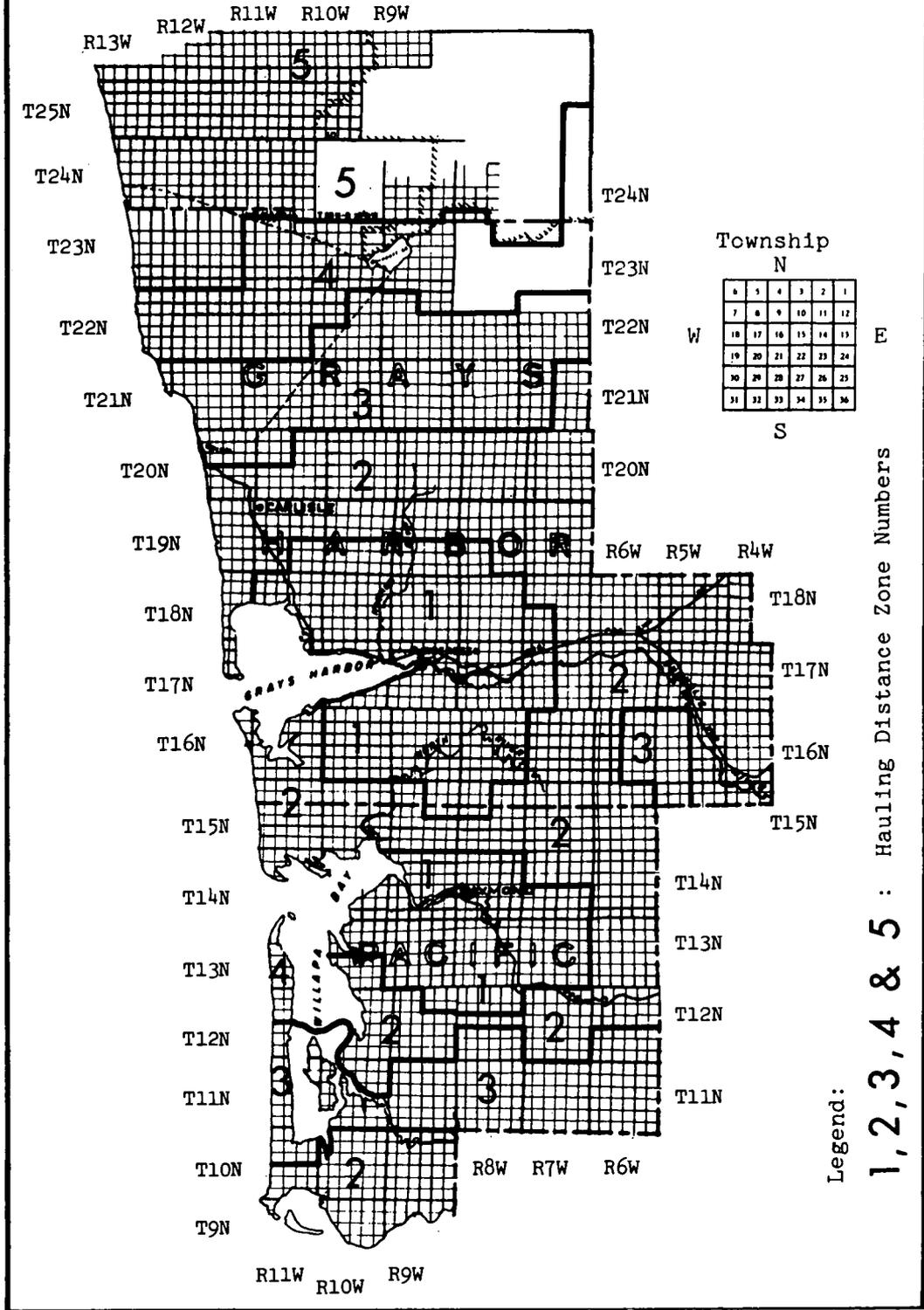
Page 1 of 1



[127]

HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/31/82
(WAC458-40-18672)

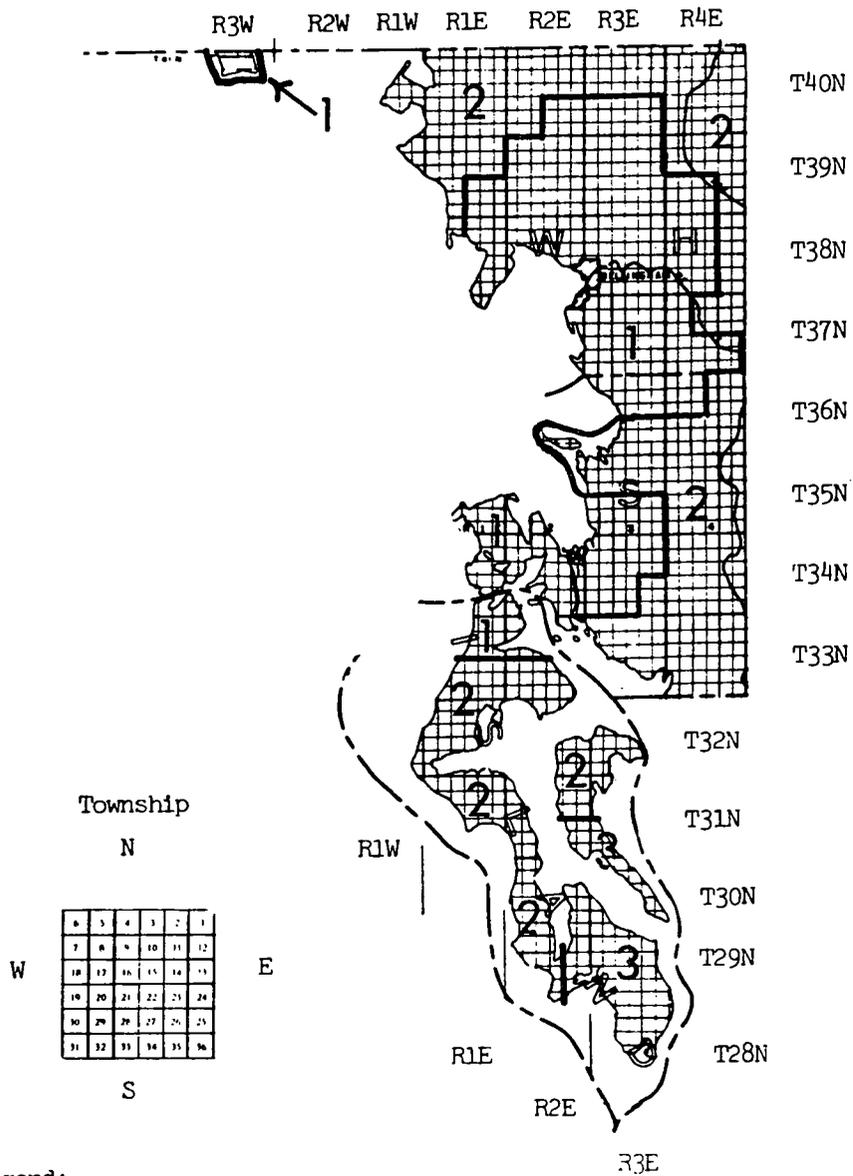
STUMPAGE VALUE AREA 2



HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/31/82
(WAC458-40-18672)

STUMPAGE VALUE AREA 3

Page 1 of 2

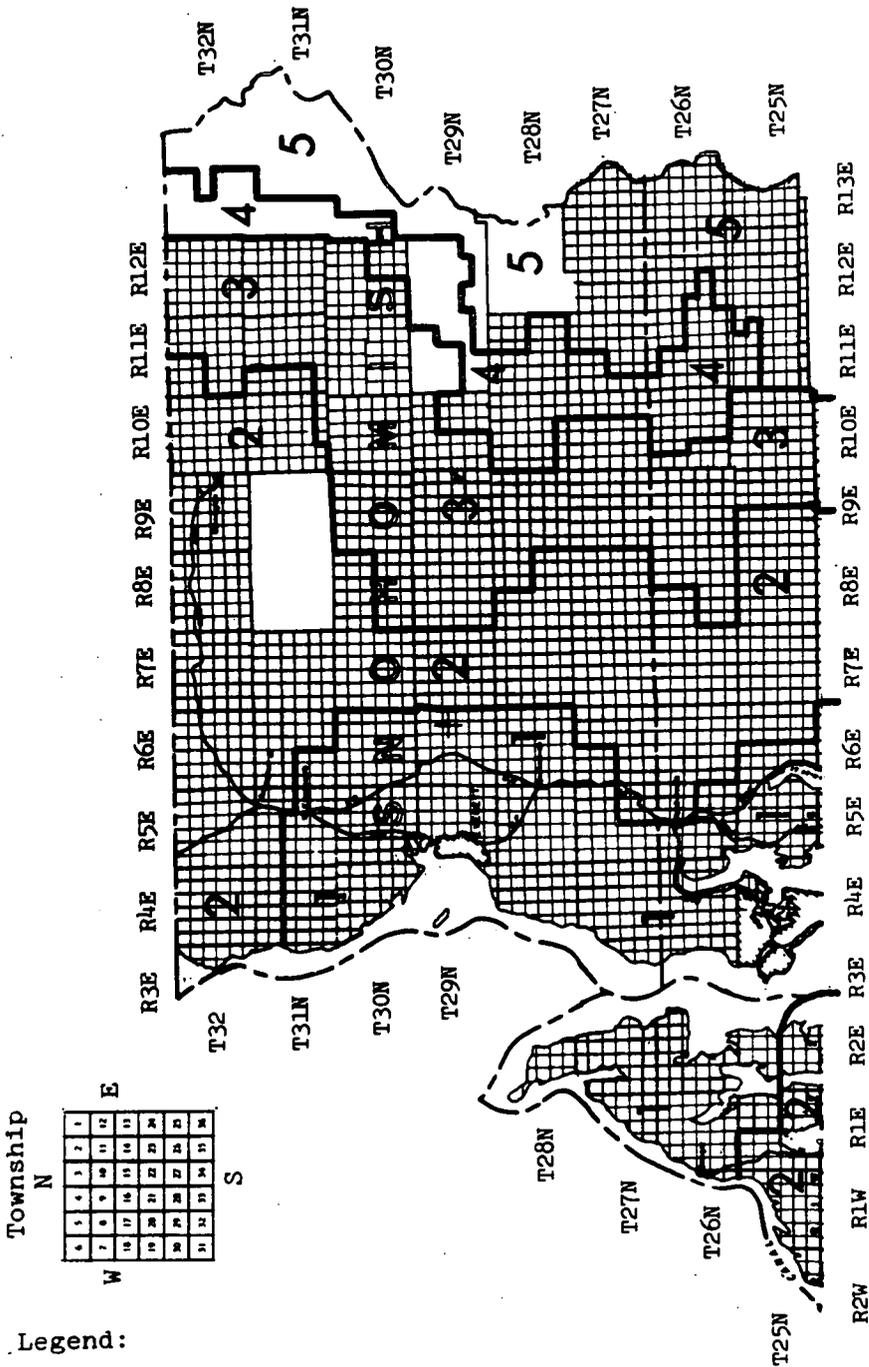


7/1/79

HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/31/82
(WAC 458-40-18672)

STUMPAGE VALUE AREA 4

Page 1 of 3

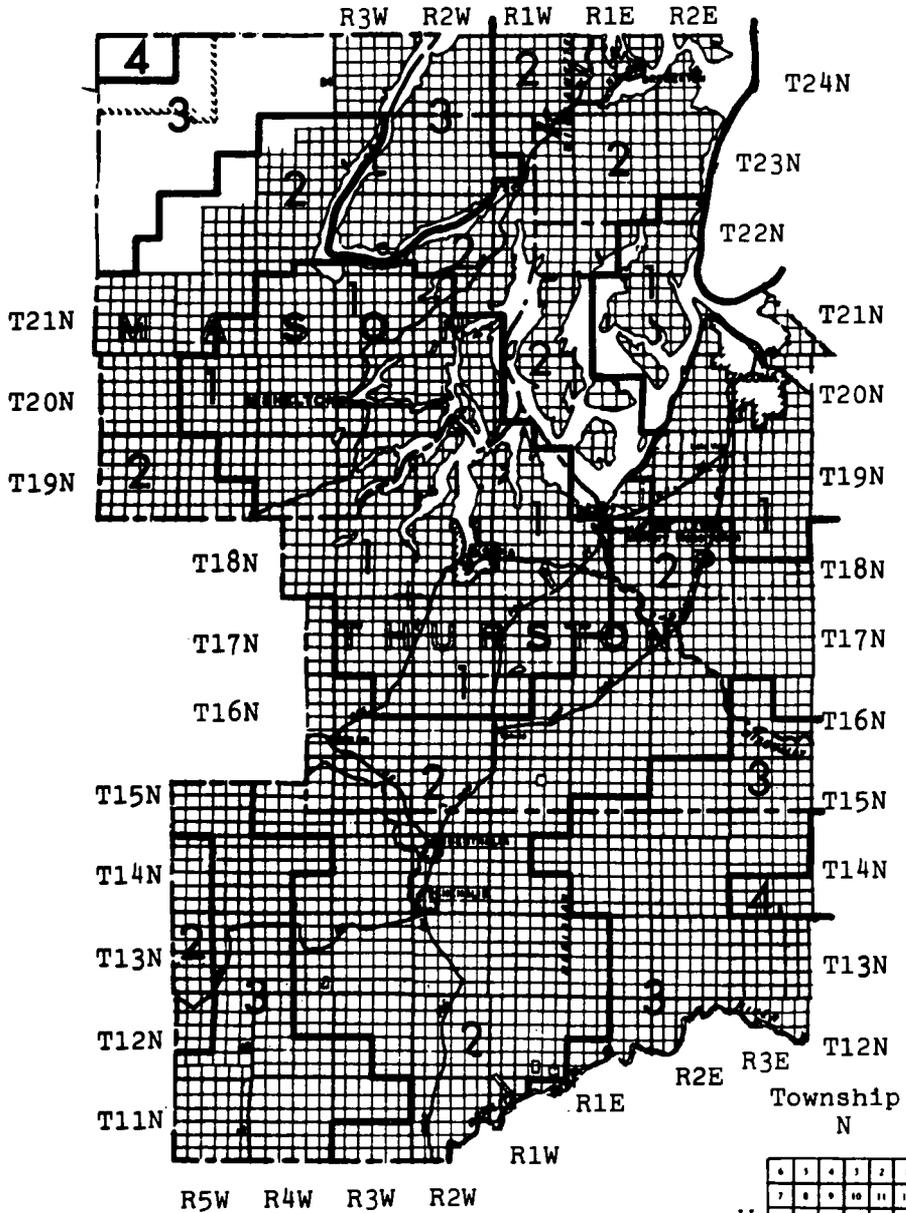


Legend:

1, 2, 3, 4 and 5 : Hauling Distance Zone Numbers

HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/1/82
(WAC 458-40-18672)

STUMPAGE VALUE AREA 4



Legend:

1, 2, 3 and 4: Hauling Distance Zone Numbers

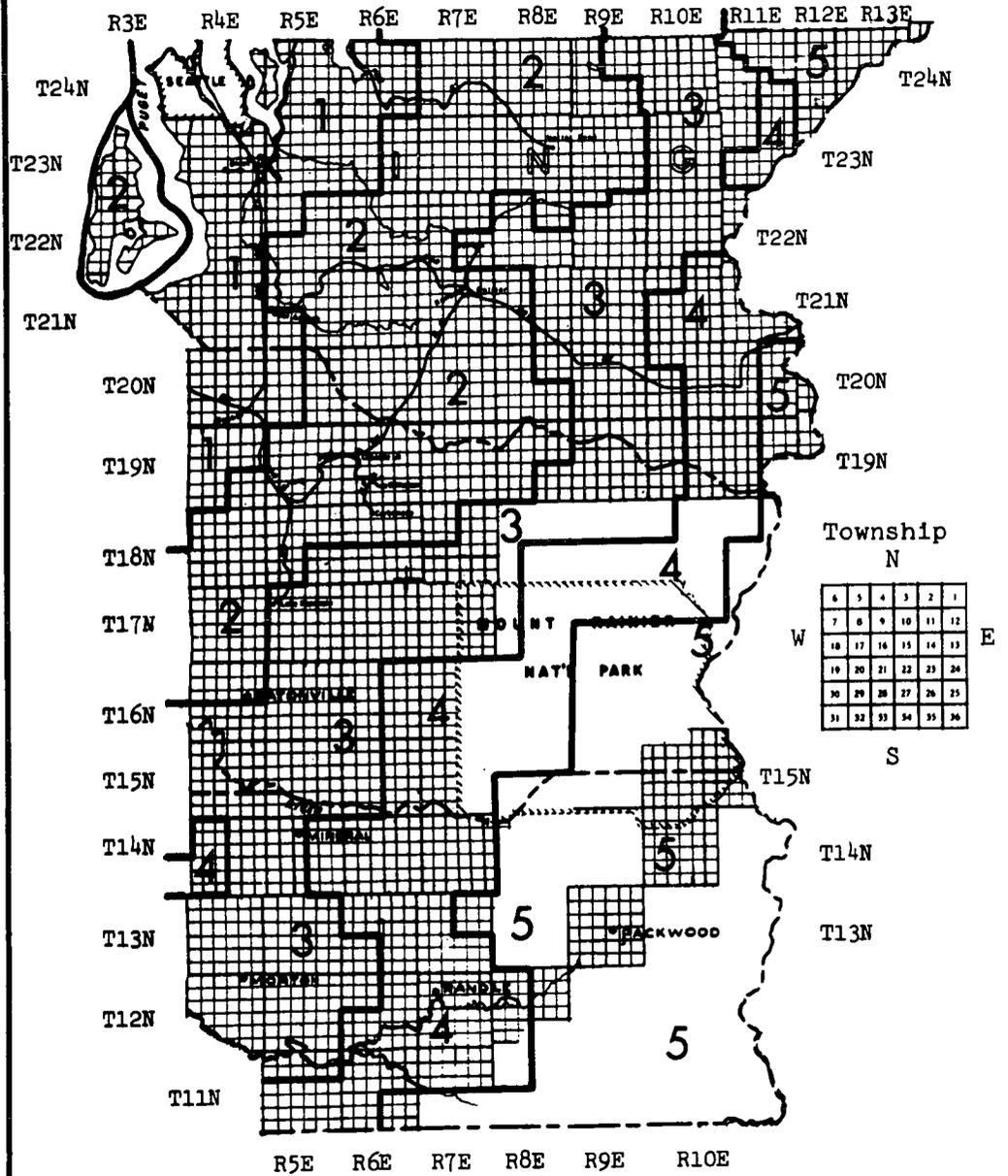
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7	8	9	10	11	12
13	14	15	16	17	18
19	20	21	22	23	24
25	26	27	28	29	30
31	32	33	34	35	36

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HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/1/82
(WAC 458-40-18672)

STUMPAGE VALUE AREA 4 Page 3 of 3



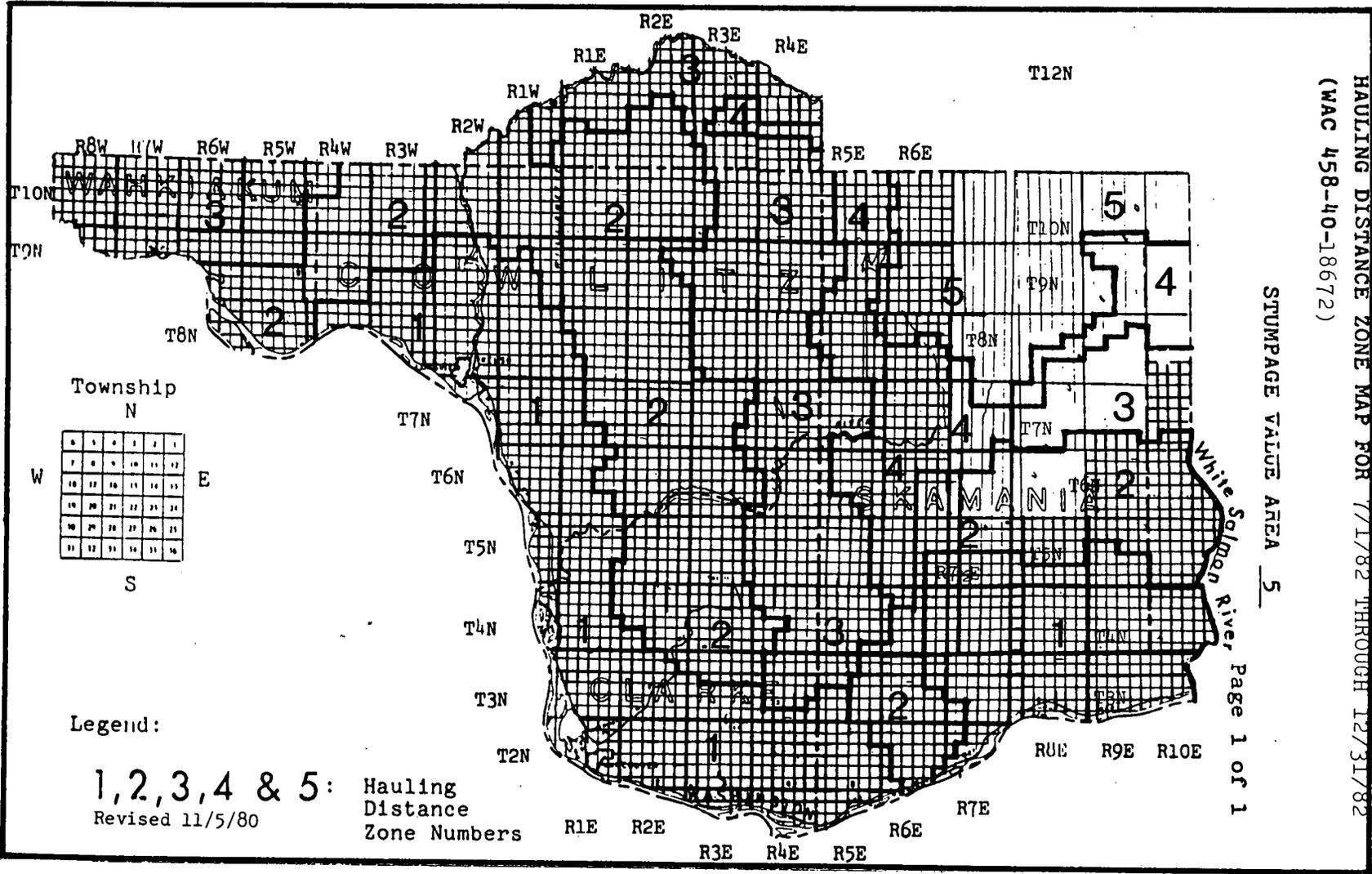
Legend:

1, 2, 3, 4 and 5: Hauling Distance Zone Numbers

HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/31/82
(WAC 458-40-18672)

SPURPAGE VALUE AREA 5

White Salmon River, Page 1 of 1



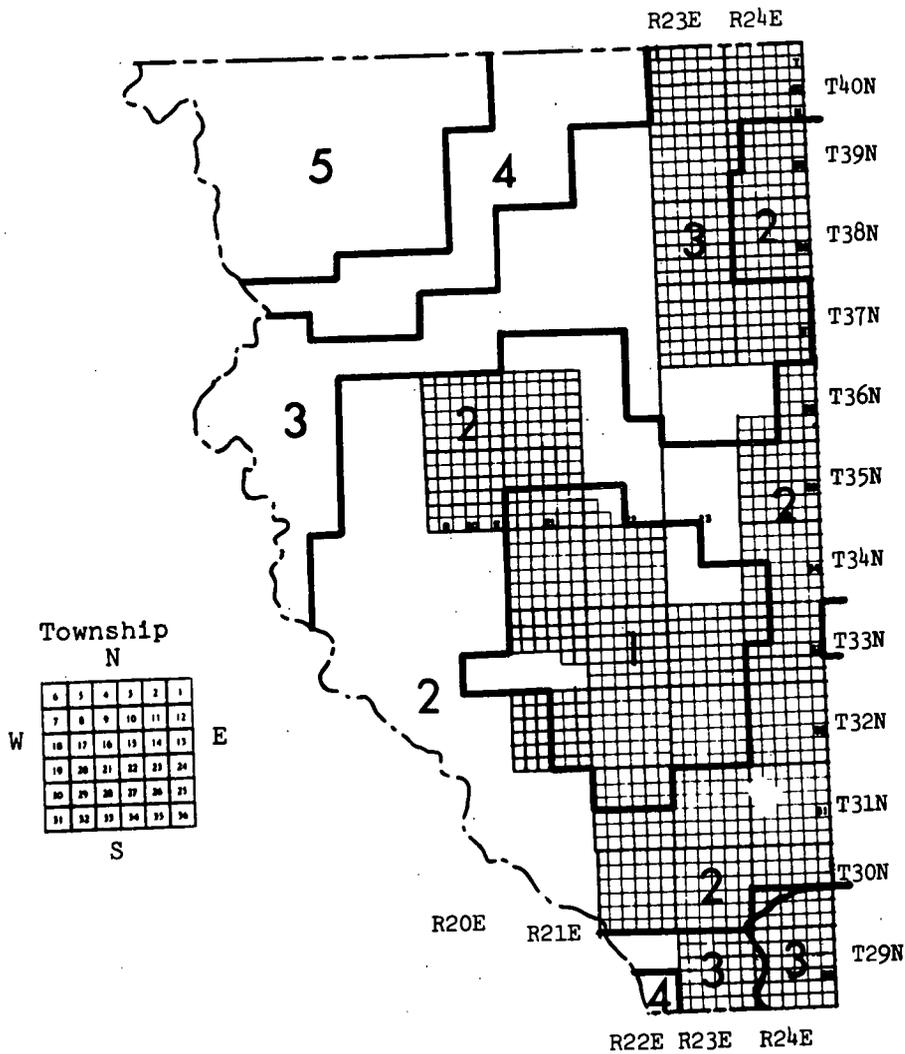
Township N

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243	242	241	240	239	238
244	243	242	241	240	239
245	244				

HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/31/82
(WAC 458-40-18672)

STUMPAGE VALUE AREA 6

Page 1 of 2



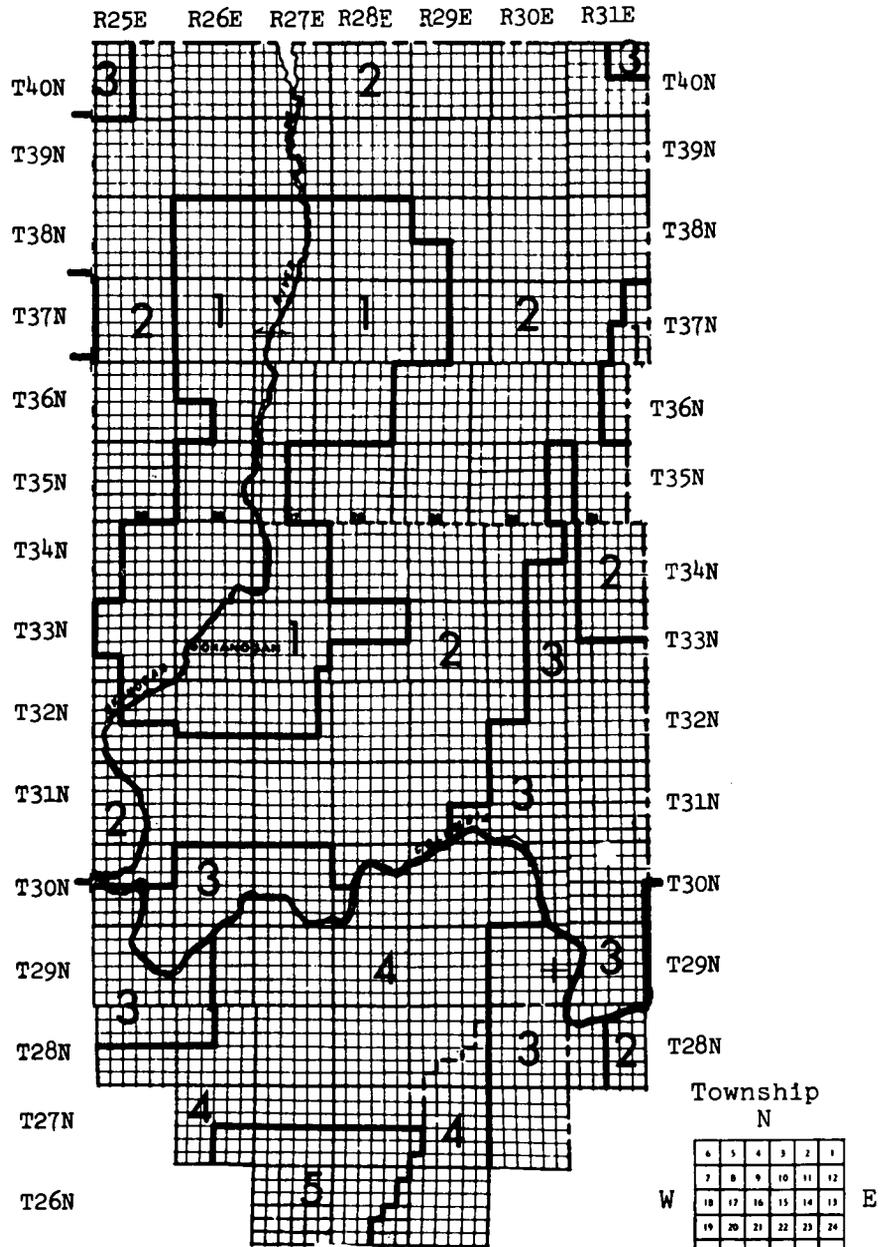
Legend:

1, 2, 3, 4 and 5: Hauling Distance Zone Numbers

HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/31/82
(WAC 458-40-18672)

STUMPAGE VALUE AREA 6

Page 2 of 2



Legend: R25E R26E R27E R28E R29E R30E R31E

1, 2, 3, 4 and 5: Hauling Distance Zone Numbers

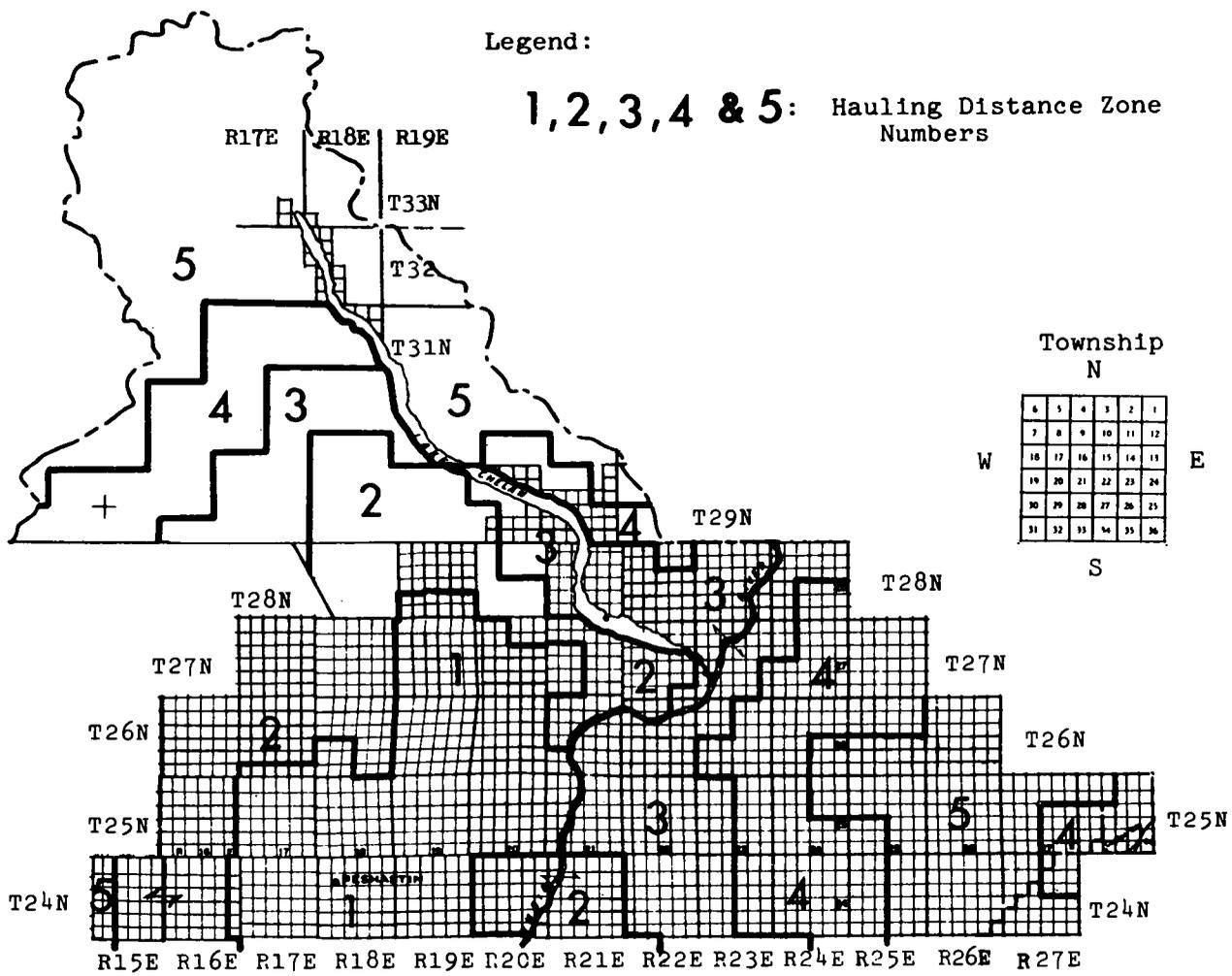
HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/31/82
(WAC 458-40-18672)

STUMPAGE VALUE AREA 7

Page 1 of 3

Legend:

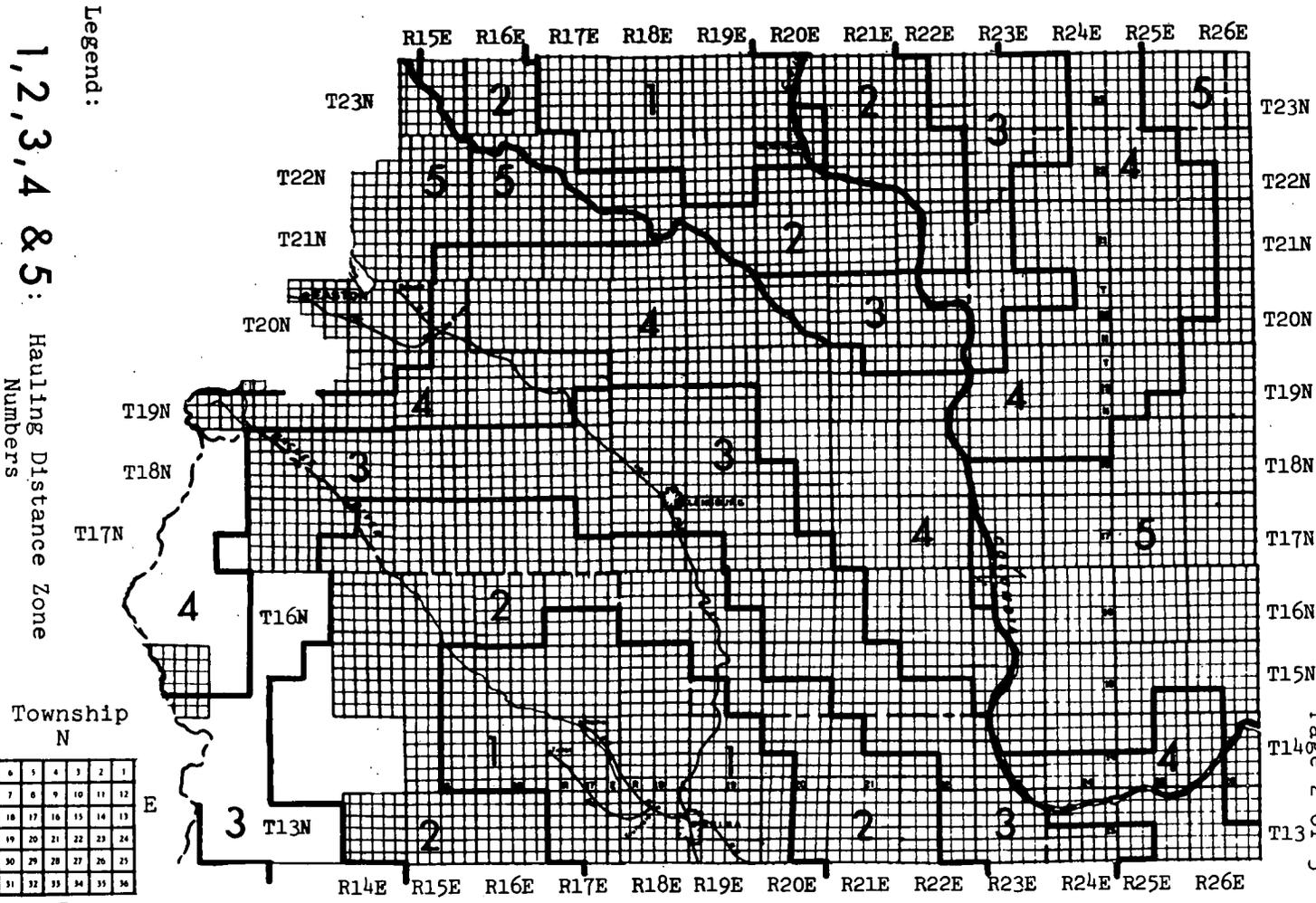
1, 2, 3, 4 & 5: Hauling Distance Zone Numbers



HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/31/82
(WAC 458-40-18672)

STUMPAGE VALUE AREA 7

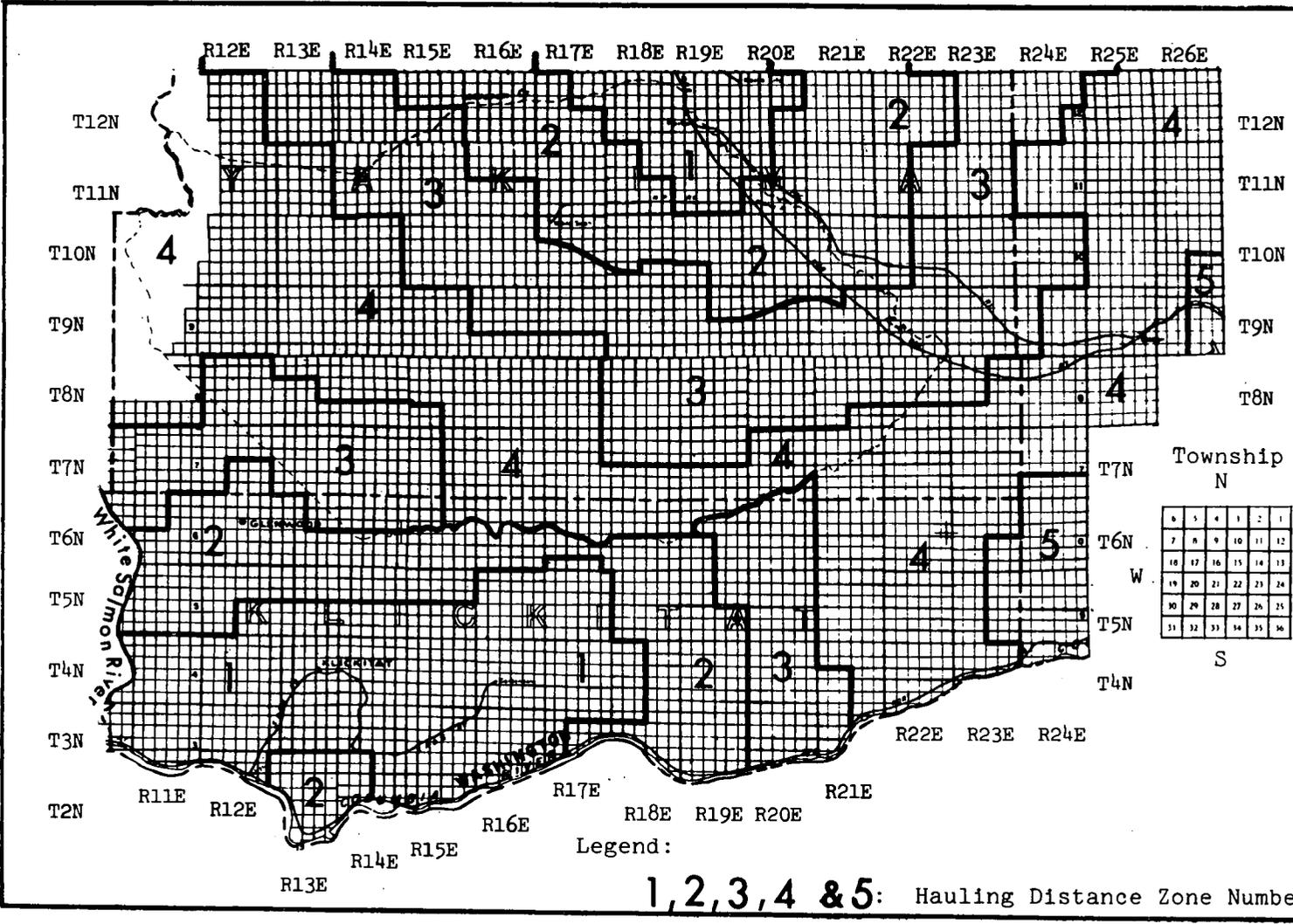
Page 2 of 3



HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/31/82
(WAC 458-40-18672)

STUMPAGE VALUE AREA 7

Page 3 of 3

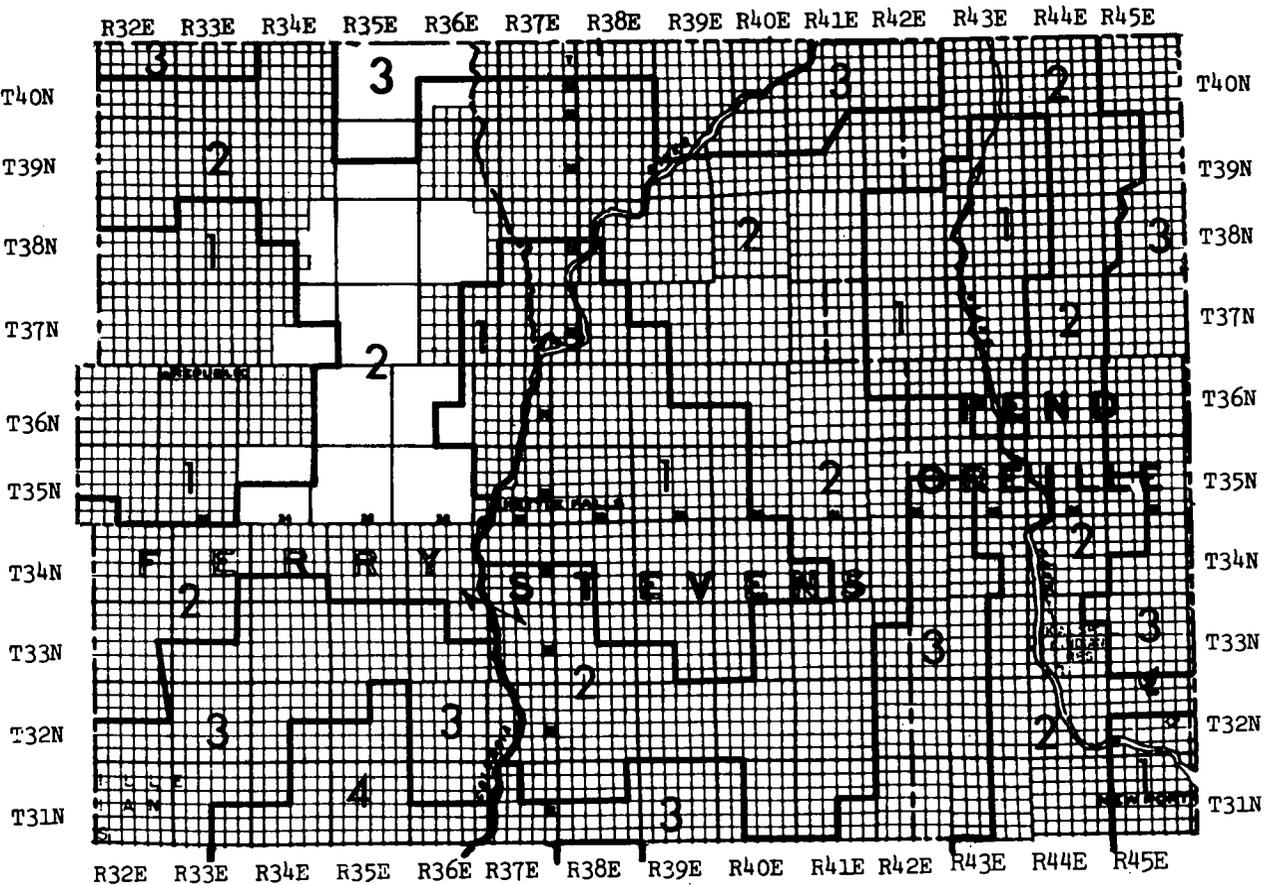


[139]

HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/31/82
(MAC 458-40-18672)

STUMPAGE VALUE AREA 8

Page 1 of 2



Township
N

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

W

E

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Legend:

1, 2, 3, 4 & 5: Hauling Distance
Zone Numbers

HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/31/82
 (WAC 458-40-18672)

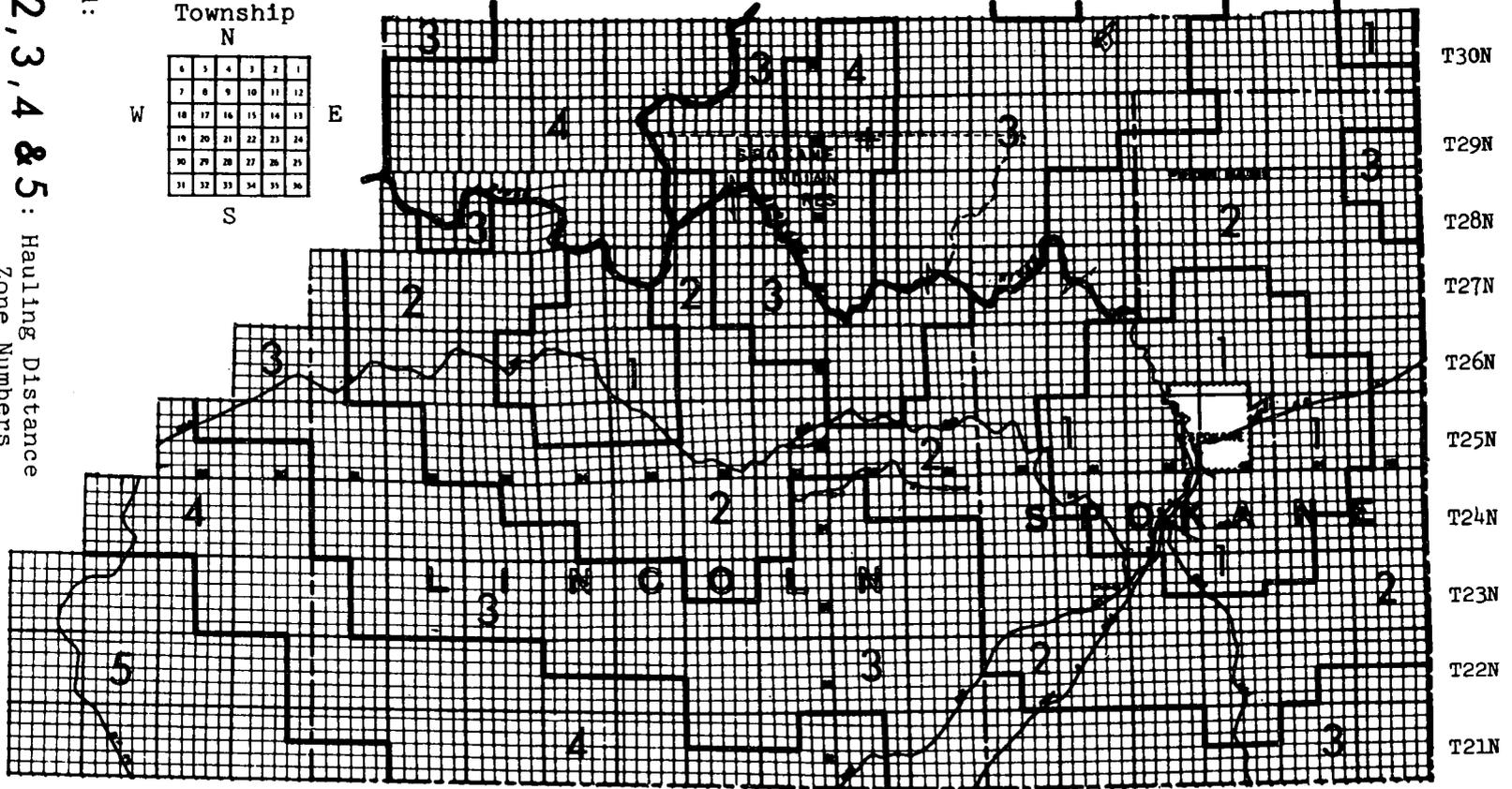
STUMPAGE VALUE AREA 8

Page 2 of 2

Legend:

1, 2, 3, 4 & 5 : Hauling Distance
 Zone Numbers

		Township N						
	W	6	5	4	3	2	1	E
		7	6	5	4	3	2	
		18	17	16	15	14	13	
		19	20	21	22	23	24	
		30	29	28	27	26	25	
		31	32	33	34	35	36	
		S						

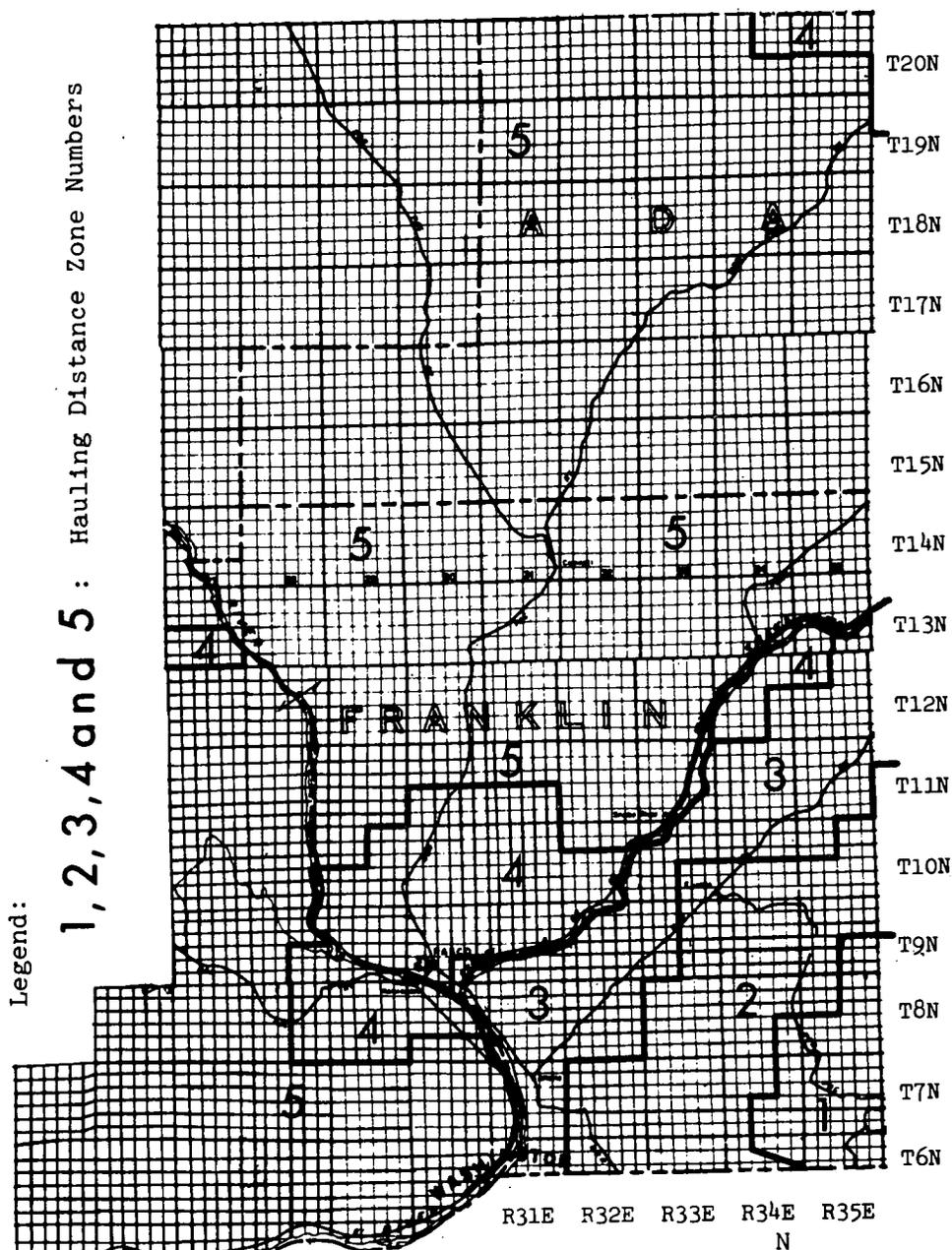


R27E R28E R29E R30E R31E R32E R33E R34E R35E R36E R37E R38E R39E R40E R41E R42E R43E R44E R45E

HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/31/82
(WAC 458-40-18672)

STUMPAGE VALUE AREA 9

Page 1 of 2



R25E R26E R27E R28E R29E R30E R31E R32E R33E R34E R35E

T20N
T19N
T18N
T17N
T16N
T15N
T14N
T13N
T12N
T11N
T10N
T9N
T8N
T7N
T6N

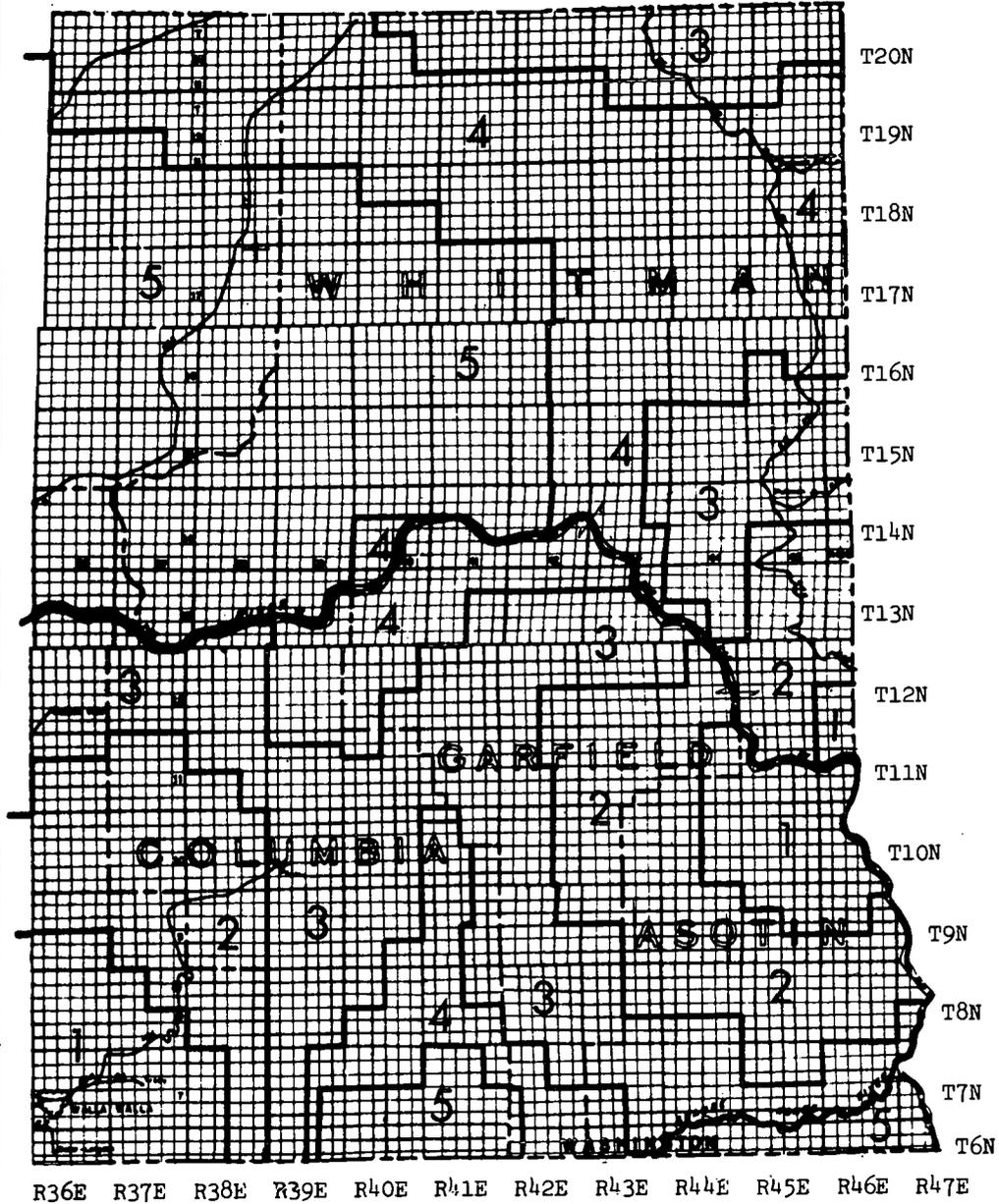
6	5	4	3	2	1
7	8	9	10	11	12
13	14	15	16	17	18
19	20	21	22	23	24
25	26	27	28	29	30
31	32	33	34	35	36

W E S

HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/31/82
(WAC 458-40-18672)

STUMPAGE VALUE AREA 9

Page 2 of 2



Legend:

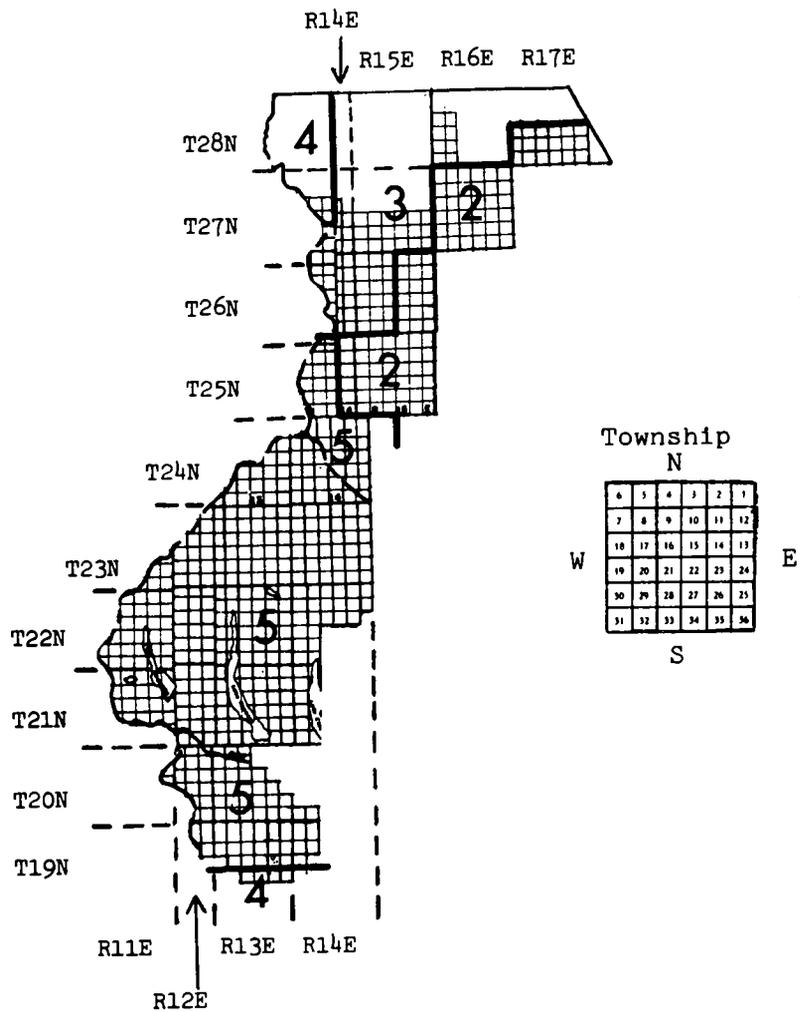
1, 2, 3, 4 and 5 : Hauling Distance Zone Numbers

	6	5	4	3	2	1
W	7	8	9	10	11	12
	13	14	15	16	17	18
	19	20	21	22	23	24
	25	26	27	28	29	30
	31	32	33	34	35	36
						S

HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/31/82
(WAC 458-40-18672)

STUMPAGE VALUE AREA 10

Page 1 of 1

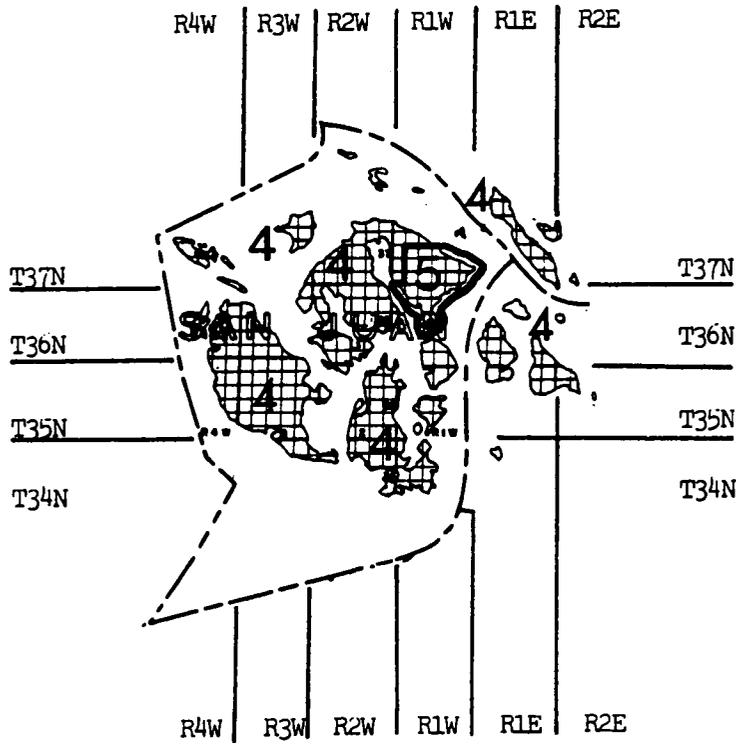


Legend:

2, 3, 4 and 5: Hauling Distance Zone Numbers

HAULING DISTANCE ZONE MAP FOR 7/1/82 THROUGH 12/31/82
(WAC 458-40-18672)

STUMPAGE VALUE AREA 11 Page 1 of 1



N						
	6	5	4	3	2	1
	7	8	9	10	11	12
W	18	17	16	15	14	13
	19	20	21	22	23	24
	30	29	28	27	26	25
	31	32	33	34	35	36
S						
					E	

Legend:

4 and 5: Hauling Distance Zone Numbers

NEW SECTION

WAC 458-40-18673 TIMBER QUALITY CODE NUMBERS—TABLES FOR 7/1/82 THROUGH 12/31/82. In order to allow for differences in age, size, quality of timber and other relevant factors as required by RCW 84.33.071(3), the department has assigned timber quality code numbers for harvests of the various designated harvest types and species.

Scaling and grading information derived from an acceptable log scaling and grading rule for the particular harvest type and species shall be used to determine the proper quality code number.

For each timber quality code number in the following tables, there is a corresponding timber quality code number for that particular harvest type and species in the stumpage value tables of WAC 458-40-18674 which is to be used in computing timber harvest value.

The following timber quality code tables are hereby adopted for use during the period of July 1, 1982 through December 31, 1982:

**TABLE 1—TIMBER QUALITY CODE TABLE
STUMPAGE VALUE AREAS 1, 2, 3, 4, 5, AND 11
July 1 through December 31, 1982
OLD GROWTH FINAL HARVEST
(100 years of age or older)**

Timber Quality Code Number	Species	Log Grade Specifications ¹
1	Douglas-fir	Over 40% Special Mill, No. 1 Sawmill & better log grade
	Western Redcedar & Alaska-cedar	Over 20% Special Mill, No. 1 Sawmill, Peeler & better log grade
	Noble Fir & Spruce	Over 35% No. 1 Sawmill, Peeler or Select & better log grade
	Western Hemlock, True Firs & Other Conifer	Over 25% Special Mill, No. 1 Sawmill & better log grade
2	Hardwoods	All No. 4 Sawmill logs with a diameter of 8 inches inside bark and larger (at the scaling end) & better log grades
	Douglas-fir	15-40% inclusive Special Mill, No. 1 Sawmill & better log grade
	Western Redcedar & Alaska-cedar	10-20% inclusive Special Mill, No. 1 Sawmill, Peeler & better log grade
	Noble Fir & Spruce	15-35% inclusive No. 1 Sawmill, Peeler or Select & better log grade
3	Western Hemlock, True Firs & Other Conifer	5-25% inclusive Special Mill, No. 1 Sawmill & better log grade
	Douglas-fir	Less than 15% Special Mill, No. 1 Sawmill & better log grade
	Western Redcedar & Alaska-cedar	Less than 10% Special Mill, No. 1 Sawmill, Peeler & better log grade
	Noble Fir & Spruce	Less than 15% No. 1 Sawmill, Peeler or Select & better log grade
5	Western Hemlock, True Firs & Other Conifer	Less than 5% Special Mill, No. 1 Sawmill & better log grade
	Conifer Utility	All conifer logs graded as utility log grade
	Hardwood Utility	All No. 4 Sawmill log grade with a diameter of less than 8 inches inside bark (at the scaling end) and all hardwood logs graded as utility

¹For detailed descriptions and definitions of log scaling and grading rules

and procedures see the Official Log Scaling and Grading Rules revised January 1, 1980, published by Puget Sound Log Scaling and Grading Bureau. These are also used by the Columbia River and Grays Harbor Scaling and Grading Bureaus. To determine timber quality code number, see the example for Western Washington which follows Table 3.

**TABLE 2—TIMBER QUALITY CODE TABLE
STUMPAGE VALUE AREAS 1, 2, 3, 4, 5, AND 11
July 1 through December 31, 1982
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)**

Timber Quality Code Number	Species	Log Grade Specifications ¹
1	Douglas-fir	Over 70% No. 2. Sawmill & better log grade
	Western Redcedar & Alaska-cedar	Over 20% No. 2 Sawmill & better log grade
	Western Hemlock & Other Conifer	Over 70% No. 2 Sawmill & better log grade
	Hardwoods	All No. 4 Sawmill logs with a diameter of 8 inches inside bark and larger (at the scaling end) & better log grades
2	Douglas-fir	40-70% inclusive No. 2 Sawmill & better log grade
	Western Redcedar & Alaska-cedar	5-20% inclusive No. 2 Sawmill & better log grade
	Western Hemlock & Other Conifer	40-70% inclusive No. 2 Sawmill & better log grade
3	Douglas-fir	5% to but not including 40% No. 2 Sawmill & better log grade
	Western Redcedar & Alaska-cedar	Less than 5% No. 2 Sawmill & better log grade
	Western Hemlock & Other Conifer	5% to but not including 40% No. 2 Sawmill & better log grade
4	Douglas-fir, Western Hemlock & Other Conifer, except Western Redcedar & Alaska-cedar	Less than 5% No. 2 Sawmill & better log grade
	Conifer Utility	All conifer logs graded as utility log grade
5	Hardwood Utility	All No. 4 Sawmill log grade with a diameter of less than 8 inches inside bark (at the scaling end) and all hardwood logs graded as utility

¹For detailed descriptions and definitions of log scaling and grading rules and procedures see the Official Log Scaling and Grading Rules revised January 1, 1980, published by the Puget Sound Log Scaling and Grading Bureau. These are also used by the Columbia River and Grays Harbor Scaling and Grading Bureaus. To determine timber quality code number, see the example for Western Washington which follows Table 3.

**TABLE 3—TIMBER QUALITY CODE TABLE
STUMPAGE VALUES AREAS 1, 2, 3, 4, 5, AND 11
July 1 through December 31, 1982**

THINNING
See definition WAC 458-40-18670(9)(d)

Timber Quality Code Number	Species	Log Grade Specifications ¹
1	Douglas-fir	Over 70% No. 2 Sawmill & better log grade
	Western Hemlock & Other Conifer	Over 70% No. 2 Sawmill & better log grade
	Western Redcedar & Alaska-cedar	Over 20% No. 2 Sawmill & better log grade
	Hardwoods	All No. 4 Sawmill logs with a diameter of 8 inches inside bark and larger (at the scaling end) & better log grades
2	Douglas-fir	40-70% inclusive No. 2 Sawmill & better log grade
	Western Redcedar & Alaska-cedar	5-20% inclusive No. 2 Sawmill & better log grade
	Western Hemlock & Other Conifer	40-70% inclusive No. 2 Sawmill & better log grade
3	Douglas-fir	5% to but not including 40% No. 2 Sawmill & better log grade
	Western Redcedar & Alaska-cedar	Less than 5% No. 2 Sawmill & better log grade
4	Western Hemlock & Other Conifer	5% to but not including 40% No. 2 Sawmill & better log grade
4	Douglas-fir, Western Hemlock & Other Conifer	Less than 5% No. 2 Sawmill & better log grade
5	Conifer Utility	All conifer logs graded as utility log grade
	Hardwood Utility	All No. 4 Sawmill log grade with a diameter of less than 8 inches inside bark (at the scaling end) and all hardwood logs graded as utility

¹For detailed descriptions and definitions of log scaling rules and procedures see the Official Log Scaling and Grading Rules revised January 1, 1980, published by the Puget Sound Log Scaling and Grading Bureau. These are also used by the Columbia River and Grays Harbor Scaling and Grading Bureaus. To determine timber quality code number for Western Washington, see the following example.

WESTERN WASHINGTON EXAMPLE: The following example is for determining the timber quality number code for timber harvested in stumpage value areas 1, 2, 3, 4, 5, and 11 in Western Washington. The following method can be used to determine the quality code number for species in "old growth final harvest", "young growth final harvest", and "thinning harvest" types.

The example shown below is for a harvest of 150 thousand board feet (150 MBF) of the species, Douglas-fir, and the harvest type, young growth final harvest, with the following volumes at the indicated grades:

Log Grade	Net Volume, Scribner Scale
Special Mill	20 MBF
No. 1 sawmill	20 MBF
No. 2 sawmill	45 MBF

Log Grade	Net Volume, Scribner Scale
No. 3 sawmill	35 MBF
No. 4 sawmill	30 MBF
TOTAL	150 MBF

To determine the proper quality code number, add the scale volumes for the grades as established by the approved grading rule. Divide this volume by the total volume harvested for the species. In this example, the Special Mill and the No. 1 and 2 sawmill logs account for 85 MBF of the 150 MBF Douglas-fir harvested. Divide as follows:

$$\frac{20 + 20 + 45}{150} \text{ or } \frac{85}{150} = .567 \times 100 = 56.7\%$$

In this example, the Special Mill, No. 1 and 2 sawmill logs make up 56.7% of the Douglas-fir harvested. Since this is between 40 and 70% No. 2 sawmill and better, the entire Douglas-fir harvested would be reported as:

Species	Timber Quality Code Number	Net Volume Harvested
Douglas-fir	2	150 MBF

**TABLE 4—TIMBER QUALITY CODE TABLE
STUMPAGE VALUE AREAS 6, 7, 8, AND 9
July 1 through December 31, 1982**
MERCHANTABLE SAWTIMBER, ALL AGES

Timber Quality Code Number	Species	Log Grade Specifications ¹
	Ponderosa Pine	Less than 10 logs 16 feet long per thousand board feet Scribner scale
1	All Conifers Other than Ponderosa Pine	All log sizes
	Hardwoods	Sawlogs only
2	Ponderosa Pine	10 or more logs 16 feet long per thousand board feet Scribner scale
4	Utility	All logs graded as utility

¹To determine timber quality code number in Stumpage Value Areas 6, 7, 8 and 9 for Eastern Washington, see the following example.

EASTERN WASHINGTON EXAMPLE: The following example is for determining the timber quality code for timber harvested in stumpage value areas 6, 7, 8 and 9 in Eastern Washington.

The example shown below is for a harvest of 150 thousand board feet (150 MBF) of the species, Ponderosa Pine, and harvest type merchantable sawtimber, all ages with a sum total log length of 19,200 feet.

Step 1. The highest possible number of sawable sixteen foot logs which could be recovered is determined by dividing the sum total length of all sawable logs harvested (i.e. 19,200) by 16. Answer: 1200 logs.

Step 2. The average net volume per sixteen foot recoverable log is determined by dividing the total volume harvested (150 MBF) by the number of sixteen foot logs (1200). Answer: 125.

Step 3. The total number of logs per thousand board feet is determined by dividing 1000 by the average net volume per sixteen foot recoverable log (125). Answer: 8 logs per 1 MBF.

Step 4. Because the timber quality code table lists 1 to 9 logs per 1 MBF for Ponderosa pine as timber quality code

number 1, the harvest was at 8 logs per 1 MBF the entire Ponderosa pine harvest would be reported as:

Species	Timber Quality Code Number	Volume Harvested
Ponderosa Pine (PP)	1	150 MBF

**TABLE 5—TIMBER QUALITY CODE TABLE
STUMPAGE VALUE AREA 10
July 1 through December 31, 1982
MERCHANTABLE SAWTIMBER, ALL AGES**

Timber Quality Code Number	Species	Log Grade Specifications ¹
1	Ponderosa Pine & Other Conifers	Less than 5 logs 16 feet long per MBF net log Scribner scale
	Hardwoods	All logs graded as sawlogs
2	Ponderosa Pine	5 to 9 logs inclusive 16 feet long per MBF net log Scribner scale
	Other Conifer	5 to 12 logs inclusive 16 feet long per MBF net log scale
3	Ponderosa Pine	More than 9 logs 16 feet long per MBF net log Scribner scale
	Other Conifer	More than 12 logs 16 feet long per MBF net log Scribner scale
4	Utility	All logs graded as utility

¹To determine timber quality code number in Stumpage Value Area 10 in Eastern Washington, see the following example.

EASTERN WASHINGTON EXAMPLE: The following example is for determining the timber quality code for timber harvested in stumpage value area 10 in Eastern Washington.

The example shown below is for a harvest of 150 thousand board feet (150 MBF) of the species, Ponderosa Pine, and harvest type merchantable sawtimber, all ages with a sum total log length of 19,200 feet.

Step 1. The highest possible number of sawable sixteen foot logs which could be recovered is determined by dividing the sum total length of all sawable logs harvested (i.e. 19,200) by 16. Answer: 1200 logs.

Step 2. The average net volume per sixteen foot recoverable log is determined by dividing the total volume harvested (150 MBF) by the number of sixteen foot logs (1200). Answer: 125.

Step 3. The total number of logs per thousand board feet is determined by dividing 1000 by the average net volume per sixteen foot recoverable log (125). Answer: 8 logs per 1 MBF.

Step 4. Because the timber quality code table lists 5-9 logs per 1 MBF for Ponderosa pine as timber quality code number 2, the harvest was at 8 logs per 1 MBF the entire Ponderosa pine harvest would be reported as:

Species	Timber Quality Code Number	Volume Harvested
Ponderosa Pine (PP)	2	150 MBF

NEW SECTION

WAC 458-40-18674 STUMPAGE VALUES—TABLES FOR 7/1/82 THROUGH 12/31/82. As required by RCW 84.33.071 the

department has prepared tables which assign stumpage value rates for the various harvest types, which rates vary depending upon the stumpage value area, species, timber quality code number and hauling distance zone involved. Where the timber harvested is used to produce harvest type "special forest products" the value tables of this section shall establish the values for such special forest products.

The following stumpage value and special forest product value tables are hereby adopted for use during the period of July 1, 1982 through December 31, 1982.

**TABLE 1—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 1
July 1 through December 31, 1982
OLD GROWTH FINAL HARVEST
(100 years of age or older)**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$245	\$239	\$233	\$227	\$221
		2	233	227	221	215	209
		3	217	211	205	199	193
Western Hemlock ¹	WH	1	209	203	197	191	185
		2	181	175	169	163	157
		3	162	156	150	144	138
True Fir ²	TF	1	209	203	197	191	185
		2	181	175	169	163	157
		3	162	156	150	144	138
Western Redcedar ³	RC	1	257	251	245	239	233
		2	213	207	201	195	189
		3	203	197	191	185	179
Sitka Spruce	SS	1	222	216	210	204	198
		2	219	213	207	201	195
		3	215	209	203	197	191
Other Conifer	OC	1	209	203	197	191	185
		2	181	175	169	163	157
		3	162	156	150	144	138
Red Alder	RA	1	50	43	36	29	22
Cottonwood	BC	1	34	27	20	13	6
Other Hardwoods	OH	1	28	21	14	7	1
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	18	18	18	18	18

¹Includes Western and Mountain Hemlock.

²Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".

³Includes Alaska-cedar.

**TABLE 2—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 1
July 1 through December 31, 1982
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$295	\$288	\$281	\$274	\$267
		2	236	229	222	215	208
		3	144	137	130	123	116
		4	113	106	99	92	85

TABLE 2—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Hemlock ¹	WH	1	150	143	136	129	122
		2	141	134	127	120	113
		3	124	117	110	103	96
		4	70	63	56	49	42
True Fir ²	TF	1	150	143	136	129	122
		2	141	134	127	120	113
		3	124	117	110	103	96
		4	70	63	56	49	42
Western Redcedar ³	RC	1	258	251	244	237	230
		2	212	205	198	191	184
		3	190	183	176	169	162
Other Conifer	OC	1	150	143	136	129	122
		2	141	134	127	120	113
		3	124	117	110	103	96
		4	70	63	56	49	42
Red Alder	RA	1	50	43	36	29	22
Cottonwood	BC	1	34	27	20	13	6
Other Hardwoods	OH	1	28	21	14	7	1
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	18	18	18	18	18

¹Includes Western and Mountain Hemlock.
²Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
³Includes Alaska-cedar.

TABLE 3—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 1
July 1 through December 31, 1982

THINNING
See definition WAC 458-40-18670(9)(d)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$270	\$263	\$256	\$249	\$242
		2	211	204	197	190	183
		3	119	112	105	98	91
		4	88	81	74	67	60
Western Hemlock ¹	WH	1	125	118	111	104	97
		2	116	109	102	95	88
		3	99	92	85	78	71
		4	45	38	31	24	17
True Fir ²	TF	1	125	118	111	104	97
		2	116	109	102	95	88
		3	99	92	85	78	71
		4	45	38	31	24	17
Western Redcedar ³	RC	1	233	226	219	212	205
		2	187	180	173	166	159
		3	165	158	151	144	137
Other Conifer	OC	1	125	118	111	104	97
		2	116	109	102	95	88
		3	99	92	85	78	71
		4	45	38	31	24	17
Red Alder	RA	1	50	43	36	29	22
Cottonwood	BC	1	34	27	20	13	6
Other Hardwoods	OH	1	28	21	14	7	1

TABLE 3—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	18	18	18	18	18

¹Includes Western and Mountain Hemlock.
²Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
³Includes Alaska-cedar.

TABLE 4—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 1
July 1 through December 31, 1982
SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar-Shake Blocks & Boards ¹	RCS	1	\$95	\$89	\$83	\$77	\$71
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	40	34	28	22	16
Western Redcedar & Other Posts ²	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas-fir Christmas Trees ³	DFX	1	0.15	0.15	0.15	0.15	0.15
True Fir & Other Christmas Trees ³	TFX	1	0.35	0.35	0.35	0.35	0.35

¹Stumpage Value per MBF net Scribner Scale.
²Stumpage Value per 8 lineal feet or portion thereof.
³Stumpage Value per lineal foot.

TABLE 5—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 2
July 1 through December 31, 1982
OLD GROWTH FINAL HARVEST
(100 years of age or older)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$293	\$287	\$281	\$275	\$269
		2	216	210	204	198	192
		3	192	186	180	174	168
Western Hemlock ¹	WH	1	235	229	223	217	211
		2	190	184	178	172	166
		3	179	173	167	161	155
True Fir ²	TF	1	235	229	223	217	211
		2	190	184	178	172	166
		3	179	173	167	161	155
Western Redcedar ³	RC	1	229	223	217	211	205
		2	217	211	205	199	193
		3	198	192	186	180	174

TABLE 5—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Sitka Spruce	SS	1	222	216	210	204	198
		2	219	213	207	201	195
		3	215	209	203	197	191
Other Conifer	OC	1	222	216	210	204	198
		2	190	184	178	172	166
		3	179	173	167	161	155
Red Alder	RA	1	34	27	20	13	6
Cottonwood	BC	1	25	18	11	4	1
Other Hardwoods	OH	1	22	15	8	1	1
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	18	18	18	18	18

¹Includes Western and Mountain Hemlock.

²Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".

³Includes Alaska-cedar.

TABLE 6—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 2
July 1 through December 31, 1982

YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$235	\$228	\$221	\$214	\$207
		2	204	197	190	183	176
		3	183	176	169	162	155
		4	102	95	88	81	74
Western Hemlock ¹	WH	1	143	136	129	122	115
		2	142	135	128	121	114
		3	102	95	88	81	74
		4	80	73	66	59	52
True Fir ²	TF	1	143	136	129	122	115
		2	142	135	128	121	114
		3	102	95	88	81	74
		4	80	73	66	59	52
Western Redcedar ³	RC	1	265	258	251	244	237
		2	183	176	169	162	155
		3	153	146	139	132	125
Other Conifer	OC	1	143	136	129	122	115
		2	142	135	128	121	114
		3	102	95	88	81	74
		4	80	73	66	59	52
Red Alder	RA	1	34	27	20	13	6
Cottonwood	BC	1	25	18	11	4	1
Other Hardwoods	OH	1	22	15	8	1	1
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	18	18	18	18	18

¹Includes Western and Mountain Hemlock.

²Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".

³Includes Alaska-cedar.

TABLE 7—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 2
July 1 through December 31, 1982

THINNING

See definition WAC 458-40-18670(9)(d)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$210	\$203	\$196	\$189	\$182
		2	179	172	165	158	151
		3	158	151	144	137	130
		4	77	70	63	56	49
Western Hemlock ¹	WH	1	118	111	104	97	90
		2	117	110	103	96	89
		3	77	70	63	56	49
		4	55	48	41	34	27
True Fir ²	TF	1	118	111	104	97	90
		2	117	110	103	96	89
		3	77	70	63	56	49
		4	55	48	41	34	27
Western Redcedar ³	RC	1	240	233	226	219	212
		2	158	151	144	137	130
		3	128	121	114	107	100
Other Conifer	OC	1	118	111	104	97	90
		2	117	110	103	96	89
		3	77	70	63	56	49
		4	55	48	41	34	27
Red Alder	RA	1	34	27	20	13	6
Cottonwood	BC	1	25	18	11	4	1
Other Hardwoods	OH	1	22	15	8	1	1
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	18	18	18	18	18

¹Includes Western and Mountain Hemlock.

²Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".

³Includes Alaska-cedar.

TABLE 8—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 2
July 1 through December 31, 1982

SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar-Shake Blocks & Boards ¹	RCS	1	\$164	\$158	\$152	\$146	\$140
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	63	57	51	45	39
Western Redcedar & Other Posts ²	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas-fir Christmas Trees ³	DFX	1	0.15	0.15	0.15	0.15	0.15

TABLE 8—cont.
Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
True Fir & Other Christmas Trees ³	TFX	1	0.35	0.35	0.35	0.35	0.35

¹Stumpage Value per MBF net Scribner Scale.
²Stumpage Value per 8 lineal feet or portion thereof.
³Stumpage Value per lineal foot.

TABLE 9—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 3
July 1 through December 31, 1982

OLD GROWTH FINAL HARVEST
(100 years of age or older)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$289	\$283	\$277	\$271	\$265
		2	247	241	235	229	223
		3	205	199	193	187	181
Western Hemlock ¹	WH	1	201	195	189	183	177
		2	168	162	156	150	144
		3	153	147	141	135	129
True Fir ²	TF	1	201	195	189	183	177
		2	168	162	156	150	144
		3	153	147	141	135	129
Western Redcedar	RC	1	266	260	254	248	242
		2	235	229	223	217	211
		3	181	175	169	163	157
Sitka Spruce	SS	1	222	216	210	204	198
		2	219	213	207	201	195
		3	215	209	203	197	191
Alaska-cedar	YC	1	1473	1467	1461	1455	1449
		2	1064	1058	1052	1046	1040
		3	654	648	642	636	630
Other Conifer	OC	1	201	195	189	183	177
		2	168	162	156	150	144
		3	153	147	141	135	129
Red Alder	RA	1	43	36	29	22	15
Cottonwood	BC	1	34	27	20	13	6
Other Hardwoods	OH	1	28	21	14	7	1
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	17	17	17	17	17

¹Includes Western and Mountain Hemlock.
²Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".

TABLE 10—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 3
July 1 through December 31, 1982

YOUNG GROWTH FINAL HARVEST

(Less than 100 years of age, but not including thinning)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$283	\$276	\$269	\$262	\$255
		2	249	242	235	228	221
		3	174	167	160	153	146
		4	114	107	100	93	86
Western Hemlock ¹	WH	1	169	162	155	148	141
		2	163	156	149	142	135
		3	105	98	91	84	77
		4	102	95	88	81	74
True Fir ²	TF	1	169	162	155	148	141
		2	163	156	149	142	135
		3	105	98	91	84	77
		4	102	95	88	81	74
Western Redcedar ³	RC	1	238	231	224	217	210
		2	213	206	199	192	185
		3	169	162	155	148	141
Other Conifer	OC	1	169	162	155	148	141
		2	163	156	149	142	135
		3	105	98	91	84	77
		4	102	95	88	81	74
Red Alder	RA	1	43	36	29	22	15
Cottonwood	BC	1	34	27	20	13	6
Other Hardwoods	OH	1	28	21	14	7	1
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	17	17	17	17	17

¹Includes Western and Mountain Hemlock.
²Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
³Includes Alaska-cedar.

TABLE 11—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 3
July 1 through December 31, 1982

THINNING

See definition WAC 458-40-18670(9)(d)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$258	\$251	\$244	\$237	\$230
		2	224	217	210	203	196
		3	149	142	135	128	121
		4	89	82	75	68	61
Western Hemlock ¹	WH	1	144	137	130	123	116
		2	138	131	124	117	110
		3	80	73	66	59	52
		4	77	70	63	56	49
True Fir ²	TF	1	144	137	130	123	116
		2	138	131	124	117	110
		3	80	73	66	59	52
		4	77	70	63	56	49
Western Redcedar ³	RC	1	213	206	199	192	185
		2	188	181	174	167	160
		3	144	137	130	123	116

TABLE 11—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Other Conifer	OC	1	144	137	130	123	116
		2	138	131	124	117	110
		3	80	73	66	59	52
		4	77	70	63	56	49
Red Alder	RA	1	43	36	29	22	15
Cottonwood	BC	1	34	27	20	13	6
Other Hardwoods	OH	1	28	21	14	7	1
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	17	17	17	17	17

¹Includes Western and Mountain Hemlock.
²Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
³Includes Alaska-cedar.

TABLE 12—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 3
July 1 through December 31, 1982
SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar-Shake Blocks & Boards ¹	RCS	1	\$187	\$181	\$175	\$169	\$163
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	70	64	58	52	46
Western Redcedar & Other Posts ²	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas-fir Christmas Trees ³	DFX	1	0.15	0.15	0.15	0.15	0.15
True Fir & Other Christmas Trees ³	TFX	1	0.35	0.35	0.35	0.35	0.35

¹Stumpage Value per MBF net Scribner Scale.
²Stumpage Value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot.

TABLE 13—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 4
July 1 through December 31, 1982
OLD GROWTH FINAL HARVEST
(100 years of age or older)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$320	\$314	\$308	\$302	\$296
		2	260	254	248	242	236
		3	227	221	215	209	203
Western Hemlock ¹	WH	1	278	272	266	260	254
		2	227	221	215	209	203
		3	216	210	204	198	192

TABLE 13—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
True Fir ²	TF	1	278	272	266	260	254
		2	227	221	215	209	203
		3	216	210	204	198	192
Western Redcedar	RC	1	204	198	192	186	180
		2	203	197	191	185	179
		3	183	177	171	165	159
Sitka Spruce	SS	1	222	216	210	204	198
		2	219	213	207	201	195
		3	215	209	203	197	191
Noble Fir	NF	1	1012	1006	1000	994	988
		2	672	666	660	654	648
		3	312	306	300	294	288
Alaska-cedar	YC	1	1473	1467	1461	1455	1449
		2	1064	1058	1052	1046	1040
		3	654	648	642	636	630
Other Conifer	OC	1	204	198	192	186	180
		2	203	197	191	185	179
		3	183	177	171	165	159
Red Alder	RA	1	36	29	22	15	8
Cottonwood	BC	1	34	27	20	13	6
Other Hardwoods	OH	1	22	15	8	1	1
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	16	16	16	16	16

¹Includes Western and Mountain Hemlock.
²Includes Pacific Silver Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".

TABLE 14—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 4
July 1 through December 31, 1982
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$282	\$275	\$268	\$261	\$254
		2	252	245	238	231	224
		3	178	171	164	157	150
		4	122	115	108	101	94
Western Hemlock ¹	WH	1	172	165	158	151	144
		2	168	161	154	147	140
		3	136	129	122	115	108
		4	114	107	100	93	86
True Fir ²	TF	1	172	165	158	151	144
		2	168	161	154	147	140
		3	136	129	122	115	108
		4	114	107	100	93	86
Western Redcedar ³	RC	1	204	197	190	183	176
		2	175	168	161	154	147
		3	146	139	132	125	118
Other Conifer	OC	1	172	165	158	151	144
		2	168	161	154	147	140
		3	136	129	122	115	108
		4	114	107	100	93	86
Red Alder	RA	1	36	29	22	15	8

TABLE 14—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Cottonwood	BC	1	34	27	20	13	6
Other Hardwoods	OH	1	22	15	8	1	1
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	16	16	16	16	16

¹Includes Western and Mountain Hemlock.
²Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
³Includes Alaska-cedar.

TABLE 15—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 4
July 1 through December 31, 1982

THINNING

See definition WAC 458-40-18670(9)(d)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$257	\$250	\$243	\$236	\$229
		2	227	220	213	206	199
		3	153	146	139	132	125
		4	97	90	83	76	69
Western Hemlock ¹	WH	1	147	140	133	126	119
		2	143	136	129	122	115
		3	111	104	97	90	83
		4	89	82	75	68	61
True Fir ²	TF	1	147	140	133	126	119
		2	143	136	129	122	115
		3	111	104	97	90	83
		4	89	82	75	68	61
Western Redcedar ³	RC	1	179	172	165	158	151
		2	150	143	136	129	122
		3	121	114	107	100	93
Other Conifer	OC	1	147	140	133	126	119
		2	143	136	129	122	115
		3	111	104	97	90	83
		4	89	82	75	68	61
Red Alder	RA	1	36	29	22	15	8
Cottonwood	BC	1	34	27	20	13	6
Other Hardwoods	OH	1	22	15	8	1	1
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	16	16	16	16	16

¹Includes Western and Mountain Hemlock.
²Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
³Includes Alaska-cedar.

TABLE 16—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 4
July 1 through December 31, 1982
SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar-Shake Blocks & Boards ¹	RCS	1	\$193	\$187	\$181	\$175	\$169
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	73	67	61	55	49
Western Redcedar & Other Posts ²	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas-fir Christmas Trees ³	DFX	1	0.15	0.15	0.15	0.15	0.15
True Fir & Other Christmas Trees ³	TFX	1	0.35	0.35	0.35	0.35	0.35

¹Stumpage value per MBF net Scribner Scale.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot.

TABLE 17—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 5
July 1 through December 31, 1982

OLD GROWTH FINAL HARVEST
(100 years of age or older)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$305	\$299	\$293	\$287	\$281
		2	259	253	247	241	235
		3	224	218	212	206	200
Western Hemlock ¹	WH	1	251	245	239	233	227
		2	212	206	200	194	188
		3	205	199	193	187	181
True Fir ²	TF	1	251	245	239	233	227
		2	212	206	200	194	188
		3	205	199	193	187	181
Western Redcedar ³	RC	1	239	233	227	221	215
		2	232	226	220	214	208
		3	131	125	119	113	107
Sitka Spruce	SS	1	222	216	210	204	198
		2	219	213	207	201	195
		3	215	209	203	197	191
Noble Fir	NF	1	1012	1006	1000	994	988
		2	672	666	660	654	648
		3	312	306	300	294	288
Other Conifer	OC	1	222	216	210	204	198
		2	212	206	200	194	188
		3	131	125	119	113	107
Red Alder	RA	1	44	37	30	23	16
Cottonwood	BC	1	25	18	11	4	1
Other Hardwoods	OH	1	28	21	14	7	1
Hardwood Utility	HU	5	5	5	5	5	5

TABLE 17—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Conifer Utility 13	CU	5	13	13	13	13	

¹Includes Western and Mountain Hemlock.
²Includes Pacific Silver Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
³Includes Alaska-cedar.

TABLE 18—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 5
July 1 through December 31, 1982

YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)
Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$278	\$271	\$264	\$257	\$250
		2	248	241	234	227	220
		3	167	160	153	146	139
		4	109	102	95	88	81
Western Hemlock ¹	WH	1	111	104	97	90	83
		2	93	86	79	72	65
		3	75	68	61	54	47
		4	72	65	58	51	44
True Fir ²	TF	1	111	104	97	90	83
		2	93	86	79	72	65
		3	75	68	61	54	47
		4	72	65	58	51	44
Western Redcedar ³	RC	1	183	176	169	162	155
		2	139	132	125	118	111
		3	124	117	110	103	96
Other Conifer	OC	1	111	104	97	90	83
		2	93	86	79	72	65
		3	75	68	61	54	47
		4	72	65	58	51	44
Red Alder	RA	1	44	37	30	23	16
Cottonwood	BC	1	25	18	11	4	1
Other Hardwoods	OH	1	28	21	14	7	1
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	13	13	13	13	13

¹Includes Western and Mountain Hemlock.
²Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
³Includes Alaska-cedar.

TABLE 19—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 5
July 1 through December 31, 1982

THINNING
See definition WAC 458-40-18670(9)(d)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$253	\$246	\$239	\$232	\$225
		2	223	216	209	202	195
		3	142	135	128	121	114
		4	84	77	70	63	56
Western Hemlock ¹	WH	1	86	79	72	65	58
		2	68	61	54	47	40
		3	50	43	36	29	22
		4	47	40	33	26	19
True Fir ²	TF	1	86	79	72	65	58
		2	68	61	54	47	40
		3	50	43	36	29	22
		4	47	40	33	26	19
Western Redcedar ³	RC	1	158	151	144	137	130
		2	114	107	100	93	86
		3	99	92	85	78	71
Other Conifer	OC	1	86	79	72	65	58
		2	68	61	54	47	40
		3	50	43	36	29	22
		4	47	40	33	26	19
Red Alder	RA	1	44	37	30	23	16
Cottonwood	BC	1	25	18	11	4	1
Other Hardwoods	OH	1	28	21	14	7	1
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	13	13	13	13	13

¹Includes Western and Mountain Hemlock.
²Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
³Includes Alaska-cedar.

TABLE 20—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 5
July 1 through December 31, 1982

SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar-Shake, Blocks & Boards ¹	RCS	1	\$92	\$86	\$80	\$74	\$68
Western Redcedar Flatsawn & Shingle Blocks	RCF	1	39	33	27	21	15
Western Redcedar & Other Posts ²	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas-fir Christmas Trees ³	DFX	1	0.15	0.15	0.15	0.15	0.15

TABLE 20—cont.
Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
True fir & Other Christmas Trees ³	TFX	1	0.35	0.35	0.35	0.35	0.35

¹Stumpage value per MBF net Scribner Scale.
²Stumpage Value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot.

TABLE 22—cont.
Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir & Other Christmas Trees ⁴	DFX	1	0.15	0.15	0.15	0.15	0.15

¹Stumpage value per MBF net Scribner Scale.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴Stumpage value per lineal foot.

TABLE 21—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREAS 6, 7, 8, AND 9
July 1 through December 31, 1982

MERCHANTABLE SAWTIMBER, ALL AGES

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Ponderosa Pine	PP	1	\$199	\$193	\$187	\$181	\$175
		2	92	86	80	74	68
Douglas-fir	DF	1	120	114	108	102	96
Western Larch	WL	1	120	114	108	102	96
Western Hemlock ¹	WH	1	135	129	123	117	111
True fir ²	TF	1	135	129	123	117	111
Engelmann Spruce	ES	1	59	53	47	41	35
Western White Pine	WP	1	114	108	102	96	90
Western Redcedar	RC	1	111	105	99	93	87
Lodgepole Pine	LP	1	84	78	72	66	60
Hardwoods	OH	1	18	12	6	1	1
Utility	CU	5	11	11	11	11	11

¹Includes Western and Mountain Hemlock.
²Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".

TABLE 22—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREAS 6, 7, 8, AND 9
July 1 through December 31, 1982

SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$99	\$93	\$87	\$81	\$75
Western Larch Flatsawn Blocks ¹	WLF	1	73	67	61	55	49
Lodgepole Pine & Other Posts ²	LPP	1	0.20	0.20	0.20	0.20	0.20
Pine Christmas Trees ³	PX	1	0.13	0.13	0.13	0.13	0.13

TABLE 23—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 10
July 1 through December 31, 1982

MERCHANTABLE SAWTIMBER, ALL AGES

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Ponderosa Pine	PP	1	\$261	\$255	\$249	\$243	\$237
		2	181	175	169	163	157
		3	100	94	88	82	76
Douglas-fir	DF	1	170	164	158	152	146
		2	161	155	149	143	137
		3	149	143	137	131	125
Western Larch	WL	1	170	164	158	152	146
		2	161	155	149	143	137
		3	149	143	137	131	125
Western Hemlock ¹	WH	1	149	143	137	131	125
		2	140	134	128	122	116
		3	131	125	119	113	107
True Fir ²	TF	1	149	143	137	131	125
		2	140	134	128	122	116
		3	131	125	119	113	107
Other Conifer	OC	1	149	143	137	131	125
		2	140	134	128	122	116
		3	100	94	88	82	76
Hardwoods	OH	1	18	12	6	1	1
Utility	CU	5	9	9	9	9	9

¹Includes Western and Mountain Hemlock.
²Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All these species are commonly referred to as "White Fir".

TABLE 24—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 10
July 1 through December 31, 1982

SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$108	\$102	\$96	\$90	\$84
Western Larch Flatsawn Blocks ¹	WLF	1	73	67	61	55	49

TABLE 24—cont.
Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Lodgepole Pine & Other Posts ²	LPP	1	0.20	0.20	0.20	0.20	0.20
Pine Christmas Trees ³	PX	1	0.13	0.13	0.13	0.13	0.13
Douglas-fir & Other Christmas Trees ⁴	DFX	1	0.15	0.15	0.15	0.15	0.15

¹ Stumpage value per MBF Scribner scale.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴ Stumpage value per lineal foot.

TABLE 25—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 11
July 1 through December 31, 1982

OLD GROWTH FINAL HARVEST
(100 years of age or older)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$264	\$258	\$252	\$246	\$240
		2	222	216	210	204	198
		3	180	174	168	162	156
Western Hemlock ¹	WH	1	176	170	164	158	152
		2	143	137	131	125	119
		3	128	122	116	110	104
True Fir ²	TF	1	176	170	164	158	152
		2	143	137	131	125	119
		3	128	122	116	110	104
Western Redcedar ³	RC	1	241	235	229	223	217
		2	210	204	198	192	186
		3	156	150	144	138	132
Other Conifer	OC	1	176	170	164	158	152
		2	143	137	131	125	119
		3	128	122	116	110	104
Red Alder	RA	1	36	29	22	15	8
Cottonwood	BC	1	29	22	15	8	1
Other Hardwoods	OH	1	22	15	8	1	1
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	13	13	13	13	13

¹ Includes Western and Mountain Hemlock.
² Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
³ Includes Alaska-cedar.

TABLE 26—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 11
July 1 through December 31, 1982

YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$194	\$187	\$180	\$173	\$166
		2	183	176	169	162	155
		3	149	142	135	128	121
		4	89	82	75	68	61
Western Hemlock ¹	WH	1	124	117	110	103	96
		2	116	109	102	95	88
		3	80	73	66	59	52
		4	77	70	63	56	49
True Fir ²	TF	1	124	117	110	103	96
		2	116	109	102	95	88
		3	80	73	66	59	52
		4	77	70	63	56	49
Western Redcedar ³	RC	1	165	158	151	144	137
		2	146	139	132	125	118
		3	118	111	104	97	90
Other Conifer	OC	1	124	117	110	103	96
		2	116	109	102	95	88
		3	80	73	66	59	52
		4	77	70	63	56	49
Red Alder	RA	1	36	29	22	15	8
Cottonwood	BC	1	29	22	15	8	1
Other Hardwoods	OH	1	22	15	8	1	1
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	13	13	13	13	13

¹ Includes Western and Mountain Hemlock.
² Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
³ Includes Alaska-cedar.

TABLE 27—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 11
July 1 through December 31, 1982

THINNING

See definition WAC 458-40-18670(9)(d)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$169	\$162	\$155	\$148	\$141
		2	158	151	144	137	130
		3	124	117	110	103	96
		4	64	57	50	43	36
Western Hemlock ¹	WH	1	99	92	85	78	71
		2	91	84	77	70	63
		3	55	48	41	34	27
		4	52	45	38	31	24
True Fir ²	TF	1	99	92	85	78	71
		2	91	84	77	70	63
		3	55	48	41	34	27
		4	52	45	38	31	24
Western Redcedar ³	RC	1	140	133	126	119	112
		2	121	114	107	100	93
		3	93	86	79	72	65

TABLE 27—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Other Conifer	OC	1	99	92	85	78	71
		2	91	84	77	70	63
		3	55	48	41	34	27
		4	52	45	38	31	24
Red Alder	RA	1	36	29	22	15	8
Cottonwood	BC	1	29	22	15	8	1
Other Hardwoods	OH	1	22	15	8	1	1
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	13	13	13	13	13

¹Includes Western and Mountain Hemlock.
²Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
³Includes Alaska-cedar.

TABLE 28—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 11
July 1 through December 31, 1982
SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar-Shake Blocks & Boards ¹	RCS	1	\$138	\$132	\$126	\$120	\$114
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	54	48	42	36	30
Western Redcedar & Other Posts ²	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas-fir Christmas Trees ³	DFX	1	0.15	0.15	0.15	0.15	0.15
True Fir & Other Christmas Trees ³	TFX	1	0.35	0.35	0.35	0.35	0.35

¹Stumpage Value per MBF net Scribner Scale.
²Stumpage Value per 8 lineal feet or portion thereof.
³Stumpage Value per lineal foot.

NEW SECTION

WAC 458-40-18675 HARVESTER ADJUSTMENTS—TABLES FOR 7/1/82 THROUGH 12/31/82. In order to make reasonable and adequate allowances for costs of removal and size of logging operation in computation of stumpage value rates as required by RCW 84.33.071(3), the department has prepared tables which allow for adjustments to the stumpage value rates derived from the stumpage value tables of WAC 458-40-18674.

Harvest adjustments relating to harvest volume per acre, logging conditions and average volume per log shall be allowed against the stumpage value rates for the designated harvest types and in the designated stumpage value areas as set forth in the following tables with the following limitations:

- (1) No harvest adjustment shall be allowed against "special forest products".
- (2) No harvest adjustment shall be allowed against "utility", "conifer utility", and "hardwood utility".

- (3) Rates for the harvest type "old growth final harvest", shall be adjusted to a value no lower than \$10 per thousand board feet.
- (4) Rates for the harvest type "young growth final harvest", conifers, shall be adjusted to a value no lower than \$5 per thousand board feet.
- (5) Stumpage value rates for conifers within the harvest type "merchantable sawtimber, all ages", shall be adjusted to a value no lower than \$5 per thousand board feet.
- (6) Stumpage value rates for "hardwood" and for "thinning harvest" shall be adjusted to a value no lower than \$1 per thousand board feet.

A small volume adjustment table for use in all stumpage value areas is set forth below providing for adjustment of stumpage value rates if the total volume of timber harvested in a given quarter is within the volume classes provided therein.

Stumpage values of timber situated in areas impacted by Mt. St. Helens eruptions, slides, and floods have been reduced. In many affected areas logging costs will be increased because of consequences from the volcanic eruptions. In some areas timber has been damaged. In other areas the distances and routes over which logs must be hauled have been significantly altered and logging costs have been affected.

Timber harvesters planning to remove timber from the areas affected by the Mt. St. Helens eruptions may apply to the Department of Revenue for adjustment in stumpage value rates. Such applications should contain a map with the legal description of the area from which the timber will be removed, a description of the damage sustained by the timber, and a listing of additional costs incurred because of ash fall, slides, floods or other Mt. St. Helens caused impacts. Such applications should be sent to the Department of Revenue, Forest Tax Division, General Administration Building, Olympia, Washington 98504, before the harvest commences.

In the event the extent of such timber damage or additional costs are not known at the time the application is filed, the harvester may supplement the application when the necessary information is obtained, but in no event later than 90 days following completion of the harvest unit.

Upon application from any person who plans to harvest timber affected by the Mt. St. Helens eruptions the department will make a determination as to the amount of adjustment to be allowed. The harvester will be notified by the department of the amount of the adjustment. This amount can then be taken as a credit against tax liabilities or if the harvester is no longer harvesting, a refund will be authorized.

The following harvest adjustment tables are hereby adopted for use during the period of July 1, 1982 through December 31, 1982:

TABLE 1—HARVEST ADJUSTMENT TABLE
STUMPAGE VALUE AREAS 1, 2, 3, 4, 5, AND 11
July 1 through December 31, 1982

OLD GROWTH FINAL HARVEST
(100 years of age, or older)

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume Per Acre		
Class 1	Harvest of more than 40 thousand board feet per acre.	0
Class 2	Harvest of 15 thousand board feet to 40 thousand board feet per acre.	-\$4.00
Class 3	Harvest of less than 15 thousand board feet per acre.	-\$7.00
II. Logging Conditions		
Class 1	Favorable logging conditions and easy road construction. No rock outcrops or swamp barriers. Generally flat to gentle slopes under 40%.	+\$12.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 40% to 60%.	0
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 60%.	-\$17.00

TABLE 1—cont.

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include "Special Forest Products".	-\$60.00

TABLE 2—HARVEST ADJUSTMENT TABLE
STUMPAGE VALUE AREAS 1, 2, 3, 4, 5, AND 11
July 1 through December 31, 1982

YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume Per Acre		
Class 1	Harvest of more than 30 thousand board feet per acre.	0
Class 2	Harvest of 10 thousand board feet to 30 thousand board feet per acre.	-\$2.00
Class 3	Harvest of less than 10 thousand board feet per acre.	-\$6.00
II. Logging Conditions		
Class 1	Favorable logging conditions and easy road construction. No rock outcrops or swamp barriers. Generally flat to gentle slopes under 40%.	+\$18.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 40% to 60%.	0
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 60%.	-\$21.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include "Special Forest Products".	-\$60.00

TABLE 3—HARVEST ADJUSTMENT TABLE
STUMPAGE VALUE AREAS 1, 2, 3, 4, 5, AND 11
July 1 through December 31, 1982

THINNING
See definition WAC 458-40-18670(9)(d)

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume Per Acre		
Class 1	Harvest of more than 10 thousand board feet per acre.	0
Class 2	Harvest of 5 thousand board feet to 10 thousand board feet per acre.	-\$3.00
Class 3	Harvest of less than 5 thousand board feet per acre.	-\$5.00
II. Logging Conditions		
Class 1	Favorable wheel tractor logging conditions and easy road construction. No rock outcrops or swamp barriers. Generally flat to gentle slopes under 20%.	+\$14.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 20% and 40%.	0
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 40%. Normally a tower yarding operation.	-\$21.00

TABLE 3—cont.

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include "Special Forest Products".	-\$60.00
III. Average Log Size		
Class 1	50 board feet or more.	0
Class 2	Less than 50 board feet.	-\$10.00

TABLE 4—HARVEST ADJUSTMENT TABLE
STUMPAGE VALUE AREAS 6, 7, 8, 9 AND 10
July 1 through December 31, 1982

MERCHANTABLE SAWTIMBER, ALL AGES

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume Per Acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	0
Class 2	Harvest of 3 thousand board feet to 8 thousand board feet per acre.	-\$7.00
Class 3	Harvest of less than 3 thousand board feet per acre.	-\$10.00
II. Logging Conditions		
Class 1	Favorable logging conditions and easy road construction. No rock outcrops or swamp barriers. Generally flat to gentle slopes under 20%.	+\$11.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 20% to 40%.	0
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 40%.	-\$14.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include "Special Forest Products".	-\$60.00

TABLE 5—SMALL VOLUME ADJUSTMENT TABLE
ALL STUMPAGE VALUE AREAS
July 1 through December 31, 1982

A small volume adjustment is allowed where the total net volume harvested per taxpayer (excluding conifer and hardwood utility) does not exceed 1,000 MBF per calendar year and does not exceed 500 MBF per quarter.

Use percentage adjustments below:

Class	Net Volume Per Quarter	Percentage Adjustment Per Thousand Board Feet
1	1 - 150 MBF	30%
2	151 - 300 MBF	25%
3	301 - 400 MBF	20%
4	401 - 500 MBF	15%

NEW SECTION

WAC 458-40-18676 SMALL HARVESTER OPTION FOR 7/1/82 THROUGH 12/31/82. Harvesters of no more than 500 MBF per calendar quarter or a total of 1,000 MBF in a calendar year may elect to calculate the timber tax in the manner provided by RCW 84-.33.073 and 84.33.074. A harvester who elects to use this option shall

use the quarterly reporting forms provided for this option by the department of revenue.

NEW SECTION

WAC 458-40-18677 DEFINITIONS FOR SMALL HARVESTER OPTION FOR 7/1/82 THROUGH 12/31/82. (1) Small Harvester. Small harvester means every person who from his own privately owned land or from the privately owned land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use in an amount not exceeding 500 MBF in a calendar quarter and not exceeding 1,000 MBF in a calendar year. It does not include persons performing under contract the necessary labor or mechanical services for a harvester, and it does not include harvests of forest products classified by the department of revenue as special forest products including Christmas trees, posts, shake boards, bolts, flatsawn and shingle blocks.

(2) Timber. Timber means forest trees, standing or down on privately owned land.

(3) Harvested Timber. Timber shall be considered harvested at the time when in the ordinary course of business the quantity thereof by species is first definitely determined. The amount harvested shall be determined by the Scribner Decimal C Scale or other prevalent measuring practice adjusted to arrive at substantially equivalent measurements, as approved by the department of revenue.

(4) Harvesting and Marketing. Harvesting and marketing costs means only those costs directly associated with harvesting the timber from the land and delivering it to the buyer and may include the costs of disposing of logging residues but it does not include any other costs which are not directly and exclusively related to harvesting and marketing of the timber such as costs of permanent roads or costs of reforesting the land following harvest.

(5) Timber Values. Timber values shall be determined by the following methods, whichever is most appropriate to the circumstances of the harvest:

(a) When timber is sold on contract with a percentage share of gross receipts the timber owners share of actual gross receipts will be the taxable stumpage value. No harvest costs deduction is allowable.

(b) When timber is sold after it has been harvested the taxable stumpage value is the actual gross receipts from the harvested timber less the costs of harvesting and marketing.

(c) When standing timber is sold the taxable stumpage value is the actual gross receipts received by the timber owner from the most recent sale prior to harvest. No harvest costs deduction is allowable.

NEW SECTION

WAC 458-40-18678 TAXABLE STUMPAGE VALUE FOR 7/1/82 THROUGH 12/31/82. Taxable stumpage value shall be the timber value as determined by WAC 458-40-18677(5) (a) and (c). When timber value is determined by WAC 458-40-18677(5)(b) harvesting and marketing costs are deducted from the gross receipts from the sale of harvested timber. When the taxpayer is unable to provide documented proof of harvesting and marketing costs, this deduction shall be a percentage of the gross receipts from the sale of the harvested timber as determined by the department of revenue for the calendar period July 1, 1982 through December 31, 1982, shall be fifty percent of the gross receipts. The total taxable stumpage value is determined by deducting the allowable harvesting and marketing costs from the total gross receipts for the harvested timber. The amount of tax due is determined by multiplying the total taxable stumpage value by the current rate of .065.

AMENDATORY SECTION (Amending Order FT-81-4, filed 12/31/81)

WAC 458-40-19000 TIMBER POLE VOLUME TABLE FOR WEST OF CASCADE SUMMIT FOR THE CALENDAR PERIOD ((JANUARY 1 THROUGH JUNE 30, 1982)) JULY 1 THROUGH DECEMBER 31, 1982. Harvesters of poles in stumpage value areas 1, 2, 3, 4, 5, and 11 shall use the following timber pole volume table to determine the Scribner board foot volume for each pole length and class:

Pole Length	Pole Class ¹	Total Scribner Board Foot Volume as per Pole Length and Per Pole Class	
20'	1	50	
	2	50	
	3	40	
	4	40	
	5	30	
	6	30	
	7	20	
	9	20	
	10	20	
25'	1	60	
	2	60	
	3	50	
	4	50	
	5	40	
	6	40	
	7	30	
	9	30	
	10	30	
30'	1	110	
	2	70	
	3	60	
	4	60	
	5	50	
	6	50	
	7	40	
	9	40	
	35'	H2	160
H2		160	
1		130	
2		100	
3		80	
4		80	
5		60	
6		60	
7		50	
H4		240(240)	
H3		200(200)	
H2		180	
H1		180	
40'		1	150
		2	120
	3	120	
	4	90	
	5	70	
	6	60	
	H6	380(380)	
	H5	340(340)	
	H4	340(340)	
	H3	280(270)	
	H2	230(130)	
	H1	230(130)	
	45'	1	190(110)
		2	150
		3	120
4		120	
5		90	
6		90	
H6		430(430)	
H5		370(370)	
H4		370(370)	
H3		300(300)	
H2		260(260)	
H1		260(150)	
50'		1	210(120)
		2	160
		3	140
	4	140	
	5	100	

Pole Length	Pole Class ¹	Total Scribner Board Foot Volume as per Pole Length and Per Pole Class	Pole Length	Pole Class ¹	Total Scribner Board Foot Volume as per Pole Length and Per Pole Class
55'	H6	470(470)	90'	H6	1080(1080)
	H5	410(410)		H5	930(930)
	H4	410(410)		H4	930(930)
	H3	330(330)		H3	820(820)
	H2	280(160)		H2	820(820)
	H1	280(160)		H1	690(560)
	1	230(130)		1	590(480)
	2	180		2	490(420)
	3	150		3	400(210)
	4	150		H6	1170(1170)
60'	H6	540(540)	95'	H5	1000(1000)
	H5	470(470)		H4	1000(1000)
	H4	470(470)		H3	870(870)
	H3	410(410)		H2	870(870)
	H2	340(210)		H1	750(600)
	H1	340(210)		1	640(510)
	1	290(180)		2	540(440)
	2	220(150)		H6	1190(1190)
	3	190		H5	1030(1030)
	4	190		H4	1030(1030)
65'	H6	610(610)	100'	H3	900(900)
	H5	520(520)		H2	900(900)
	H4	520(520)		H1	760(610)
	H3	420(420)		1	660(530)
	H2	380(230)		2	550(450)
	H1	380(230)		H6	1310(1310)
	1	320(190)		H5	1160(1160)
	2	260(160)		H4	1160(1160)
	3	210		H3	1000(1000)
	4	210		H2	1000(1000)
70'	H6	650(650)	105'	H1	860(700)
	H5	560(560)		1	740(600)
	H4	560(560)		2	610(510)
	H3	480(480)		H6	1370(1370)
	H2	400(240)		H5	1220(1220)
	H1	400(240)		H4	1220(1220)
	1	350(210)		H3	1050(1050)
	2	270(170)		H2	1050(1050)
	3	230		H1	910(740)
	4	230		1	780(640)
75'	H6	700(700)	110'	2	650(540)
	H5	600(600)		H6	1440(1440)
	H4	600(600)		H5	1280(1280)
	H3	520(520)		H4	1280(1280)
	H2	520(520)		H3	1100(1100)
	H1	520(330)		H2	1100(1100)
	1	440(270)		H1	960(780)
	2	290(180)		1	860(670)
	3	250		2	680(570)
	80'	H6		820(820)	115'
H5		700(700)	H5	1460(1460)	
H4		700(700)	H4	1460(1460)	
H3		600(600)	H3	1300(1300)	
H2		600(600)	H2	1300(1300)	
H1		540(360)	H1	1140(960)	
1		440(290)	1	970(820)	
2		360(240)	2	820(700)	
3		290(200)	H6	1840(1840)	
85'		H6	910(910)	120'	
	H5	800(800)	H4		1600(1600)
	H4	800(800)	H3		1410(1410)
	H3	660(660)	H2		1410(1410)
	H2	660(660)	H1		1250(1100)
	H1	660(520)	1		1080(940)
	1	570(450)	2		930(830)
	2	490(340)			
	3	360(200)			

Pole Length	Pole Class ¹	Total Scribner Board Foot Volume as per Pole Length and Per Pole Class
130'	H6	1920(1920)
	H5	1680(1680)
	H4	1680(1680)
	H3	1490(1490)
	H2	1490(1490)
	H1	1310(1160)
	1	1120(990)
	2	970(870)

Piling Length	Piling Class ¹	Total Scribner Board Foot Volume as per Piling Length and per Piling Class
80'	A	250
	B	210
85'	A	260(140)
	B	210
90'	A	260(150)
	B	220
95'	A	290(150)
	B	240
100'	A	310(160)
	B	250
105'	A	330(170)
	B	270
110'	A	380(220)
	B	300(180)
115'	A	400(230)
	B	310(190)
120'	A	500(290)
	B	400(240)

¹ Pole class definitions as per American National Standard specifications and dimensions for wood poles as approved August 7, 1976 under American Nation Standard Institute, Inc. codified ANSI 05.1-1972.

² Long log volume calculations are based on Official Log Scaling and Grading Rules, revised January 1, 1980, published by The Puget Sound Log Scaling Bureau. These rules are also used by The Columbia River and the Grays Harbor Log Scaling and Grading Bureau.

³ The number, enclosed in parenthesis after the total Scribner pole volume for each pole length and class, is the volume per pole for Number 2 sawmill and better log grade, where applicable.

AMENDATORY SECTION (Amending Order FT-81-4, filed 12/31/81)

WAC 458-40-19001 **TIMBER PILING VOLUME TABLE FOR WEST OF CASCADE SUMMIT FOR THE CALENDAR PERIOD ((JANUARY 1 THROUGH JUNE 30, 1982)) JULY 1 THROUGH DECEMBER 31, 1982.** Harvesters of piling in stumpage value areas 1, 2, 3, 4, 5, and 11 shall use the following piling table to determine the Scribner board foot volume for each piling length and class:

Piling Length	Piling Class ¹	Total Scribner Board Foot Volume as per Piling Length and per Piling Class
20'	A	80
	B	70
25'	A	100
	B	90
30'	A	130
	B	110
35'	A	130
	B	110
40'	A	150
	B	120
45'	A	150
	B	120
50'	A	160
	B	140
55'	A	180
	B	150
60'	A	190
	B	160
65'	A	210
	B	180
70'	A	230
	B	190
75'	A	230
	B	200

¹ Piling class definitions as per American Society for Testing and Materials for "Round Timber Piles". As the Designation: D 25-58 (Reapproved 1964).

² Long log volume calculations are based on Official Log Scaling and Grading Rules revised January 1, 1980, published by The Puget Sound Log Scaling Bureau. These rules are also used by the Columbia River and the Grays Harbor Log Scaling and Grading Bureau.

³ The number, enclosed in parenthesis after the total Scribner board foot volume for each piling length and class, is the volume per piling for Number 2 sawmill and better log grade, where applicable.

AMENDATORY SECTION (Amending Order FT-81-4, filed 12/31/81)

WAC 458-40-19002 **TIMBER POLE VOLUME TABLE FOR EAST OF CASCADE SUMMIT FOR THE CALENDAR PERIOD ((JANUARY 1 THROUGH JUNE 30, 1982)) JULY 1 THROUGH DECEMBER 31, 1982.** Harvesters of poles in stumpage value areas 6, 7, 8, 9 and 10 shall use the following timber pole volume table to determine the Scribner board foot volume. The timber quality code number shall be determined by the procedure contained herein under the tables titled "Timber Quality Code Table, Stumpage Value Areas 6, 7, 8 and 9 Merchantable Sawtimber, All Ages," and "Timber Quality Code Table, Stumpage Value Area 10, Merchantable Sawtimber, All Ages."

Length	Class ¹	Total Scribner Board Foot Volume as per Pole Length and Pole Class
20'	1	70
	2	60
	3	50
	4	50
	5	30
	6	30
	7	20
	9	20
	10	20

Length	Class ¹	Total Scribner Board Foot Volume as per Pole Length and Pole Class	Length	Class ¹	Total Scribner Board Foot Volume as per Pole Length and Pole Class
25'	1	80	55'	H6	510
	2	70		H5	430
	3	50		H4	430
	4	50		H3	370
	5	40		H2	360
	6	40		H1	300
	7	30		1	250
	9	30		2	190
	10	20		3	150
					4
30'	1	110	60'	H6	610
	2	90		H5	530
	3	60		H4	530
	4	60		H3	440
	5	50		H2	440
	6	50		H1	380
	7	50		1	310
	9	40		2	240
	H2	190		3	200
	H1	160		4	200
35'	1	140	65'	H6	650
	2	100		H5	570
	3	100		H4	570
	4	70		H3	490
	5	60		H2	480
	6	60		H1	410
	7	50		1	350
	H3	240		2	280
	H2	240		3	220
	H1	200		4	220
40'	1	170	70'	H6	750
	2	120		H5	650
	3	110		H4	650
	4	100		H3	550
	5	70		H2	470
	6	70		H1	470
	H6	390		1	410
	H5	330		2	320
	H4	330		3	260
	H3	270		4	260
45'	H2	270	75'	H6	810
	H1	220		H5	700
	1	180		H4	700
	2	150		H3	600
	3	110		H2	600
	4	110		H1	500
	5	80		1	440
	6	70		2	340
	H6	460		3	270
	50'	H5		390	80'
H4		390	H5	830	
H3		340	H4	830	
H2		340	H3	710	
H1		280	H2	710	
1		240	H1	610	
2		190	1	510	
3		150	2	420	
4		150	3	340	
5		120	85'	H6	
		H5		870	
		H4		870	
		H3		760	
		H2		760	
		H1		640	
		1		550	
		2		450	
		3		360	

Length	Class ¹	Total Scribner Board Foot Volume as per Pole Length and Pole Class
90'	H6	1110
	H5	970
	H4	970
	H3	840
	H2	840
	H1	720
	1	620
	2	500
95'	3	420
	H6	1160
	H5	1010
	H4	1010
	H3	870
	H2	870
	H1	740
	1	640
100'	2	510
	H6	1380
	H5	1210
	H4	1210
	H3	1060
	H2	1060
	H1	910
	1	780
105'	2	650
	H6	1430
	H5	1250
	H4	1250
	H3	1100
	H2	1100
	H1	940
	1	820
110'	2	690
	H6	1580
	H5	1390
	H4	1390
	H3	1220
	H2	1220
	H1	1070
	1	920
115'	2	770
	H6	1660
	H5	1470
	H4	1470
	H3	1280
	H2	1280
	H1	970
	1	810
120'	2	680
	H6	1880
	H5	1680
	H4	1680
	H3	1480
	H2	1480
	H1	1290
	1	1130
125'	2	950
	H6	1910
	H5	1690
	H4	1690
	H3	1490
	H2	1490
	H1	1140
	1	970
2	810	

Length	Class ¹	Total Scribner Board Foot Volume as per Pole Length and Pole Class
130'	H6	2170
	H5	1920
	H4	1920
	H3	1710
	H2	1710
	H1	1510
	1	1320
	2	1140

¹ Pole class definitions as per American National Standard specifications and dimensions for wood poles as approved August 7, 1976 under American National Standard Institute, Inc. codified ANSI 05.1-1972.

² Volumes are based on the Scribner Decimal C log rule in the U.S.F.S. Log Scaling Handbook. Poles over 16 feet long were segment scaled in accordance with the rules set forth in the U.S.F.S. Log Scaling Handbook, using the average top diameter by size and class and assuming a 1" in 10' taper.

AMENDATORY SECTION (Amending Order FT-81-4, filed 12/31/81)

WAC 458-40-19003 **TIMBER PILING VOLUME TABLE FOR EAST OF CASCADE SUMMIT FOR THE CALENDAR PERIOD ((JANUARY 1 THROUGH JUNE 30, 1982)) JULY 1 THROUGH DECEMBER 31, 1982.** Harvesters of piling in stumpage value areas 6, 7, 8, 9 and 10 shall use the following piling table to determine the Scribner board foot of volume. The timber quality code number for each piling length and class shall be determined by the procedure contained herein under the tables titled "Timber Quality Code Table, Stumpage Value Areas 6, 7, 8 and 9 Merchantable Sawtimber, All Ages" and "Timber Quality Code Table, Stumpage Value Area 10, Merchantable Sawtimber, All Ages."

Length	Class ¹	Total Scribner Board Foot Volume per Piling Length and per Piling Class
20'	A	90
	B	70
25'	A	100
	B	80
30'	A	130
	B	110
35'	A	140
	B	100
40'	A	140
	B	100
45'	A	150
	B	110
50'	A	190
	B	150
55'	A	190
	B	150
60'	A	240
	B	200
65'	A	240
	B	200
70'	A	260
	B	210
75'	A	270
	B	220

Length	Class ¹	Total Scribner Board Foot Volume per Piling Length and per Piling Class
80'	A	220
	B	220
85'	A	300
	B	240
90'	A	280
	B	280
95'	A	360
	B	280
100'	A	360
	B	280
105'	A	400
	B	300
110'	A	460
	B	340
115'	A	470
	B	360
120'	A	560
	B	450

¹ Piling class definitions as per American Society for Testing and Materials for "Round Timber Piles". As the Designation: D 25-56 (Reapproved 1964).

² Volumes are based on the Scribner Decimal C log rule in the U.S.F.S. Log Scaling Handbook. Poles over 16 feet long were segment scaled in accordance with the rules set forth in the U.S.F.S. Log Scaling Handbook, using the average top diameter by size and class and assuming a 1" in 10' taper.

AMENDATORY SECTION (Amending Order FT-81-4, filed 12/31/81)

WAC 458-40-19004 CONVERSION DEFINITIONS AND FACTORS FOR THE CALENDAR PERIOD ((JANUARY 1 THROUGH JUNE 30, 1982)) JULY 1 THROUGH DECEMBER 31, 1982. (1) The following standard conversion definitions and factors shall be used in determining Scribner board foot volume scale for timber harvested that was not originally scaled in Scribner board foot volume scale:

Table No. Conversion Method

- Standard Cord**
For logs on the average of 8 inches and larger on the small end of the log the conversion factor is 400 Scribner board feet per cord and for logs on the average of less than 8 inch on the small end of the log the conversion factor is 330 Scribner board feet per cord.
- Shake Blocks and Boards**
A cord consisting of western redcedar shingle or shake blocks based on stacked dimensions of 4 feet by 4 feet by 8 feet is equivalent to 600 Scribner board feet.
- Cants or Lumber from Portable Mills**
Payment for cants is generally based on the board foot volume (lumber tally) cut from them. Payment for lumber cut from a portable mill is also generally based on the lumber tally from the log. To convert from lumber tally to Scribner log volume, multiply the lumber tally for the individual species by 75% and round to the nearest one thousand board feet Scribner scale.

Table No. Conversion Method

- Log Length Conversion Western Washington Only (Stumpage Value Areas 1, 2, 3, 4, 5, and 11).**
Operations that cut and scale logs in short lengths (16 feet to 20 feet) shall adjust the volume downward to correspond to the long log scale basis used in the Stumpage Value Tables. To convert to long log scale, multiply the short log scale for each species by 82% and round to the nearest thousand board feet.
- Log Length Conversion Eastern Washington Only (Stumpage Value Areas 6, 7, 8, 9 and 10).**
Operations that cut and scale logs in long lengths (32 feet to 40 feet) shall adjust the volume upward to correspond to the short log scale basis used in the Stumpage Value Tables. To convert to short log scale, multiply the long log scale for each species by 118% and round to the nearest thousand board feet.
- Some standard converting factors and equivalents:**
 - 1 standard cord equals 128 cubic feet, gross
 - 1 standard cord equals 85 cubic feet, solid wood
 - 1 standard cord equals 2.4069 cubic meters of solid wood
 - 1 cunit equals 100 cubic feet, log scale
 - 1 meter equals 39.37 inches
 - 1 cubic meter equals 35.315 cubic feet log scale
 - 1 cunit equals 2.832 cubic meters, log scale
 - 1 pound equals 0.454 kilograms
 - 1 kilogram equals 2.2046 pounds
 - 1 short ton equals 2000 pounds
 - 1 short ton equals 907.18 kilograms
 - 1 long ton equals 2240.0 pounds
 - 1 long ton equals 1016.05 kilograms
 - 1 metric ton (or tonne) equals 1000 kilograms or approximately 2204.62 pounds.

(2) If the harvester chooses not to use the designated conversion definitions and/or factors, the harvester shall obtain approval of the procedure from the department before harvesting.

EXAMPLE: Weight or Cubic Measurement. If the original unit of measure was by weight (pounds or tons) or cubic feet (cunits or units), the harvester shall convert to Scribner Board Foot volume, but may use only such conversion procedures and factors as have been given prior approval by the department.

**WSR 82-10-056
PROPOSED RULES
UNIVERSITY OF WASHINGTON
[Filed May 5, 1982]**

Notice is hereby given in accordance with the provisions of RCW 28B.19.030 and 42.30.060, that the University of Washington intends to adopt, amend, or repeal rules concerning fees, WAC 478-116-600;

that such institution will at 9:00 a.m., Wednesday, June 9, 1982, in the HUB, 106B, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 1:00 p.m., Friday, June 11, 1982, in the Regent's Room, Administration Building, UW, Seattle, Washington.

The authority under which these rules are proposed is RCW 28B.10.560.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this

institution prior to June 9, 1982, and/or orally at 9:00 a.m., Wednesday, June 9, 1982.

Dated: May 3, 1982
 By: Elsa Kircher Cole
 Assistant Attorney General

STATEMENT OF PURPOSE

Proposed revision to the parking and traffic regulations.

A public hearing will be held at 9:00 a.m., Wednesday, June 9, 1982, in room 106B, HUB for the purpose of allowing interested persons an opportunity to present their views either orally or in writing regarding the proposed revision to the parking fees.

The statutory authority for the rule to be revised is RCW 28B.10.560. The rule is WAC 478-116-600, Fees of the parking and traffic regulations of the University of Washington.

The Transportation Office is proposing that the parking fees be increased to provide partial funding for construction of a parking facility, as well as to maintain the existing parking system and continue alternative transportation programs. It is recommended that the basic A-zone permit be increased from \$11.00 to \$13.00 per month with all other parking fees increased at a larger percentage.

The University's Transportation Office is recommending construction of a parking facility to provide additional parking in the south campus area by 1986. The need for a new parking facility is a result of increased demand caused by the proposed expansion of University Hospital, the NN Court and Cyclotron and the Marine Sciences (Phase I) as well as the loss of more than 475 parking spaces due to the new construction in the south and west campus. The new parking facility will contain 470 parking spaces and will be constructed underground in the Montlake Triangle site which is bounded by NE Pacific Street, Montlake Boulevard NE and NE Pacific Place. Complete project development cost is estimated at \$5,628,000 based on starting construction in mid 1984.

The need to construct a parking facility and potential sites were developed over a twelve month period through a review process involving the Transportation Office, Facilities Planning and Construction, the Architectural Commission, the Transportation Advisory Committee and the Faculty Council on University Facilities and Services.

The increases to the current parking fees would result in approximately \$1,200,000 in additional revenue for 1982-84. This revenue, when combined with parking cash reserves would provide the down payment on the cost of the new parking facility. A short-term loan will be secured to finance the remainder of construction costs.

The proposal to increase the parking fees has been reviewed and endorsed by the Transportation Advisory Committee and the Faculty Council on University Facilities and Services. Copies of the proposal have been sent to the ASUW and GPSS presidents for their review. The Office of Business and Finance, in conjunction

with the Transportation Advisory Committee, will conduct two public meetings on campus during May to provide information and answer questions regarding the parking fee proposal.

Action will be requested by the board of regents at its June 11, 1982 meeting on adoption of revised parking and traffic regulation, WAC 478-116-600, Fees to become effective August 1, 1982.

AMENDATORY SECTION (Amending Order 80-1, filed 8/22/80)

WAC 478-116-600 FEES. (1) For purposes of this section the following lots are in:

- (a) Zone A -
 - (i) Central Campus: C1, C3, C6, C7, C8, C9, C10, C12, C13, C14, C15, C16, C17, C18;
 - (ii) East Campus: E3, E6, E7, E8, E13;
 - (iii) North Campus: N2, N3, N4, N6, N7, N8, N9, N10, N11, N12, N13, N14, N15, N16, N18, N20, N21, N22, N23, N24, N26, N27, N28, N2E;
 - (iv) South Campus: S1, S4, S5, S6, S7, S8, S9, S10;
 - (v) West Campus: W3, W4, W5, W6, W7, W8, W9, W10, W11, W12, W13, W14, W18, W19, W20, W21, W22, W23, W24, W25, W34, W39, W41, W42.
- (b) Zone B -
 - (i) East Campus: E2, E9, E10, E11, E12, E15;
 - (ii) North Campus: N1, N5, N25;
 - (iii) South Campus: S13;
 - (iv) West Campus: W2, W26, W27, W28, W29, W30, W31, W32, W33, W35, W36, W38, W40, W43.

(2) The following schedule of parking fees is hereby established:

	PER	AMOUNT
(a) Type of Permit -		
(i) Annual Permits		
(A) Zone A Permits	Year	((\$132.00)) \$156.00
(B) Zone B Permits	Year	((\$96.00)) 114.00
(C) Reserved - General	Year	((240.00)) 300.00
(D) Reserved - Wheelchair permits Zone A	Year	156.00
(E) Reserved - Wheelchair permits Zone B	Year	((\$96.00)) 114.00
((E)) (F) Motorcycle, Scooter and Mopeds	Year	((\$18.00)) 24.00
((F)) (G) Drive-through permits (Full-time Faculty and Staff only)	Year	6.00
((G)) (H) 24-hour storage, garages	Year	((\$156.00)) 180.00
((H)) (I) Carpool Permits	Year	((\$12.00)) 24.00
(ii) Quarterly Permits:		
(A) Zone A permits	Quarter	((\$33.00)) 39.00
(B) Zone B permits	Quarter	((\$24.00)) 28.50
(C) Reserved - General	Quarter	((\$60.00)) 75.00
(D) Reserved - Wheelchair permits Zone A	Quarter	39.00
(E) Reserved - Wheelchair permits Zone B	Quarter	((\$24.00)) 28.50
((E)) (F) Drive-through permits (Full-time Faculty and Staff only)	Quarter	2.00
((F)) (G) Motorcycle, Scooter and Mopeds	Quarter	((\$5.00)) 6.00
((G)) (H) 24-hour storage, garages	Quarter	((\$99.00)) 45.00
((H)) (I) Carpool Permits	Quarter	((\$3.00)) 6.00
(iii) Night Permits (4:00 p.m. to 7:30 a.m. and Saturday a.m. only)		
(A) Zone A annual permits	Year	((\$60.00)) 72.00
(B) Zone B annual permits	Year	((\$36.00))

	PER	AMOUNT
		42.00
(C) Zone A quarterly permits	Quarter	((15.00))
		18.00
(D) Zone B quarterly permits	Quarter	((9.00))
		10.50
(iv) ((Conference Permits (Nonuniversity Sponsored)	Day	1.50
	Week	5.00
(*) Academic Year Permits (9 months - 24-hour Storage)		
(A) Zone A	Academic year	((99.00))
		117.00
(B) Zone B	Academic year	((72.00))
		85.50
(C) 24-hour storage-garages	Academic year	((17.00))
		135.00
(b) Hourly Parking Rates for Designated Areas on Main Campus and South Campus (6:45 a.m. to 11:00 p.m. weekdays only) -		
(i) 0-15 minutes	No charge	
(ii) 15 minutes to 30 minutes		((.50))
		\$.75
(iii) to 1 hour		((.75))
		1.00
(iv) 1 hour to 2 hours		((1.00))
		1.50
(v) 2 hours to 3 hours		((1.25))
		1.75
(vi) over 3 hours		((1.50))
		2.00
(vii) gate issued	Week	((5.00))
		6.00
(b-1) Hourly Parking Rates for Designated Areas on the Periphery of Campus (6:45 a.m. to 11:00 p.m. weekdays only) -		
(i) 0-15 minutes	No charge	
(ii) 15 minutes to ((30 minutes)) 1 hour		((.25))
		.50
(iii) ((to)) 1 hour to 2 hours		((.50))
		1.00
(iv) over ((1 hour)) 2 hours		((.75))
		1.25
(c) Evening Parking (4:00 p.m.-12:00 midnight)		
(i) 0-15 minutes	No charge	
(ii) 15-30 minutes		((.25))
		.50
(iii) over 30 minutes		((.75))
		1.00
((iv)) overnight (to 7:30 a.m.)		((1.00))
(d) Special Permits -		
(i) Short term ((24-hour))	Week	4.00
	Month	14.00
(ii) ((Short term (not including 24-hour storage))	Week	3.00
	Month	12.00
((iii)) Short-term Motorcycle	Day	((.25))
		.35
((iv)) ((iii)) Ticket Books (persons identified in WAC 478-116-240(6) and 478-116-250(1) only)		
(A) 5 ticket book - Dept./Indiv.		((2.75))
		3.25
(B) 10 ticket book - Dept./Indiv.		((5.50))
		6.50
(C) 25 ticket book - Dept./Indiv.		((13.75))
		16.25
((*) ((iv)) ((Foot)) Person (SP) and Special Services (SS)	Year	((132.00))
		156.00
	Quarter	((33.00))
		39.00
(e) Mechanically Controlled Parking Areas as Designated (Parking meters, ticket dispensers, automatic gates, etc.)		((10-.75))
		10-.75
(f) Athletic Events -		
(i) Football		
(A) Automobiles		((1.50))
		2.00
(B) Motor homes		((2.00))
		4.00
(C) Buses		((5.00))
		6.00
(ii) All other events - Pavilion and Stadium lots		
(A) When staffed by attendants		((1.00))
		1.50
(B) When controlled by mechanical equipment (E1-only)		((.35))

	PER	AMOUNT
		.50
(g) Miscellaneous Fees -		
(i) Transfer from one area to another by request of individual		2.00
(ii) Gate keycard replacement - not to exceed		5.00
(iii) Vehicle Gatekey deposit (Amount of deposit will be set by the Manager of the Parking Division. Deposit will be returned to individual when key is returned to Parking Division.)	Not to exceed	10.00
(iv) Permit Replacement		
(A) With signed certificate of destruction or theft		1.00
(B) Without certificate of destruction		2.00
(v) Impound Fee		At cost
(vi) Carpools - (Daily pay parking in certain designated areas. Two or more persons.)		((10-.50))
		25-.50

WSR 82-10-057
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed May 5, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning WIN—Certification of AFDC recipient to state employment service, amending WAC 388-57-057.

It is the intention of the secretary to adopt these rules on an emergency basis prior to the hearing.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
 Division of Administration
 Department of Social and Health Services
 Mailstop OB-33 C
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administration Regulations, at State Office Building #2, 12th and Franklin, Olympia, Washington, Phone (206) 753-7015, by May 26, 1982. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Wednesday, June 9, 1982, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, June 16, 1982, in William B. Pope's Office, 3rd Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.23.120.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 9, 1982, and/or orally at 10:00 a.m., Wednesday, June 9, 1982, Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: May 4, 1982
 By: David A. Hogan
 Director, Division of Administration

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.
Regarding: Amending WAC 388-57-057.

The purpose of the rule change is to eliminate day care services for WIN registrants in paid employment.

The Reason These Rules are Necessary: Because of severe cutbacks in federal funding for this program.

Statutory Authority: RCW 74.23.120.

Person or Persons Responsible for the Drafting, Implementation and Enforcement of the Rule Change: Mick Determan, Program Manager, Division of Income Assistance, Mailstop: OB-31 C, Phone: 753-7137.

These rules are necessary as a result of federal law, the continuing resolution on the budget.

AMENDATORY SECTION (Amending Order 1642, filed 4/27/81)

WAC 388-57-057 WORK INCENTIVE PROGRAM—CERTIFICATION OF AFDC RECIPIENT TO STATE EMPLOYMENT SERVICE. (1) An AFDC recipient registered with WIN shall be certified to the state employment service when requested by the state employment service.

(2) Self-support services required by the individual shall be provided and continued as needed during the individual's participation in all WIN components, and for a thirty-day period from the start of full-time, continuous employment. The thirty-day limitation following employment shall include ~~((⁽²⁾))~~WIN on-the-job training~~((⁽²⁾))~~, ~~((⁽²⁾))~~WIN public service employment~~((⁽²⁾))~~, and WIN ~~((⁽²⁾))~~suspense~~((⁽²⁾))~~ to CETA ~~((⁽²⁾))~~on-the-job training~~((⁽²⁾))~~, and ~~((⁽²⁾))~~public service employment~~((⁽²⁾))~~. Effective May 1, 1982, WIN day care services for children shall not be provided to registrants in paid employment.

(3) A certified mandatory registrant may not refuse supportive services if such refusal prevents the individual from accepting an appropriate work or training assignment. Such refusal shall be treated as a refusal to participate without good cause.

WSR 82-10-058
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 5, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Net cash income—Determination—Deductions from gross income of child, amending WAC 388-28-535.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
Division of Administration
Department of Social and Health Services
Mailstop OB-33 C
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Washington, Phone (206) 753-7015, by May 26, 1982. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Wednesday, June 9, 1982, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, June 16, 1982, in William B. Pope's Office, 3rd Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.08.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 9, 1982, and/or orally at 10:00 a.m., Wednesday, June 9, 1982, Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: May 4, 1982

By: David A. Hogan
Director, Division of Administration

STATEMENT OF PURPOSE

This statement is filed pursuant to chapter 324, Laws of 1981.

Regarding: Amending WAC 388-28-535.

The purpose of the rule or rule change is to resolve a federal compliance issue.

Statutory Authority: RCW 74.08.090.

Summary of the Rule Change: Parents will have the option of excluding children from the assistance unit regardless of their income.

Persons or Persons Responsible for the Drafting, Implementation and Enforcement of the Rule: Mick Determan, Program Manager, Division of Income Assistance, Mailstop: OB-31 C, Phone: 3-7137.

These rules are necessary as a result of federal law, Section 402(a)(10) of the Social Security Act; 45 CFR 206.10(a)(1).

AMENDATORY SECTION (Amending Order 1728, filed 12/4/81)

WAC 388-28-535 NET CASH INCOME—DETERMINATION—DEDUCTIONS FROM GROSS INCOME—INCOME OF CHILD. (1) A child may receive income which is paid in his or her behalf to the parent(s) or other-needy caretaker relative. Such income includes allotments, retirement, survivors and disability insurance, or veterans benefits, court-ordered support payments, trust fund payments, or other income which is legally designated for the benefit of an individual child.

(a) ~~((When such income meets or exceeds the child's requirements;))~~ The family shall have the option to:

(i) Include the child as a member of the assistance unit with all income considered as available to the assistance unit, or

(ii) Exclude the child from the assistance unit. In this instance none of the child's income is available to the assistance unit.

(b) If a child's income includes a portion for his or her caretaker relative that portion shall be available to meet the need of the assistance unit.

(c) The child's requirements shall be the difference between the requirements of the assistance unit including the child and the requirements of the assistance unit excluding the child.

(d) If a child out of school ~~((has earnings which exceed his individual need, the family has the option of including him or excluding him from the assistance unit. If the child))~~ is included in the assistance unit, his or her earnings shall be treated as specified in ~~((subdivision))~~ subsection (3)(f) of this section. Determination of the child's net income is made with the caretaker relative and with the child when indicated.

(2) If the child is not included in the assistance unit, his or her eligibility for ~~((federal aid))~~ medical ~~((care only (FAMCO)))~~ assistance shall be determined individually.

(3) In determining the amount of a child's earned income available to meet the current need of the assistance unit of which he or she is a member, the following rules apply:

(a) All earned income of a child in an assistance unit shall be disregarded in determining payment amount when he or she is a full-time student or a part-time student who is not a full-time employee.

(b) A student is one who attends a school, college or university, or a course of vocational or technical training designed to fit him or her for gainful employment and includes a participant in the job corps program under the Economic Opportunity Act. A full-time student must have a school schedule equal to a full-time curriculum. A part-time student must have a school schedule equal to at least one-half of a full-time curriculum. A student who was enrolled during the school term just completed and who plans to return to school when ((it)) school reopens shall retain his or her status as a student during the summer vacation.

(c) A child earning income by working in a sheltered workshop or other training facility for handicapped children shall be considered, for purposes of income exemption, as being at least a part-time student who is working less than full time.

(d) To be employed full time, a child must be working ((35)) thirty-five hours a week or the number of hours considered full time by the industry for which he or she works, whichever is less.

(e) Summer employment of students shall not be considered as full-time employment due to the temporary nature of such employment, even though the hours worked may exceed ((35)) thirty-five hours a week.

(f) In determining the amount of a nonstudent child's earned income available to meet the current needs of the assistance unit, net income shall be computed according to WAC 388-28-570.

(4) Earnings received by any person under Title III, Part C, Youth Employment Demonstration Program of the Comprehensive Employment and Training Act of 1973, Public Law 93-203 shall be disregarded in determining need and the amount of the public assistance payment under any federally assisted programs.

WSR 82-10-059
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 1798—Filed May 5, 1982]

I, David A. Hogan, Director, Division of Administration of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to replacement of exempt property, amending WAC 388-28-474.

This action is taken pursuant to Notice No. WSR 82-07-027 filed with the code reviser on March 11, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED May 5, 1982.

By David A. Hogan
 Administrator, Division of Administration

AMENDATORY SECTION (Amending Order 1728, filed 12/4/81)

WAC 388-28-474 REPLACEMENT OF EXEMPT PROPERTY. (1) A ~~((general assistance))~~ recipient may, within sixty days of receipt((-));

(a) Reinvest in other exempt property funds acquired from a settlement covering destroyed or stolen exempt property;

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

(2) A general assistance recipient may retain cash from the settlement up to the amount of the difference between current resource values and the appropriate resource ceiling for the assistance unit.

(3) Any remaining portion of the settlement, after applying subsections (1) and (2) of this section, shall be considered newly acquired nonexempt income.

WSR 82-10-060
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Order 1799—Filed May 5, 1982]

I, David A. Hogan, Director, Division of Administration of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to mandatory monthly reporting, new section WAC 388-24-044.

This action is taken pursuant to Notice No. WSR 82-07-091 filed with the code reviser on March 24, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED May 5, 1982.

By David A. Hogan
 Director, Division of Administration

NEW SECTION

WAC 388-24-044 MANDATORY MONTHLY REPORTING. (1) As a condition of continuing eligibility for AFDC and RA, the recipient must return to the department a completed monthly status report (MSR) by the fifth day of the month following the month for which the MSR describes the household circumstances.

(2) Failure to return a completed MSR by the fifth day of the month shall result in termination except as provided in subsection (3) of this section.

(3) If the recipient furnishes the completed report to the department within ten days from the date of a termination notice pursuant to subsections (1) and (2) of this section, the department shall:

(a) Accept the replacement form; and

(b) Reinstatement assistance if the information on the replacement form indicates the recipient is still eligible.

(4) If the information on the replacement form indicates the recipient is ineligible or eligible for an amount less than the prior month's payment, the department must notify the recipient according to chapter 388-33 WAC.

(5) These rules shall apply only to selected recipients in the Kent and Olympia CSOs as selected by the department.

WSR 82-10-061
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 1800—Filed May 5, 1982]

I, David A. Hogan, Director, Division of Administration of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to refugee assistance, amending WAC 388-55-010.

This action is taken pursuant to Notice No. WSR 82-07-030 filed with the code reviser on March 12, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 42.20A.550[43.20A.550].

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED May 5, 1982.

By David A. Hogan
 Director, Division of Administration

AMENDATORY SECTION (Amending Order 1630, filed 4/1/81)

WAC 388-55-010 REFUGEE ASSISTANCE. (1) Assistance shall be granted to refugees within the provisions of Public Law 96-212, the Refugee Assistance Program.

(2) For the purpose of the refugee assistance program, a refugee is defined as a person who has fled from and cannot return to his or her country due to persecution or fear of persecution because of race, religion, or political opinion. Under this definition, the following individuals shall be eligible to apply for assistance and/or services under the refugee assistance program:

(a) A person from Cambodia, Laos, or Vietnam (~~who is~~) receiving Indochinese refugee assistance because (~~he/she~~) he or she was:

(i) A person (~~who has~~) having parole status as indicated by an INS (Immigration and Naturalization Service) Form I-94.

(ii) A person (~~who has~~) having voluntary departure status as indicated by Form I-94.

(iii) A person (~~who has~~) having conditional entry status as indicated by Form I-94.

(iv) A person (~~who was~~) admitted to the United States with permanent resident status on or after April 8, 1975 (the date (~~on which~~) the president designated Vietnamese and Cambodians to be refugees under the Migration and Refugee Assistance Act), as indicated by Form I-151 or I-551.

(v) A person (~~who has~~) having permanent resident status as a result of adjustment of status under P.L. 95-145 as indicated by Form I-151 or I-551.

(b) A person from Cuba (~~who is~~) receiving assistance or services under the Cuban phase down program, who entered the United States on or after October 1, 1978. Such persons must have:

(i) A registration card issued by the United States Cuban Refugee Center in Miami on or after October 1, 1978, and

(ii) INS documentation sufficient to establish (~~that~~) the person entered the United States on or after October 1, 1978, or verification with the United States Cuban Refugee Center of the refugee's date of entry.

(c) A person from Cambodia, Laos, or Vietnam (~~who has~~) having parole status.

(i) Such persons must have a Form I-94 indicating (~~that~~) the person has been paroled under Section 212(d)(5) of the Immigration and Nationality Act (INA).

(ii) If the Form I-94 was issued on or after June 1, 1980, (~~it~~) the form must clearly indicate (~~that~~) the person has been paroled as a refugee or asylee.

(d) A person from Cuba (~~who has~~) having been paroled as a refugee or asylee and (~~who entered~~) entering the United States on or after October 1, 1978.

(i) Such persons must have a Form I-94 indicating (~~that~~) the person has been paroled under Section 212(d)(5) of the INA.

(ii) If the Form I-94 was issued on or after April 21, 1980, (~~it~~) the form must clearly indicate (~~that~~) the person has been paroled as a refugee or asylee.

(e) An individual from any country other than Cambodia, Laos, Vietnam, or Cuba (~~who has~~) having parole status as a refugee or asylee as evidenced by a Form I-94 indicating (~~that~~) the person has been paroled under Section 212(d)(5) of the INA as a refugee or asylee.

(f) An individual admitted from any country as a conditional entrant under Section 203(a)(7) of the INA. This must be indicated on the Form I-94.

(g) An individual from any country admitted as a refugee under Section 207 of the INA. This must be indicated on (~~their~~) Form I-94.

(h) An individual from any country (~~(who has)~~) having been granted asylum under Section 208 of the INA. This must be indicated on ~~((their))~~ Form I-94.

(i) A person from any country (~~(who)~~) previously ((held)) holding one of the statuses identified ((above)) in this section whose status has been changed to ~~((that of))~~ permanent resident alien.

(3) Refugee assistance cases eligible for the AFDC and/or medicaid programs shall be transferred to such programs retroactively effective ~~((as of))~~ October 1, 1977, or as of such date as the case qualified for refugee assistance, whichever is later.

(a) Refugees must meet AFDC or medicaid eligibility criteria to be transferred.

(b) A refugee cash assistance case being transferred to AFDC shall be regarded as a recipient rather than a new applicant so ~~((that))~~ the income shall be disregarded accordingly.

(4) Applications from refugees not currently receiving refugee cash and or medical assistance shall be determined for AFDC or medicaid eligibility before determining eligibility for the refugee assistance program.

(a) If the applicant is determined not eligible for AFDC, eligibility shall then be determined under the refugee assistance program.

(b) If the applicant is determined not eligible for medicaid, eligibility shall ~~((then))~~ be determined under the refugee assistance program.

(5) Requirements of categorical relatedness of federal assistance programs are waived for refugees under the refugee assistance program.

(6) Refugees terminated from the AFDC program because of refusal to comply with requirements, shall not be eligible for refugee assistance.

(7) Except as specified in subsection (8) of this section, assistance to all types of refugee cases, regardless of family composition, shall be provided at the AFDC monthly ~~((payment))~~ standards; income and resources will be treated according to AFDC standards. ~~((No))~~ Resources ~~((which are))~~ not available, including property remaining in Vietnam, Laos or Cambodia, shall be considered in determining eligibility for financial assistance.

(8) Applicants for and recipients of refugee assistance shall not be eligible for the thirty dollar plus one-third of the remainder exemption from earned income.

~~((8))~~ (9) The refugee family unit ~~((which includes))~~ including United States citizen's children, by virtue of ((their)) being born in this country, shall be treated as a single assistance unit under the refugee assistance program in accordance with the provisions of WAC 388-24-050.

~~((9))~~ (10) (a) All applicants for and recipients of a financial grant under the refugee assistance program and each member of the family group of which ~~((they))~~ the applicants and recipients are a part are required to register for employment with the state employment service unless the individual is:

(i) An individual ~~((who is))~~ under sixteen, or ~~((who is))~~ under age ~~((twenty-one))~~ nineteen and ~~((is))~~ attending secondary school or an equivalent level of vocational or technical training full time~~((, or who is age~~

~~twenty-one or over and is attending school or training as approved by the department));~~

(ii) A person ~~((who is))~~ ill, incapacitated, or over sixty-five;

(iii) A person whose presence in the home is required because of illness or incapacity of another member of the household;

(iv) A mother or other caretaker ~~((of))~~ caring for a child under the age of six ~~((who is caring for the child));~~

(v) A mother or other caretaker of a child, when the nonexempt father or other nonexempt adult relative in the home is registered and has not refused to accept employment without good cause.

~~((b))~~ The nonexempt refugee applicant or recipient must accept employment when available as specified in WAC 388-57-025(3) through (7).

~~((c))~~ (b) Inability to communicate in English does not justify exemption from registration or acceptance of employment.

~~((f))~~ (11) Refusal of an employable adult refugee to register with the employment service without good cause shall result in the following actions. In addition, refusal to accept, continue or participate in a training or employment opportunity or referral, from any source, ~~((which is))~~ determined appropriate for ~~((that))~~ the refugee by the CSO shall also result in the following actions:

(a) The CSO will provide counseling within seven days of the individual's refusal to participate. ~~((This))~~ The counseling is intended to provide the refugee with an understanding of the implications of his or her refusal to accept employment or training, and to encourage the refugee's acceptance of such opportunity. Only one such counseling session is required but additional counseling may be provided at the discretion of the CSO.

(b) An employable adult refugee applicant ~~((who refuses))~~ refusing a work or training opportunity or referral without good cause, as stated ~~((above))~~ in this section within thirty days prior to application shall be ineligible for refugee assistance for thirty days from the date of the refusal. The dependent family of such an ineligible applicant may apply for and receive assistance if otherwise eligible.

(c) If the employable refugee recipient continues to refuse an offer of employment or training, assistance will be terminated thirty days after the date of his or her original refusal. The refugee shall be given at least ten days written notice of the termination of assistance and the reason therefore. This sanction shall be applied in the following manner:

(i) If the assistance unit includes other individuals, ~~((then))~~ the grant shall be reduced by the amount included on behalf of ~~((that))~~ the refugee. If the employable refugee is a caretaker relative, assistance in the form of protective or vendor payments will be provided to the remaining members of the assistance unit.

(ii) If such individual is the only individual in the assistance unit, the grant shall be terminated.

(iii) The recipient's voluntary agency (VOLAG) shall be notified if ~~((either action (i) or (ii) takes place))~~ action is taken according to subsection (11)(c)(i) or (ii) of

this section, provided ~~((that))~~ the provisions for safeguarding information in chapter ~~((388-48))~~ 388-320 WAC are met.

(iv) A decision by the refugee to accept employment or training, made at any time within the thirty-day period after the date of the original refusal, shall result in the continuation of assistance without interruption if the refugee continues to meet the eligibility requirements for continued assistance.

(v) An employable refugee shall be ineligible for a period of thirty days after the termination of assistance because of refusal to accept or continue employment or training.

~~((11))~~ (12) An employable adult refugee shall be exempt from the work registration requirements in subsections ~~((9))~~ (10) and ~~((10))~~ (11) of this section for a period of sixty days after the person's date of entry into the United States.

~~((12))~~ (13) A refugee of any age ~~((who is))~~ otherwise eligible shall not be denied cash assistance while enrolled and participating in a CSO approved employability training program ~~((which is part of an employability plan approved by the ESSO, that is, training))~~ intended to have a definite short-term (less than one year) employment objective.

~~((13))~~ (14)(a) With the exception of the thirty dollar and one-third exemption, adult refugee recipients shall be eligible for earned income exemptions as specified in WAC 388-28-570, regardless of assistance unit composition.

(b) The income of a refugee dependent child shall be treated as specified in WAC 388-28-535.

~~((14))~~ (15) All refugee recipients ~~((who are))~~ sixty-five years of age or older, or ~~((who are))~~ blind or disabled will be referred immediately to the social security administration for SSI benefits. The SSI applicant will be included in the assistance grant at the AFDC standard until payments are received.

~~((15))~~ (16)(a) The refugee recipient receiving a continuing assistance grant is eligible for medical assistance as specified in WAC 388-82-010(1).

(b) Eligibility for medical care for the nonrecipient refugee shall be determined as specified in chapter 388-83 WAC. Eligibility is based on medical and financial need only; requirements of categorical relatedness are waived. Subsection ~~((13))~~ (14)(a) of this section is applicable in determining the amount of participation in medical costs for refugee recipients.

(c) The refugee recipient ~~((who becomes))~~ becoming ineligible because of increased income from employment shall remain eligible for medical assistance for four calendar months beginning with the month of ineligibility provided that:

(i) In the case of a single individual assistance unit:

(A) The individual received assistance in at least three of the six months immediately preceding the month of ineligibility; and

(B) ~~((He/she))~~ He or she continues to be employed.

(ii) In the case of a multiple individual assistance unit:

(A) The family received assistance in at least three of the six months immediately preceding the month of ineligibility; and

(B) A member of the family continues to be employed.

(d) Medical need shall not be an eligibility factor.

~~((16))~~ (17) Refugee recipients shall have ~~((their))~~ continuing eligibility for financial and medical assistance redetermined at least once in every six months of continuous receipt of assistance.

~~((17))~~ ~~The rules in subsections (1) through (16) of this section shall be effective February 1, 1981.)~~

(18) ~~((Effective April 1, 1981,))~~ Persons ~~((who meet))~~ meeting the ~~((above))~~ criteria in this section shall be eligible for refugee assistance only during the ~~((thirty=six))~~ eighteen-month period beginning in the first month ~~((that))~~ the individual entered the United States.

(19) The rules in this section shall be effective April 1, 1982.

WSR 82-10-062

ADOPTED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 1801—Filed May 5, 1982]

I, David A. Hogan, Director, Division of Administration of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to medical assistance, amending chapters 388-80, 388-83, 388-86, 388-87, 388-92, 388-99 and 388-100 WAC.

This action is taken pursuant to Notice No. WSR 82-07-096 filed with the code reviser on March 24, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED May 5, 1982.

By David A. Hogan
Director, Division of Administration

AMENDATORY SECTION (Amending Order 1766, filed 2/18/82)

WAC 388-80-005 DEFINITIONS. (1) "Application" shall mean a written request for medical assistance or limited casualty program from the applicant, an authorized representative, or if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant to the department of social and health services the application shall be on a form prescribed by the department.

(2) "Assignment" is the method by which the provider receives payment for services under Part B of medicare.

(3) "Assistance unit" means a person or members of a family unit who are eligible for cash or medical assistance under a federally matched program including state supplement.

(4) "Authorization" means an official approval of a departmental action.

(5) "Beneficiary" is an eligible individual who receives a federal cash benefit and/or state supplement under Title XVI.

(6) "Benefit period" is the time period used in determining whether medicare can pay for covered Part A services. A benefit period begins the first day a beneficiary is furnished inpatient hospital or extended care services by a qualified provider. It ends when the beneficiary has not been an inpatient of a hospital or other facility primarily providing skilled nursing or rehabilitation services for sixty consecutive days. There is no limit to the number of benefit periods a beneficiary can have.

(7) "Cabulance" means a vehicle designed and used for the purpose of transporting persons confined to a wheelchair or persons otherwise physically restricted.

(8) "Carrier" is an organization who has a contract with the federal government to process claims under Part B of medicare.

(9) "Categorically needy" refers to a resident of the state of Washington whose income and resources are evaluated for cash assistance and who is:

(a) Receiving or eligible to receive cash assistance.

(i) Aid to Families of Dependent Children (AFDC).

(ii) Supplemental Security Income (SSI), including grandfathered individuals and individuals with essential spouses.

(iii) State supplement.

(iv) Special categories.

(b) A financially eligible person under twenty-one who would be eligible for AFDC but does not qualify as a dependent child and who is in:

(i) Foster care, or

(ii) Subsidized adoption, or

(iii) A skilled nursing home, intermediate care facility, or intermediate care facility for mentally retarded, or

(iv) An approved inpatient psychiatric facility.

(c) Individuals who would be eligible for cash assistance except for their institutional status.

(d) An individual who is SSI categorically related and would not be eligible for cash assistance if they were not institutionalized and whose gross income does not exceed the three hundred percent SSI benefit cap. This includes only aged, blind, and disabled groups.

(10) "Central disbursements" is a state office section which audits nonmedicaid medical claims for payment.

(11) "Certification date" means the date the worker certifies changes in a recipient's circumstances and authorizes an action.

(12) "CFR" means the code of federal regulations and is a codification of the general and permanent rules published in the federal register by the executive departments and agencies of the federal government.

(13) "Child" or "minor child" means a person under eighteen years of age.

(14) "Client" means an applicant for or recipient of financial and/or social services provided by the department of social and health services.

(15) "Coinsurance" means the portion of reimbursable hospital and medical expenses, after subtraction of any deductible, which medicare does not pay. Under Part A, coinsurance is a per day dollar amount, and under Part B, is twenty percent of reasonable charges.

(16) "CSO" (community service office) is an office of the department which administers the various social and health services at the community level.

(17) "Continuing assistance" means payments to persons who presumably will be eligible for and receive, from the date of authorization, regular monthly grants on a prepayment basis. Continuing assistance includes federal aid and continuing general assistance grants to unemployable persons.

(18) "Copayment" means a fixed dollar amount that is the responsibility of the recipient of specified services.

(19) "Deductible" means an initial specified amount that is the responsibility of the applicant and/or recipient.

(a) Part A of medicare - Inpatient hospital deductible - an initial amount in each benefit period which medicare does not pay.

(b) Part B of medicare - The first sixty dollars in expenses which must be incurred before medicare starts to pay.

(c) Limited casualty program-medically needy-inpatient hospital deductible-an initial amount as specified in chapter 388-99 WAC, the department does not pay.

(d) Limited casualty program-medically indigent-means incurring a dollar amount as specified in chapter 388-100 WAC, the department does not pay.

(20) "Delayed certification" shall mean the date of certification for medicaid and date of application for SSI are the same for an SSI beneficiary whose eligibility decision was delayed due to administrative action.

(21) "Department" shall mean the state department of social and health services.

(22) "Division of medical assistance" shall mean the single state agency authorized to administer the Title XIX medical assistance program.

(23) "Eligible couple" means an eligible individual and eligible spouse.

(24) "Eligible individual" means an aged, blind or disabled person as defined in Title XVI of the Social Security Act. If two such persons are husband and wife (and have not been living apart for more than six months), only one of them may be considered an eligible individual.

(25) "EPSDT" shall mean a program providing early and periodic screening, diagnosis and treatment to persons under twenty-one years of age who are eligible under Title XIX of the Social Security Act.

(26) "Essential spouse" means a spouse whose needs were taken into account in determining the need of OAA, AB, or DA recipient for December, 1973, who continues to live in the home of such recipient, and continues to be an essential spouse.

(27) (~~"Extended care facility" (ECF). See "skilled nursing facility".~~)

((28)) "Extended care patient" is a recently hospitalized medicare patient who needs relatively short-term skilled nursing and rehabilitative care in a skilled nursing facility.

((29)) (28) "Fair hearing" means an administrative proceeding by which the department hears and decides the appeal of an applicant/recipient from an action or decision of the department.

((30)) (29) "Federal aid" means the assistance programs for which the state receives matching funds from the federal government.

((31)) (30) "Fraud" shall mean a deliberate, intentional, and wilful act, with the specific purpose of deceiving the department with respect to any material, fact, condition, or circumstances affecting eligibility or need.

((32)) (31) "General assistance - continuing" (GAU) means assistance to unemployable persons who are not eligible for or not receiving federal aid assistance and whose medical care is defined in chapter 388-86 WAC.

((33)) (32) "Grandfathering" refers to:

(a) A noninstitutionalized individual who meets all current requirements for medicaid eligibility except the criteria for blindness or disability; and

(i) As eligible for medicaid in December, 1973, as blind or disabled, whether or not he/she was receiving cash assistance in December, 1973; and

(ii) For each consecutive month after December, 1973, continue to meet the criteria for blindness and disability and other conditions of eligibility used under the medicaid plan in December, 1973; and

(iii) The needs of the "essential person" shall only be considered when he/she is living with such person in the same household.

(b) An institutionalized individual who was eligible for medicaid in December, 1973, or any part of that month, as an inpatient of a medical institution or resident of intermediate care facility that was participating in the medicaid program and for each consecutive month after December, 1973:

(i) Continued to meet the requirements for medicaid eligibility that were in effect under the state's plan in December, 1973, for institutionalized individuals; and

(ii) Remained institutionalized.

((34)) (33) "Home health agency" is an agency or organization certified under medicare to provide skilled nursing and other therapeutic services to the patient in his/her place of residence.

((35)) (34) "Hospital" shall mean any institution licensed as a hospital by the official state licensing authority.

((36)) (35) "Institution" shall mean an establishment which furnishes food and shelter to four or more persons unrelated to the proprietor and, in addition provides medically related services and medical care. This would include hospitals, skilled nursing facilities, intermediate care facilities, and institutions for the mentally retarded, but does not include correctional institutions.

((37)) (36) "Intermediary" is an organization who has an agreement with the federal government to process medicare claims under Part A.

((38)) (37) "Intermediate care facility" shall mean a licensed facility certified to provide intermediate care for which an agreement has been executed.

((39)) (38) "Intermediate care facility/IMR" shall mean a state institution or a licensed nursing home either of which has been certified by state office (SO) as meeting the CFR regulations to provide twenty-four hour health-related care and services to mentally retarded persons or persons with related conditions.

((40)) (39) "Legal dependents" are persons whom an individual is required by law to support.

((41)) (40) "Limited casualty program" means a medical care program for medically needy as defined in chapter 388-99 WAC, and for medically indigent as defined in chapter 388-100 WAC.

((42)) (41) "Medicaid" or "Medical assistance" (MA) shall mean the federal aid Title XIX program under which medical care is provided to:

(a) Categorically needy as defined in chapter 388-82 WAC.

(b) Medically needy as defined in chapters 388-92 and 388-99 WAC.

((43)) (42) "Medical consultant" shall mean a physician employed by the department at the CSO level.

((44)) (43) "Medical facility". See "Institution".

((45)) (44) "Medically necessary" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of conditions that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective more conservative or substantially less costly course of treatment available or suitable for the recipient requesting the service. For the purpose of this section "course of treatment" may include mere observation or, where appropriate, no treatment at all.

((46)) (45) "Medicare" is a commonly used term for the federal government health insurance program for certain aged or disabled recipients under Titles II and XVII of the Social Security Act.

(46) "Month of application" shall mean the calendar month in which the application is filed unless it is filed in the last ten days of that month; then the month of application may be the following month.

(47) "Nursing care consultant" shall mean a qualified and licensed registered nurse employed by the (~~department at the CSO level~~) bureau of nursing home affairs who is centrally supervised, but stationed in CSO's.

(48) "Outpatient" is a nonhospitalized patient receiving care in an outpatient or emergency department of a hospital, or away from a hospital such as in a physician's office or the patient's own home or a nursing home.

(49) "Part A" is the hospital insurance portion of medicare.

(50) "Part B" is the supplementary medical insurance benefit (SMIB) or the "doctor's portion" of medicare.

(51) "PAS" - professional activity study is a compilation of inpatient hospital data by diagnosis and age, conducted by the commission of professional and hospital activities, which resulted in the determination of an average length of stay for patients. These data were

published in a book entitled "Length of Stay in PAS Hospitals, Western". The department has adopted this book as the basis for authorizing payment for the maximum number of inpatient hospital days for recipients of state-funded programs, or where no memorandum of understanding with a PSRO exists.

(52) "Patient transportation" means the transportation of recipients to and from medical services covered under the medical assistance program.

(53) "Physician" is a doctor of medicine, osteopathy, or podiatrist who is legally authorized to perform the functions of his profession by the state in which he performs them.

(54) "Professional standards review organization" (PSRO). See "Washington state professional standards review organization".

(55) "Provider" or "provider of service" means an institution, agency, or individual who has a signed agreement to furnish medical care and goods and/or services to recipients and who is eligible to receive payment from the department.

(56) "Provider services" shall mean the office of the division of medical assistance which processes claims for payment under Title XIX and state-funded programs.

(57) Residence, state of means:

(a) The state where the applicant/recipient is living with the intent to remain there permanently or for an indefinite period;

(b) The state which he/she entered with a job commitment or to seek employment, whether or not currently employed;

(c) The state making a state supplementary payment;

(d) The state making placement in an out-of-state institution;

(e) The state of the parents or legal guardian, if one has been appointed, of an institutionalized individual who is under age twenty-one or is age twenty-one or over and who became incapable of determining residential intent before age twenty-one;

(f) The state where the person over age twenty-one judged to be legally incompetent is living.

(58) "Retroactivity" means:

(a) Under medical assistance, the period of no more than three months prior to month of application to an otherwise eligible individual.

(b) Under state-funded, the period of no more than seven days prior to date of application, to an otherwise eligible continuing general assistance recipient. The seven days shall not include Saturday, Sunday or legal holidays. The department may on an exception to policy basis waive the seven-day rule if the person failed to apply because of medical reasons or other good cause.

(59) "Skilled nursing facility", unless otherwise described, shall mean any institution or facility licensed by the department as a nursing home, or is a nursing home unit of a hospital licensed by the state department of social and health services and is certified, and has an agreement to provide skilled nursing home care.

(60) "Spell of illness". See "Benefit period".

(61) "Spend down" means the individual incurs medical expenses to reduce income to the financial standards established by the department.

(62) "Spouse"

(a) "Eligible spouse" means an aged, blind or disabled individual who is the husband or wife of an eligible individual and who has not been living apart from such eligible individual for more than six months.

(b) "Ineligible spouse" means the husband or wife of an eligible individual who is not aged, blind or disabled; or who although aged, blind or disabled has not applied for such assistance.

(c) "Nonapplying spouse" means the husband or wife of an eligible individual who although aged, blind or disabled has not applied for such assistance.

(63) "State-funded medical care" shall mean medical care, as defined by DSHS, provided to eligible persons on continuing general assistance.

(64) "State office" or "SO" shall mean the division of medical assistance of the department.

(65) "Supplementary payment" means the state money payment to individuals receiving benefits under Title XVI (or who would, but for their income, be eligible for such benefits) as assistance based on need in supplementation of SSI benefits. This payment includes:

(a) "Mandatory state supplement" means the state money payment with respect to individuals who, for December, 1973, were recipients of money payments under the department's former programs of old age assistance, aid to the blind and disability assistance.

(b) "Optional state supplement" means the elected state money payment to individuals eligible for SSI benefits or who except for the level of their income would be eligible for such benefits.

(66) "Supplemental security income (SSI) program, Title XVI," means the federal program of supplemental security income for the aged, blind, and disabled established by section 301 of the social security amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).

(67) "Third party" means any entity that is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medicaid.

(68) "Washington State Professional Standards Review Organization" (WSPSRO) is the state level organization responsible for determining whether health care activities are medically necessary, meet professionally acceptable standards of health care, and are appropriately provided in an outpatient or institutional setting for beneficiaries of medicare and recipients of medicaid and maternal and child health.

AMENDATORY SECTION (Amending Order 1721, filed 11/18/81)

WAC 388-83-130 ELIGIBILITY DETERMINATION—NONINSTITUTIONAL. (1) Eligibility determination for AFDC shall be as follows:

(a) Individuals under age eighteen shall have eligibility determination based on the AFDC one-person standard if they are:

(i) Not SSI related((-:))

(ii) Not AFDC related (dependent child)((-:))

(((((iii)))) (b) When an under age eighteen person resides in the same family unit with parents, the parents'

income is considered available whether or not actually contributed. See WAC 388-82-115(6) for the pregnant woman.

~~((b))~~ (c) The AFDC earned income exemption of thirty dollars plus one-third of remainder does not apply to individuals initially applying solely for medical assistance.

~~((c))~~ (d) Families applying for medical assistance who received AFDC in any of the four preceding months shall be allowed the thirty dollars plus one-third disregard. After receiving the thirty dollars plus one-third income disregard for a maximum of four consecutive months an individual is not eligible for the disregard again until he/she has been off assistance for twelve consecutive months.

~~((d))~~ (e) AFDC children age sixteen or seventeen who are terminated from AFDC cash assistance solely because they have ceased to attend school and have refused to register for WIN are eligible for medicaid while living in the home with a relative of specified degree on the same basis as a dependent child.

(2) Eligibility for special categories shall be determined as for the appropriate cash assistance category. See chapter 388-92 WAC.

AMENDATORY SECTION (Amending Order 1725, filed 12/3/81)

WAC 388-83-135 ELIGIBILITY DETERMINATION—INSTITUTIONAL. (1) Individuals are considered institutionalized if they reside in a medical facility at least a full calendar month.

(a) SSI/state supplement related individuals in medical facilities shall have their eligibility determined by comparing their gross income to the three hundred percent SSI cap (SSI benefit).

(b) If gross income is greater than three hundred percent of SSI cap, eligibility must be determined under the limited casualty program—medically needy in chapter 388-99 WAC.

(c) Allocation of recipient income is defined in WAC 388-83-140.

(d) For consideration of resources see chapter 388-92 WAC. The home becomes a resource when it is determined no longer the principal place of residence. See WAC 388-92-045(1).

(2) Individuals who reside in a medical facility less than a full calendar month shall have their eligibility determined as for a noninstitutionalized person. See chapter 388-92 WAC.

AMENDATORY SECTION (Amending Order 1685, filed 7/29/81)

WAC 388-83-140 ALLOCATION OF INCOME—INSTITUTIONALIZED RECIPIENT. (1) All institutionalized recipients will retain a specified personal needs allowance.

(2) The AFDC related individual in a medical facility is eligible to receive an amount as a cash assistance payment sufficient to bring income up to the personal needs allowance.

(3) SSI related recipients may retain the current personal needs allowance plus wages received for work approved by the department as part of a training or rehabilitative program designed to prepare the individual for less restrictive placement. The total personal needs allowance may not exceed the monthly noninstitutional state supplement standard. There are no deductions for expenses of employment. When the total amount of wages received plus the initial personal needs allowance exceeds the monthly standard, the excess wages are applied to the cost of care.

(4) In addition to the allocations in subsections (1) and (3) of this section, SSI related individuals residing in a medical facility throughout a calendar month are entitled to the following allocations of income as applicable:

(a) Maintenance needs of spouse not to exceed state supplement standard,

(b) Maintenance needs of family adjusted for number of family members living at home, but not to exceed highest need standard for a family of same size under AFDC,

(c) Amounts for incurred medical expenses not subject to third-party payment including but not limited to:

(i) Health insurance premiums, co-insurance or deductible charges,

(ii) Necessary medical care recognized under state law but not covered under medicaid.

(d) For a single person, maintenance of the home where the individual has been certified by a physician to need institutional care for no more than six consecutive months. See WAC 388-92-045(1)(a)(iv),

(i) Income thus exempted must be used to retain the independent living situation of an individual with no dependents through payment of such requirements as rent or mortgages, real estate taxes, insurance, gas, electricity, oil, water or sewer necessary to maintain the home. Also see chapter 388-28 WAC,

(ii) Up to one hundred eighty dollars per month may be exempted from the individual's actual income based on the verified actual cost to retain the home during six consecutive months,

(iii) The six-month period begins on the first of the month following date of admission for medicaid eligible recipients or the date of eligibility for individuals changing from private to medicaid, and ceases when the patient is discharged to an independent living arrangement or at the end of six months if the recipient has not been discharged,

(iv) CSO social service staff shall document initial need for the income exemption and review the individual's circumstances after ninety days. Also see chapter 388-28 WAC.

(5) Income remaining in subsections (1), (2), (3) or (4) of this section, will be used to compute payment of the participation amount (that income remaining after allocation of income) at the department rate.

AMENDATORY SECTION (Amending Order 1725, filed 12/3/81)

WAC 388-86-005 SERVICES AVAILABLE TO RECIPIENTS OF MEDICAL ASSISTANCE. (1) For

recipients of medical assistance (MA) categorically needy only, the department shall authorize early and periodic screening diagnosis and treatment services including dental, vision, and hearing services, to eligible individuals under twenty-one years of age, family planning services, home health agency services, inpatient and outpatient hospital care, other laboratory and x-ray services, skilled nursing home care, and physicians' services in the office or away from the office as needed for necessary and essential medical care. The department may authorize medically justified ambulance service and other approved transportation.

(2) The following additional services shall also be authorized when medically necessary: Anesthetization services; blood; dental services to EPSDT recipients; drugs and pharmaceutical supplies; eyeglasses and examination; hearing aids and examinations; oxygen; physical therapy services; special-duty nursing services; surgical appliances, prosthetic devices, and certain other aids to mobility.

(3) Treatment, transplants, dialysis, equipment and supplies for acute and chronic nonfunctioning kidneys are provided in the home, hospital and kidney center. See WAC 388-86-050(5).

(4) Organ transplants, other than kidney transplants are not provided as a part of physician services or hospital care authorized under the medical assistance program.

(5) Treatment to detoxify narcotic addiction cases in a hospital or on an outpatient basis is not provided as a part of the medical care program. The department will provide treatment for concurrent diseases and complications.

(6) Detoxification of an acute alcoholic condition will be provided only in a certified detoxification center or in a general hospital with certified detoxification facilities.

(7) The following medical services are not provided:

(a) Adult dental services, and

(b) Chiropractic services,

(c) Treatment of tuberculosis. See WAC 388-86-050(5).

(8) Treatment for obesity is not provided as part of the medical care program. The department will provide treatment for concurrent diseases and complications.

(9) Where evidence is obtainable to establish medical necessity, as defined in WAC 388-80-005, the department shall approve the request if the recipient or provider submits sufficient objective clinical information (including, but not limited to, a physiological description of the disease, injury, impairment or other ailment; pertinent laboratory findings; x-ray reports; and patient profiles).

(10) A request for medical services may be denied by the department if the requested service is not medically necessary as defined by WAC 388-80-005, is generally regarded by the medical profession as experimental in nature or as unacceptable treatment, unless the recipient can demonstrate through sufficient objective clinical evidence the existence of particular circumstances which render the requested service medically necessary.

(11) The department shall approve or deny all requests for medical services within fifteen days of the receipt of the request, except that if additional justifying information is necessary before a decision can be made, the request shall be neither approved nor denied but shall be returned to the provider within five working days of the original receipt. If additional justifying information is not returned within thirty days of the date it was returned to the provider, then the original request shall be approved or denied. However, if such information is returned to the department, the request shall be acted upon within five working days of the receipt of the additional justifying information.

(12) Whenever the department denies a request for medical services the department shall, within five working days of the decision, give written notice of the denial to the recipient and the provider. In order to fully inform the recipient, the notice shall state:

(a) The specific reasons for the department's conclusion to deny the requested service.

(b) If a fair hearing is requested, a medical assessment other than that of the person or persons involved in making the original decision may be obtained at the expense of the department of social and health services, and instructions on how to obtain such assessment.

(c) The recipient has a right to a fair hearing if the request is made within ninety days of receipt of the denial, with the instruction on how to request the hearing.

(d) The recipient may be represented at the hearing by legal counsel or other representative.

(e) That upon request, the CSO shall furnish the recipient the name and address of the nearest legal services office.

(13) The limited casualty program—medically needy is defined in chapter 388-99 WAC, and the limited casualty program—medically indigent is defined in chapter 388-100 WAC.

(14) The department has the authority to require a second opinion prior to the approval of any elective surgical procedure.

(15) The department may designate those surgical procedures which can be performed in other than a hospital in-patient setting. Where the patient has a medical condition which necessitates a hospital admission, prior approval by the local medical consultant must be obtained.

AMENDATORY SECTION (Amending Order 1725, filed 12/3/81)

WAC 388-86-098 SPEECH THERAPY SERVICES. (1) ~~Speech therapy may be provided ((as an adjunct to medically necessary treatment of medical conditions for which the department has assumed initial responsibility))~~ for conditions which are the result of medically recognized diseases and defects if medically necessary and otherwise covered by this program. Such conditions may include aphasia; sudden bilateral on-set of hearing loss; rapid progressive bilateral loss and post laryngectomy surgery. ~~((Speech therapy may be authorized subject to the following:))~~

(2) The following conditions apply to approval of speech therapy:

- (a) The evaluation and/or treatment must have prior approval by the local medical consultant,
- (b) The fee for service must be agreed to in advance of therapy,
- (c) The services must be performed by a speech pathologist who has been granted the certificate of clinical competence by the American speech and hearing association, or who has completed the equivalent educational and work experience necessary for such a certificate,
- (d) The department reserves the right to limit the number of treatments based on professional judgment. See WAC 388-87-025(2)(p).
- ~~((2))~~ (3) Speech and language therapy is not provided under the limited casualty program.

AMENDATORY SECTION (Amending Order 1725, filed 12/3/81)

WAC 388-87-005 PAYMENT—ELIGIBLE PROVIDERS DEFINED. (1) Eligible providers are:

- (a) Persons currently licensed by the state of Washington to practice medicine, osteopathy, dentistry, optometry, podiatry, nursing, or physical therapy~~((f-))~~,
- (b) A hospital currently licensed by the department,
- (c) A nursing home currently licensed and classified by the department as a skilled nursing or intermediate care facility,
- (d) A licensed pharmacy,
- (e) A home health services agency certified by the department,
- (f) An independent (outside) laboratory certified to participate under Title XVIII or determined currently to meet the requirements for such participation,
- (g) A company or individual (not excluded in subsection (3) of this section) supplying items such as ambulance service, oxygen, eyeglasses, other appliances, or approved services,
- (h) A provider of screening services that has signed an agreement with the department to provide such services to eligible individuals in the EPSDT program,
- (i) A certified center for the detoxification of acute alcoholic conditions,
- (j) A certified outpatient clinical community mental health center, an approved inpatient psychiatric facility, drug treatment center, or Indian health service clinic,
- (k) A medicare certified rural health clinic,
- (l) Approved prepaid health maintenance, prepaid health plans and/or health insuring organizations,
- (m) An out-of-state provider of services listed in subsection (1) (a) through (f) of this section, with comparable qualifications in state of residence or location of practice.

(2) Under the mandatory and discretionary provision of RCW 74.09.530, the services of the following practitioners will not be furnished to applicants or recipients:

- Chiropractors
- Sanipractors
- Naturopaths
- Homopathists
- Herbalists
- Masseurs or manipulators

Christian Science practitioners or theological healers
 Any other licensed or unlicensed practitioners not otherwise specifically provided for in these rules.

AMENDATORY SECTION (Amending Order 1646, filed 4/27/81)

WAC 388-92-005 DEFINITIONS. The definitions in this section apply only to SSI related applicants.

- (1) Beneficiary – A person who receives a cash benefit under Title XVI and/or state supplement.
- (2) SSI related – ~~((Eligible for but not receiving cash assistance))~~ An aged, blind, or disabled person who meets the Title XIX resource standards.

(3) Income – The receipt by an individual of any property or service which he can apply either directly, by sale, or conversion to meet his basic needs for food, clothing, and shelter.

(a) Earned income means gross wages for services rendered and/or net earnings from self-employment. Earned income received at predictable intervals other than monthly or in unequal amounts will be converted to a monthly basis. If income is weekly, the amount is multiplied by 4.3 to arrive at a monthly figure.

(b) Unearned income means all other income.

(4) Resources – Cash or other liquid assets or any real or personal property that an individual or spouse, if any, owns and could convert to cash to be used for support or maintenance.

(a) If an individual can reduce a liquid asset to cash, it is a resource.

(b) If an individual cannot reduce an asset to cash, it is not considered an available resource.

(c) Liquid – Properties that are in cash or are financial instruments which are convertible to cash such as, but not limited to, cash in hand, stocks, savings, checking accounts, mutual fund shares, mortgage, promissory notes.

(d) Nonliquid – All other property both real and personal shall be evaluated according to the price the item can reasonably be expected to sell for on the open market in the particular geographical area involved.

(5) Fair market value – The current market value of a resource at the time of transfer or contract for sale, if earlier.

(a) Uncompensated value means the fair market value of a resource minus the amount of compensation received in exchange for the resource.

(b) Value of compensation received means the gross amount paid or agreed to be paid by the purchaser.

AMENDATORY SECTION (Amending Order 1725, filed 12/3/81)

WAC 388-92-025 COMPUTATION OF AVAILABLE INCOME. (1) Total income of a beneficiary of supplemental security income is not considered available in determining eligibility.

(2) Income and resources are considered jointly for spouses who live together in a common household and blind or disabled children who live with their parent(s).

Income and resources are considered separately when spouses and/or children and parents cease to live together. Income and resources are considered mutually available((-));

(a) For the first six months after the month they cease to live together where both spouses apply as SSI related (aged, blind or disabled),

(b) For the month of separation where only one spouse applies as SSI related (aged, blind or disabled), or where blind or disabled children are separated from parents.

(3) For SSI related individuals, age eighteen to twenty-one, parents' income is not deemed available.

(4) For SSI related individuals under age eighteen, parents' income is deemed available when living in the same household.

(5) When the spouse of an SSI related applicant is ineligible or does not apply, the exclusions in subsections (6) and (8) of this section, shall be applied to his/her income in determining the amount to be deemed to the applicant. If the remaining income of the ineligible spouse exceeds the monthly state supplement benefit standard all the remaining income shall be deemed to the applicant.

(6) Exclusions from income. The following shall be excluded sequentially from income:

(a) Any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual or spouse;

(b) State public assistance based on financial need;

(c) Any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational institution;

(d) Income that is not reasonably anticipated, or received infrequently or irregularly, if such income does not exceed twenty dollars per month if unearned, or ten dollars per month if earned;

(e) Any amounts received for the foster care of a child, who is not an eligible individual, but who is living in the same house as such individual and was placed in such home by a public or nonprofit private child-placement or child-care agency;

(f) One-third of any payment for child support received from an absent parent will be excluded;

(g) The first twenty dollars per month of earned or unearned income, not otherwise excluded in subsection (6)(a) through (f) of this section, for a person at home. The exclusion is considered only once for a husband and wife. There is no exclusion on income which is paid on the basis of need of the eligible individual, such as VA pension and cash from private charitable organizations;

(h) Tax exempt payments received by Alaska natives under the Alaska Native Claims Settlement Act;

(i) Tax rebates or special payments excluded by other statutes. When necessary these exclusions will be publicized by numbered memoranda from the state office;

(j) Compensation provided to volunteers in ACTION programs established by Public Law 93-113, the Domestic Volunteer Service Act of 1973;

(k) When an ineligible minor is in the household of an SSI applicant, an amount will be excluded for such

child's needs. The exclusions will be the difference between the SSI couple cash benefit and the SSI individual cash benefit;

(l) Veteran's aid and attendance allowance is to be excluded in determining financial eligibility.

(i) If the sum is paid to a spouse, it is considered that individual's earned income and may be deemed to the applicant.

(ii) For institutionalized applicants, the amount subsequently is considered in the cost of institutional care.

(m) A fee charged by a guardian to reimburse himself or herself for services provided is not considered available to the individual and is not treated as income.

(n) Income received by an ineligible or nonapplying spouse from a governmental agency for services provided to an eligible recipient (e.g. chore services).

(7) An ineligible or nonapplying individual under the age of twenty-one who is a student regularly attending a school, college or university or pursuing a course of vocational or technical training designed to prepare him for gainful employment will have all earned income excluded unless that income is actually contributed to the applicant.

(8) Earned income exclusions for SSI related individuals shall be the first sixty-five dollars per month of earned income not excluded according to subsection (6) of this section, plus one-half of the remainder.

AMENDATORY SECTION (Amending Order 1725, filed 12/3/81)

WAC 388-92-045 EXCLUDED RESOURCES. Applicants or recipients may transfer or exchange an exempt resource. Cash received from the sale of an exempt resource is excluded provided the total amount of cash is used to replace or reinvest in another exempt resource within three months. Any remaining portion in excess of allowed resources shall be considered a nonexempt resource if the individual's eligibility continues without a break in certification. In determining the resources of an individual and spouse, if any, the following items shall be excluded up to the dollar limit, if any, as indicated:

(1) The home or the proceeds from the sale of a home, which is an excluded resource, will also be excluded to the extent that they are re-invested in the purchase of another home which is similarly excluded within three months of the date of receipt of proceeds.

(a) The home of the individual must be the individual's principal place of residence in order to be an excluded resource.

(i) Temporary absences from home including absences from home for trips, visits, and hospitalizations do not offset the home exclusion as long as the individual intends to return home.

(ii) An absence of more than six months may indicate that the home no longer serves as the principal place of residence. See WAC 388-83-140(4)(d).

(iii) The home continues to be excluded if the individual intends to return and there is a likelihood that he/she will return.

(iv) When an institutionalized individual intends to return home, a physician's evaluation of his/her ability

to return at some future time to a home setting may be used as the basis of a temporary absence determination. The evidence must be conclusive before a determination can be made that the individual is unable to return home.

(v) Transfer of a home during a temporary absence will constitute evidence that the individual no longer intends to return. Adequate consideration must be received and allocated to the individual's resources. See WAC 388-99-035(2), transfer of property at less than fair market value.

(b) If the home is used by a spouse or dependent relative during the individual's absence, it will continue to be considered the principal place of residence.

(2) Household goods and personal effects.

(3) An automobile will be totally excluded if it is used for employment or for the individual's medical treatment; otherwise, the current retail market value up to \$4,500, any excess to be counted against the resource limit.

(4) Property of a trade or business which is essential to the means of self-support; however, it shall not include liquid resources as defined in WAC 388-92-005 even though such liquid resource may be producing income. This property means items commonly referred to as tangible business assets such as land and buildings, equipment and supplies, inventory, cash on hand, accounts receivable, etc. The current market value shall not exceed ~~((limits which take into account the nature of the business and the gross and net income such business may be expected to produce in light of such property))~~ six thousand dollars with a minimum annual rate of return of six percent.

(5) Nonbusiness property which is essential to the means of self-support. This shall include:

(a) Nonliquid (see WAC 388-92-005), nonbusiness property if it is relied upon by the individual as a significant factor in producing income on which he can live, or is used to produce goods, or provide services essential to the individual's support.

(b) Property used exclusively to produce items for home consumption provided the items are significant factors for support and maintenance of the individual.

(c) Tools, equipment, uniforms and similar items required by the individual's employer.

(d) A motor vehicle (in addition to that already excluded) which is essential because of climate, terrain, or similar factors, or special modification, and required to provide necessary transportation. The limitation on value of such vehicle is the same as (3) above.

(6) Resources of a blind or disabled individual which are necessary to fulfill an approved plan for achieving self-support for so long as such plan remains in effect.

(7) Shares of stock held in a regional or village corporation during the period of twenty years ending January 1, 1992, in which such stock is inalienable pursuant to the Alaska Native Claims Settlement Act.

(8) Life insurance owned by an individual and spouse, if any, to the extent of its cash surrender value, provided that the total face value of policies held by each individual is \$1500 or less, in which case the cash surrender

value is not evaluated. If the face value of policy(ies) is over \$1500, cash surrender value must be applied to resource limitations. Term or burial insurance with no cash surrender value is not considered in determining face value.

(9) Restricted allotted land owned by an enrolled member and spouse, if any, of an Indian tribe, if such land cannot be sold, transferred or otherwise disposed of without permission of other individuals, his tribe or an agency of the federal government.

(10) Cash received from an insurance company for purposes of repairing or replacing an excluded resource that is lost, damaged, or stolen, etc., is excluded as a resource provided the total amount of the cash is used to repair or replace such excluded resource within nine months that period may be extended based on circumstances beyond the control of the applicant to a maximum of nine additional months. Any such cash not so used within such time periods is considered as an available resource.

(11) A burial plot or burial crypt if the individual is not free to sell it because of any of the following conditions:

(a) The contract is irrevocable and cannot be liquidated.

(b) The contract is under joint ownership and the other owner refuses to permit sale.

(c) The contract is otherwise unsalable.

(12) Other resources excluded by federal statute.

AMENDATORY SECTION (Amending Order 1725, filed 12/3/81)

WAC 388-99-020 ELIGIBILITY DETERMINATION—MEDICALLY NEEDY IN OWN HOME. (1) The medically needy income level (MNIL) shall be:

(a) One person	\$ 303
(b) Two persons	\$ 434
(c) Three persons	((\$ 468)) \$ 451
(d) Four persons	((\$ 501)) \$ 531
(e) Five persons	((\$ 593)) \$ 612
(f) Six persons	((\$ 671)) \$ 693
(g) Seven persons	((\$ 778)) \$ 802
(h) Eight persons	((\$ 859)) \$ 887
(i) Nine persons	((\$ 939)) \$ 974
(j) Ten persons	((\$ 1,019)) \$1,058

and above

(2) For families and children countable income is determined by deducting, from gross income, amounts that would be deducted in determining AFDC grant eligibility. Earned income exemption of \$30 plus 1/3 of the remainder does not apply for individuals applying solely for medical assistance.

(3) For aged, blind, and disabled individuals countable income is determined by deducting, from gross income, amounts that would be deducted in determining eligibility for the state supplementary payment.

(4) If countable income is equal to or less than the appropriate MNIL, the family or individual is certified eligible.

(5) If countable income is greater than the appropriate MNIL, the applicant is required to spenddown the excess countable income based on a three-month calculation.

(6) Financial responsibility of relatives.

(a) For families and children,

(i) Income and resources of spouse or parent are considered available to the applicant whether or not actually contributed if they live in the same household.

(ii) Income and resources of spouse or parent are considered only to the extent of what is actually contributed if not in same household.

(b) For aged, blind, and disabled, see chapter 388-92 WAC for deeming of income.

(7) In mixed households (AFDC and SSI related members) eligibility shall be determined as for families and children.

AMENDATORY SECTION (Amending Order 1684, filed 7/29/81)

WAC 388-99-035 RESOURCE STANDARDS.

(1) To determine eligibility on the basis of resources, use the ~~((resource standards under AFDC or))~~ SSI ~~((; whichever is higher for a given))~~ resource standards. If applicant has resources in excess of the standards applied, the individual is not eligible and the application is denied.

(2) A medically needy applicant who has transferred assets at less than fair market value within twenty-four months prior to the month of application without adequate consideration is presumed to have disposed of the resource for the purpose of obtaining eligibility for medical assistance.

(a) The uncompensated value is to be considered an available resource.

(b) If uncompensated value is in excess of twelve thousand dollars, the application is to be denied.

(c) If less than twelve thousand dollars, consideration is to be given to disposition of resources.

AMENDATORY SECTION (Amending Order 1684, filed 7/29/81)

WAC 388-100-025 CERTIFICATION. (1) A recipient shall be certified eligible for the duration of treatment for the acute and emergent condition not to exceed three months.

(2) Pregnancy is considered an acute and emergent need. A recipient who has been medically determined to be pregnant shall be certified for separate three-month periods for the duration of the pregnancy plus six weeks for the post partum care, which includes routine care for the newborn. Beyond this period of time eligibility for the mother or the newborn shall be determined separately.

(3) An applicant who is required to spenddown shall be certified from the day the spenddown requirement is met through the last day of the three-month period which began at the time of application.

~~((3))~~ (4) All medically indigent applicants shall be individually notified in writing of the disposition of their application.

~~((4))~~ (5) Any change in circumstances shall be promptly reported to the local community services office.

WSR 82-10-063
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 1803—Filed May 5, 1982]

I, David A. Hogan, Director, Division of Administration of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to WIN—Certification of AFDC recipient to state employment service, amending WAC 388-57-057.

I, David A. Hogan, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is these rules are necessary due to a severe cutback in federal funding for the WIN program.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.23.120[74.23.120] which directs that the Department of Social and Health Services has authority to implement the provisions of chapter 74.23 RCW.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED May 4, 1982.

By David A. Hogan
Director, Division of Administration

AMENDATORY SECTION (Amending Order 1642, filed 4/27/81)

WAC 388-57-057 WORK INCENTIVE PROGRAM—CERTIFICATION OF AFDC RECIPIENT TO STATE EMPLOYMENT SERVICE. (1) An AFDC recipient registered with WIN shall be certified to the state employment service when requested by the state employment service.

(2) Self-support services required by the individual shall be provided and continued as needed during the individual's participation in all WIN components, and

for a thirty-day period from the start of full-time, continuous employment. The thirty-day limitation following employment shall include ~~((ⁿ))~~ WIN on-the-job training~~((ⁿ))~~, ~~((ⁿ))~~ WIN public service employment~~((ⁿ))~~, and WIN ~~((ⁿ))~~ suspense~~((ⁿ))~~ to CETA ~~((ⁿ))~~ on-the-job training~~((ⁿ))~~, and ~~((ⁿ))~~ public service employment~~((ⁿ))~~. Effective May 1, 1982, WIN day care services for children shall not be provided to registrants in paid employment.

(3) A certified mandatory registrant may not refuse supportive services if such refusal prevents the individual from accepting an appropriate work or training assignment. Such refusal shall be treated as a refusal to participate without good cause.

WSR 82-10-064
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Order 1805—Filed May 5, 1982]

I, David A. Hogan, Director, Division of Administration of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 388-15-562 Congregate care—Eligible persons.
 Amd WAC 388-15-568 Congregate care—Payment—Standards—Procedures.

This action is taken pursuant to Notice No. WSR 82-07-054 filed with the code reviser on March 19, 1982. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.08.044 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED May 5, 1982.

By David A. Hogan
 Director, Division of Administration

AMENDATORY SECTION (Amending Order 1579, filed 12/17/80)

WAC 388-15-562 CONGREGATE CARE—ELIGIBLE PERSONS. (1) Persons are eligible to receive regular program congregated care who:

- (a) Are adults eighteen years of age or over;
~~((a))~~ (b) Are ~~((beneficiaries))~~ recipients of supplemental ~~((social))~~ security income and state supplementation or ~~((who))~~ are recipients of continuing general assistance;
~~((b))~~ do not require medical or nursing services;))

(c) Are unable to maintain a safe environment in an independent living arrangement(;) or ((the person requires assistance)) require personal care and supervision ((related to)), assistance with activities of daily living ((in order to achieve independent self care:)) and/or health related services;

(d) Do not require nursing care in excess of that described in RCW 18.20.160 and the provisions of WAC 248-16-228;

(e) Do not require developmental disabilities specialized services as described in chapter 275-36 WAC unless there is a plan of care developed to provide for these specialized services apart from regular CCF services provided by the congregated care facility;

(f) Are not eligible for mental health CCF program as described in subsection (2)(e) of this section unless there is a plan of care developed to provide for mental health specialized services apart from the regular congregated care services provided by the CCF facility; and,

(g) Do not require alcoholism and/or drug treatment as described in subsection (3) of this section.

(2) Persons are eligible to receive mental health congregated care who:

- (a) Are adults eighteen years of age or over;
 (b) Are recipients of supplemental security income and state supplementation or are recipients of continuing general assistance;

(c) Are unable to maintain a safe environment in an independent living arrangement or require personal care and supervision, assistance with activities of daily living and/or health related services;

(d) Do not require nursing care in excess of that allowed by boarding home licensure;

(e) Meet the following mental health client criteria:
 (i) Have been discharged from a state psychiatric hospital or a local psychiatric inpatient facility within the past twelve months; or

(ii) Be expected, as a result of a mental disorder, to continue to exhibit one or more of the following characteristics for an extended period:

(A) Inability to perform basic living skills without supervision,

(B) Inability to maintain or develop a personal support system,

(C) Have a combination of physical, cognitive, or emotional disabilities leading to serious behavioral problems; or

(iii) In the opinion of a mental health specialist (as defined by WAC 275-25-710) psychiatric hospitalization is imminent unless placement in an extended care facility is secured;

(f) Are actively involved in mental health treatment as defined in the client's individual treatment plan or on a waiting list to receive such treatment. A client shall be ineligible for the mental health rate after a sixty-day period of refusal of mental health treatment.

(3) Persons are eligible to receive alcoholism and/or drug treatment congregated care who:

- (a) Are adults eighteen years of age or over;
 (b) Are recipients of supplemental security income and state supplementation or are recipients of continuing general assistance;

(c) Are unable to maintain a safe environment in an independent living arrangement or require personal care and supervision, assistance with activities of daily living and/or health related services;

(d) Do not require nursing care in excess of the nursing care allowed by boarding home or private establishment licensure;

(e) For drug treatment congregate care, are using a controlled substance once a week or more and are at least mildly dysfunctional due to drug use as defined by the office of drug abuse. Clients recently released from jail or prison or a treatment program are eligible when judged by the drug treatment professional to be in imminent danger of recidivism without treatment;

(f) For alcoholism congregate care, manifest any physical and/or behavioral problem due to the use or abuse of alcohol as determined by staff of a state-approved alcohol treatment facility.

((2)) (4) Placement is limited to facilities having available DSHS contracted beds.

AMENDATORY SECTION (Amending Order 1238, filed 8/31/77)

WAC 388-15-568 CONGREGATE CARE—PAYMENT—STANDARDS—PROCEDURES. (1) All nonexempt income of a person placed in a congregate care facility shall first be applied to the person's clothing, personal maintenance, and necessary incidentals. Any remaining nonexempt income shall be applied to the cost of the congregate care.

(2) Payment is limited to the level of care approved by the department for the type of care authorized, i.e., regular, mental health or alcoholism and/or drug treatment. There is no specialized congregate care program rate for developmentally disabled persons.

(3) The department shall pay to the congregate care facility, for those services provided, a sum not to exceed the rates set forth in the most recent schedule of rates established and published by the department.

WSR 82-10-065

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed May 5, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Agriculture intends to adopt, amend, or repeal rules concerning assessments and collection, to change the assessment rate to one-quarter of one percent of net receipts at point of sale, WAC 16-528-040.

The formal adoption, amendment, or repeal of such rules will take place at 10:00 a.m., Thursday, May 6, 1982, in the Office of the Director of Agriculture.

The authority under which these rules are proposed is chapter 15.66 RCW.

This notice is connected to and continues the matter in Notice No. WSR 82-10-004 filed with the code reviser's office on April 23, 1982.

Dated: May 5, 1982

By: G. David Kile

Assistant Director

AMENDATORY SECTION (Amending Order 1450, filed 4/3/76)

WAC 16-528-040 ASSESSMENTS AND COLLECTION. (1) Assessments. The annual assessment on wheat shall be ((one-half cent per bushel)) one-quarter of one percent of the net receipts at the point of sale. The assessment shall be levied and paid by the producer, or deducted, as provided in this section, whether the wheat is sold in this or any other state.

(2) Collection of assessments. The collection of the assessment made and levied by the wheat commission, pursuant to the provisions of the act, shall be paid by the producer thereof upon all commercial quantities of wheat sold, processed, stored or delivered for sale, processing or storage by him, under any or all of the methods of collections set forth in RCW 15.66.150, in accordance with rules and regulations to be promulgated by the wheat commission: PROVIDED, HOWEVER, That no assessment shall be levied or collected on wheat grown and used by the producer for feed, seed, or personal consumption.

(3) Funds. All moneys collected by the wheat commission shall be used only for the purposes of paying for the costs or expenses arising in connection with carrying out the purposes and provisions of the act and the wheat marketing order. At the end of each fiscal year, the commission shall credit each producer with any amount paid by such producer in excess of ((one-half cent per bushel of wheat)) one-quarter of one percent of the net receipts at the point of sale. Refund may be made only upon satisfactory proof given by the producer in accordance with reasonable rules and regulations prescribed by the director.

WSR 82-10-066

PROPOSED RULES

UTILITIES AND TRANSPORTATION

COMMISSION

[Filed May 5, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules concerning WAC 480-80-125 relating to notice by utilities to customers concerning hearing. The proposed amendatory section is attached to the original notice of which this is a continuation, Cause No. U-82-03. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendment on economic values, pursuant to chapter 43.21H and WAC 480-08-050(17).

The formal adoption, amendment, or repeal of such rules will take place at 8:00 a.m., Wednesday, June 16, 1982, in the Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington.

The authority under which these rules are proposed is RCW 80.01.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 11, 1982, and/or orally at 8:00 a.m., Wednesday, June 16, 1982, Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington.

This notice is connected to and continues the matter in Notice Nos. WSR 82-05-047 and 82-07-092 filed

with the code reviser's office on February 17, 1982 and March 24, 1982.

Dated: May 5, 1982
By: Barry M. Mar
Secretary

AMENDATORY SECTION (Amending Order R-128, Cause No. U-79-29, filed 8/1/79)

WAC 480-80-125 NOTICE BY UTILITY TO CUSTOMERS CONCERNING HEARING. The purpose of this requirement is to ensure that customers of a utility which is proposing a rate increase receive reasonable notice of the nature and the magnitude of the proposed increase as it would affect the individual's particular circumstances, so that the customer is able reasonably to make an informed decision about whether to participate in the hearing process. This section should be read in that light, and where unique circumstances would render a strict, literal compliance with this regulation meaningless, confusing, or misleading to the customer, it is the responsibility of the utility to modify its presentation so that customers are reasonably informed.

(1) Whenever any utility proposes to increase any rate or charge for the service or commodities furnished by it, and the commission has issued an order instituting investigation concerning such increase, the utility shall supply a statement to such customers or classes of customers designated in the order instituting investigation that a hearing will be held by the commission at which members of the public will be afforded an opportunity to testify. The statement shall also set forth ((the date of the utility's filing with the commission,)) the amount of the proposed increase expressed in ((both)) (a) total dollars and average percentage terms, and (b) the average monthly increases that customers in each category or subcategory of service might reasonably expect. Categories or subcategories of service shall be identified in tariff terms, and if those terms are different from those commonly used by the utility or understood by customers, the notice shall incorporate that commonly used or understood terminology. The notice shall further contain the information that a public counsel will be appointed to represent the public and the mailing address of the commission to which any customer inquiries to the commission or to the public counsel relative to the public hearing date may be directed. The statement shall accompany, as a separate document, regular bills ((mailed)) distributed by the utility to its customers((;)), starting with the first billing cycle reasonably available following issuance of the commission's order instituting investigation and continuing throughout the utility's billing cycle covering customers of the utility as of the date of the commission's order instituting investigation((;)). As an alternative the utility may make a separate ((first class mailing)) distribution of the statement within thirty days following the date of the issuance of the order instituting investigation. Whether disseminated as part of a regular billing or separately the notice shall be prepared in such a manner as to attract attention to it and to distinguish it from other material simultaneously distributed. A copy of such statement shall also be mailed or delivered to at least one newspaper of general circulation, and at least one radio station and at least one television station, in the area or each of the areas affected. The utility shall promptly file a copy of the statement with the commission and certify it has complied with or is in the process of complying with these mailing and delivery requirements.

(2) The statement required by WAC 480-80-125(1) shall be in form and content substantially as follows:

(BEFORE THE
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Cause No. ...

(Name of company) filed with the Washington Utilities and Transportation Commission (date) tariffs designed to increase its gross revenue in the approximate amount of \$..... on an annual basis. The percentage increase in annual gross revenue approximates%. (In instances in which the filed tariffs pertain to a single general category or subcategory of service, the dollar and percentage amounts shall relate to that category of service and the category of service shall be identified.) The commission has suspended the operation of the filed tariffs and will hold public hearings on the matter.

The commission has directed that this notice be given stating:

(1) Specially designated hearing or hearings will be held by the commission in order to accommodate members of the public who may wish to testify.

(2) A public counsel will be appointed to represent the public. The address of the commission may be used for inquiries of the public counsel.

(3) Any member of the public wishing to be notified by the commission as to the date or dates that such specially designated hearing or hearings will be held should advise the commission in writing of that fact and state his or her mailing address. The commission, when such date or dates are set, will see that a notice of such hearing or hearings is mailed to each person who makes such request.

The mailing address of the commission is Washington Utilities and Transportation Commission, Highways-Licenses Building, Olympia, Washington 98504.

(Name of company)
(Name of individual)
(Title of individual))

IMPORTANT NOTICE

(Company) is Requesting
A Rate Increase

Washington Utilities
and Transportation
Commission

Cause No. U-.....

(Name of Company) has asked the Washington Utilities and Transportation Commission for permission to raise its rates by about \$..... a year, or about percent, over present levels. A summary of the increases asked, and the kinds of service affected, (is attached) (appears below). The commission has suspended the increase and has ordered its staff to investigate the company's request. Formal hearings will be held for the company, commission staff and others to give evidence about the proposal.

The commission has ordered the company to send you this notice to tell you:

(1) One or more hearing sessions will be held just to hear members of the public who want to testify, in addition to hearings for technical or expert evidence.

(2) If you ask, the commission will send you a notice of the time and place for hearings when they are scheduled so you can attend. To get notices or for more information, call the Secretary of the Commission, in Olympia at (206) 753-6420 or write to:

Secretary
Washington Utilities and Transportation Commission
Highways-Licenses Building
Olympia, WA 98504.

If you write, include your name and mailing address, the name of the company, and Cause No. U-.....

(3) A lawyer (has been) (will be) appointed to represent the public. You can reach this "public counsel" by calling or writing the commission at the address above or directly by calling or writing

(4) The rates shown here are only a request by the company. After the hearings are over, the commission will consider the evidence. It can deny all of the request, grant it all, or grant some of it. The commission also has the authority to set rates that are different from the company's request—higher or lower—for each kind of service.

Name of Company Official
Title of Company Official

Name of Company

SUMMARY OF REQUESTED RATE INCREASES

Type of Service	Range of Requested Increases or Increases In Unit Price	Typical Increase In Average Bill (Dollars)
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(Identify the tariff category, including, as needed for public understanding, the tariff category title, the term commonly used by the company, and the term commonly used by customers to describe the type of service affected. Set out the information on a monthly basis. If the company's billing cycle is not monthly, clearly explain the effect, by footnote or otherwise, per billing cycle. If the rates vary by season or time, specify the range and basis for variation. If the rate is charged on the basis of unit consumption, such as energy consumption, the increase shall be stated in a cents-per-unit or on a percentage basis for the tariff category. It shall then as to residential customers illustrate increases in representative consumption classifications. If the rate is charged on the basis of monthly rate per service or per item of equipment, the increase shall be stated on the basis of percentage increase for the classification or range of increase within the classification, using commonly recognized representative examples demonstrating the range and the typical effect of the increases.)

(The following shall be added, if applicable.)

NOTE: The figures shown here are ranges and averages. It is not possible to set out every service or every variation in this brief notice.

If you want to know how the company's proposal will affect you if the commission adopts it totally, call or write (telephone number and address of office or offices where customers will receive a prompt, accurate answer. Address and telephone number may be omitted if included elsewhere in the information simultaneously received by the consumer and if clearly referenced. The utility shall respond to customer inquiries no later than the close of the third business day following receipt of the inquiry at any of its appointed offices. Inquiries may be forwarded from branch offices to a central office or division if this is done at no cost to the consumer and if a response is generated to the consumer within the reasonable time limit.)

(3) The requirements of WAC 480-80-125 shall be in addition to such other requirements as are imposed or may be imposed by statute or rule pertaining to notice to the public of proposed tariff changes.

(4) Upon determination by the commission that the due and timely exercise of its functions requires the hearing for receipt of evidence from the public to be held at a time which makes it impracticable for the utility to comply with the requirements of WAC 480-80-125(1), it may by letter to the utility dispense with all or part of such requirement.

(5) Failure to accomplish substantial compliance with the requirements of this rule will subject the utility to imposition of penalties in accordance with the provisions of RCW 80.04.405.

WSR 82-10-067

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 1764—Filed May 5, 1982—Eff. July 1, 1982]

I, M. Keith Ellis, director of the Washington State Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to seed assessment fees, chapter 16-304 WAC.

This action is taken pursuant to Notice No. WSR 82-07-089 filed with the code reviser on March 24, 1982. Such rules shall take effect at a later date, such date being July 1, 1982.

This rule is promulgated pursuant to RCW 15.49.310, 15.49.370 and 15.49.400 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED May 5, 1982.

By M. Keith Ellis
Director

AMENDATORY SECTION (Amending Order No. 1683, filed 5/30/80)

WAC 16-304-110 ANNUAL SEED INSPECTION CHARGE. Each person required to obtain a seed labeling permit, pursuant to RCW 15.49.400, of the Washington state seed act, shall also, pursuant to RCW 15.49.310 and RCW 15.49.370, pay a general seed inspection charge annually to the department in the amount of 10 cents per one hundred dollars gross annual dollar sales in excess of \$10,000 of agricultural and/or vegetable seed distributed in this state during the preceding fiscal year: PROVIDED, That no assessment shall be collected on (1) seed for which the assessment has been previously collected, except when such seed has been relabeled; (2) agricultural or vegetable seed distributed out of state; (3) seed distributed in containers of four ounces or less; (4) stock seed; and (5) seed distributed by governmental agencies, such as but not limited to the United States Department of Agriculture national foundation seed project: PROVIDED FURTHER, That erroneous and overpayments shall be refunded on request. Requests for refund must be filed by June 30 of the year following the due date. Agricultural and/or vegetable seeds distributed under bailment contract shall be valued at the producer-processor agreement rate in lieu of sale.

The assessment fees for the period beginning July 1, ((+1980)) 1981 through June 30, ((+1981)) 1982 shall be due August 1, ((+1981)) 1982 and payable by February 1, ((+1982)) 1983. The assessment fees for the period beginning July 1, ((+1981)) 1982 through June 30, ((+1982)) 1983 shall be due August 1, ((+1982)) 1983 and payable by February 1, ((+1983)) 1984.

The assessment may accompany the annual application for the seed labeling permit. A penalty of ten percent of the assessment fee or minimum of \$10.00, whichever is greater, shall be added to all assessments not paid by February 1. These funds shall only be used for seed control activities. The annual seed labeling permit may not be issued until all assessments and penalties have been satisfied.

AMENDATORY SECTION (Amending Order No. 1683, filed 5/30/80)

WAC 16-304-130 EFFECTIVE DATES. This regulation is effective through June 30, ~~((1982))~~ 1984. Between January 1, ~~((1982))~~ 1984 and March 1, ~~((1982))~~ 1984, the assessment program shall be reviewed by the seed branch advisory committee, who will recommend whether to continue the seed assessment program. Such recommendations shall be considered at a public hearing under ~~((the))~~ the authority of ~~((chapters))~~ chapter 42.30, the open public meetings act, and chapter 34.04, the administrative ((Procedures-Acts)) procedure act. The advisory committee shall also recommend the objectives of the seed quality control activities and shall review expenditures of assessment funds to verify such funds are being used only for seed quality control activities.

Reviser's note: RCW 34.04.058 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 82-10-068
PROPOSED RULES
LIQUOR CONTROL BOARD
 [Filed May 5, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning:

- | | | |
|-----|----------------|---|
| Amd | WAC 314-20-100 | Beer wholesale price posting. |
| Amd | WAC 314-20-105 | Beer suppliers' price filings, contracts and memoranda. |
| Amd | WAC 314-24-190 | Wine wholesale price posting. |
| Amd | WAC 314-24-200 | Wine suppliers' price filings, contracts and memoranda; |

that such agency will at 9:30 a.m., Wednesday, June 23, 1982, in the Office of the Liquor Control Board, 5th Floor, Capitol Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 9:30 a.m., Wednesday, June 23, 1982, in the Office of the Liquor Control Board, 5th Floor, Capitol Plaza Building, 1025 East Union Avenue, Olympia, WA 98504.

The authority under which these rules are proposed is RCW 66.08.030, 66.08.050(6) and 66.28.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 23, 1982, and/or orally at 9:30 a.m., Wednesday, June 23, 1982, Office of the Liquor Control Board, 5th Floor, Capitol Plaza Building, 1025 East Union Avenue, Olympia, WA 98504.

Dated: May 5, 1982

By: L. H. Pedersen
 Member

STATEMENT OF PURPOSE

Title: WAC 314-20-100 Beer wholesale price posting; 314-20-105 Beer supplier's price filings, contracts and memoranda; 314-24-190 Wine wholesale price posting; and 314-24-200 Wine supplier's price filings, contracts and memoranda.

Description of Purpose: The rules presently in effect set forth the provisions under which the board actively administers a program of wholesale price postings and supplier price filings for the purpose of ensuring that industry selling prices meet legal requirements and that all licensees making purchases under Title 66 RCW are treated equally by the seller. The purposes of the principal revisions are: To amend the rules governing beer price postings and beer supplier filings to provide for filings being made once a month and being in effect for a calendar month and to amend all price posting and supplier filing rules to provide for more orderly administration of the rules by the board, reducing the problems encountered by licensees in respect to maintaining compliance with the rules, and incorporating into the rules certain administrative procedures which had previously been established in order to remedy deficiencies of the existing rules.

Statutory Authority for the Rules: RCW 66.08.030, 66.08.050(6) and 66.28.010.

Summary of Principal Changes: The principal changes and/or new provisions which are incorporated in individual rules are as follows: WAC 314-20-100, posting dates and the length of time postings are to remain in effect are provided for. A posting filed with the board no later than the fifth day of the month becomes effective on the first day of the next calendar month and remains in effect for a minimum of 30 days. A provision is made for newly licensed beer wholesalers filing price postings and, upon approval, the postings going into effect immediately; WAC 314-20-105, filing dates and the length of time which filings are to remain in effect are provided for. A filing received by the board no later than the 15th day of the month would become effective the first day of the second calendar month following the date of filing and remain in effect for a minimum of 30 days. An exception to the rule is made, WAC 314-20-105(8), under which certain sales between licensed wholesalers can be made without price filings being in effect; WAC 314-24-190, postings are to be filed by the fifth day of the month in order to become effective on the first day of the next calendar month; and WAC 314-24-200, supplier filings are to be received by the board by the 15th of the month in order to become effective on the first day of the second calendar month following. An exception to the rule is made, WAC 314-24-200(7), under which certain sales between licensed wholesalers can be made without price filings being in effect. The principal changes and/or new provisions which are incorporated in all the rules in question are as follows: A provision is made under which the board may, for good cause shown, extend the date on which postings or filings are required to be received. A posting or filing is deemed to have been filed with or received by the board on the date shown on the postmark when the documents are

deposited in the United States mail. Provisions are made for temporary price reductions being posted or filed and having an effective period of one calendar month. Provisions are made for postings or filings being made upon a reasonable facsimile of forms prescribed and furnished by the board.

Reasons for Principal Changes: WAC 314-20-100, the change provides for monthly beer postings as opposed to previous provisions for postings filed on any date chosen and effective 15 days from date of receipt. Petitioner states the change will provide for: "A more orderly system for posting consistent with the present wine posting rules and thereby assist in reducing administrative problems through the adherence to a set monthly schedule and a foreseeable reduction in the volume of postings which should result in administrative savings for both the public and private sector." The change is made in order to facilitate a newly licensed beer wholesaler selling to retail licensees immediately on issue of the license rather than having to wait the prescribed period of time required for a posting to go into effect; WAC 314-20-105, the change provides for beer supplier filings on a monthly basis as opposed to previous provisions for filings on any date chosen and effective 15 days from date of receipt. Petitioner states the change will provide for: "A more orderly system for posting consistent with the present wine posting rules and thereby assist in reducing administrative problems through the adherence to a set monthly schedule and a foreseeable reduction in the volume of postings which should result in administrative savings for both the public and private sector. Further, it should allow suppliers to consolidate prices, thus allowing retailer an opportunity to pass discounts on to the customer." Sales between licensed wholesalers which are referred to as accommodation sales and meet certain criteria are exempt from the requirements for supplier filings. This is done for the purpose of reducing the administrative burden imposed on both the board and industry and to ensure that there are no artificial barriers to reasonable transfer of inventory between wholesalers appointed to sell the brands transferred; WAC 314-24-190, the date for filing postings has been changed from the 15th day of a month to the 5th day of a month in order to provide for more orderly and timely processing and to reduce administrative problems; and WAC 314-24-200, the date for suppliers filing prices with the board has been changed from the 25th day of a month to the 15th day of a month in order to provide for more orderly and timely processing and to reduce administrative problems. The change is made in order to provide discretionary authority under which the board may allow postings or filings to go into effect when the party submitting said documents can satisfactorily establish that for reasons beyond their control, or for good cause, they were unable to submit the required documents by the filing deadline. This will eliminate the necessity of disapproving filings or postings for purely technical reasons and such disapproval creating a hardship for the industry member. Providing for the postmark date being the effective date of receipt is done for

the purpose of making it easier for industry to meet filing deadlines and to ensure that licensees in remote locations are not discriminated against. The provisions for temporary price reduction filings have been incorporated into the rule to properly reflect procedures which are already being followed by policy. The provisions for reasonable facsimile in lieu of board supplied forms are made to facilitate industry members at their option filing computer generated documents and realizing a substantial cost saving.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing these rules: Jim Halstrom, Supervisor, Manufacturers/Importers/Wholesalers Division, Capital Plaza Building, Olympia, Washington 98504, Telephone (206) 753-6273.

Persons or Organization Proposing Rules: The most substantial changes in the above rules were proposed in a petition submitted by the Washington Beer and Wine Wholesalers Association, Inc. Other technical changes and changes made for the purpose of simplifying administration of the rules are proposed by the Washington State Liquor Control Board.

Agency Comments: In respect to the changes outline above, the board feels the petitioner's proposal and stated justification has sufficient merit that consideration should be given to these changes and a public hearing should be held for the purpose of all members of the industry having input. These modifications should simplify administration of the rules and make it possible for industry members to comply with the rules in a more economical and orderly manner.

Necessity of Rules: None of the above rules were made necessary as a result of federal law or federal or state court action.

AMENDATORY SECTION (Amending Order 62, filed 1/20/78, effective 7/1/78)

WAC 314-20-100 BEER WHOLESALER PRICE POSTING (RULE 49). (1) Every beer wholesaler shall file with the board at its office in Olympia a price posting showing the wholesale prices at which any and all brands of beer sold by such beer wholesaler shall be sold to retailers within the state.

(2) ~~(No price posting shall become effective until fifteen days after the actual filing thereof with the board. In the event a price posting is filed before a previous one has become effective, the subsequent filing shall nullify said previous price posting.)~~ All price postings must be received by the board not later than the fifth day of the month, and if approved will become effective on the first day of the calendar month following the date of such filing. An additional period, not to exceed five days will be allowed for revision of such posting to correct errors, omissions, or to meet competitive prices filed during the current posting period, but a revised posting must be on file at the board office by not later than the tenth day of the month in order to become effective on the first day of the next calendar month: PROVIDED, That the board may in individual cases, for good cause shown, extend the date on which the filings required by the rules are to be received by the board.

When any price posting to be filed with the board under the provisions of this rule has been deposited in the United States mail addressed to the board, it shall be deemed filed or received on the date shown by the post office cancellation mark on the envelope containing it or on the date it was mailed if proof satisfactory to the board establishes that the actual mailing occurred on an earlier date.

(3) Filing date exception—Whenever the fifth day of any month falls on Saturday, Sunday or a legal holiday, an original price posting may be filed not later than the close of business the next business day.

(4) In the event that a beer wholesaler determines to make no changes in any items or prices listed in the last filed and approved schedule, such prices listed in the schedule previously filed and in effect, shall remain in effect for each succeeding calendar month until a revised or amended schedule is filed and approved, as provided herein.

Provision for filing of temporary price reductions—In the event a beer wholesaler elects to file postings listing selected items on which prices are temporarily reduced for a period of one calendar month only such filing shall be made on special forms provided for such purpose and clearly reflect all items, the selling price thereof, and the month for which the price reductions will be in effect. At the expiration of the month during which such reductions were effective the special filing will become void and the last regularly filed and effective price schedule shall again become effective until subsequently amended pursuant to regular filing dates.

((3)) (5) Each price posting shall be made on a form prepared and furnished by the board or a reasonable facsimile thereof, and shall set forth:

(a) All brands, types, packages and containers of beer offered for sale by such beer wholesaler.

(b) The wholesale prices thereof to retail licensees, including allowances, if any, for returned empty containers.

((4)) (6) No beer wholesaler shall sell or offer to sell any package or container of beer to any retail licensee at a price differing from the price for such package or container as shown in the price posting filed by the beer wholesaler and then in effect.

((5)) (7) Quantity discounts are prohibited. No price shall be posted which is below "cost," or below "cost of doing business," or a "loss leader," as those terms are defined in chapter 19.90 RCW, Unfair Practices Act, except as otherwise provided in such act.

((6)) (8) Wholesale prices on a "close-out" item shall be accepted by the board if in compliance with chapter 19.90 RCW and the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the wholesaler who posts such a close-out price shall not restock the item for a period of one year following the first effective date of such close-out price.

((7)) (9) If an existing written contract or memorandum of oral agreement between a licensed brewer, certificate of approval holder, beer importer or beer wholesaler and a beer wholesaler, on file in accordance with WAC 314-20-105 (Rule 49.5), is terminated by either party, and a new written contract or memorandum of oral agreement is made by such a supplier with another beer wholesaler in the affected trade area, the board, after receiving such new contract or memorandum of oral agreement and a corresponding wholesale price posting from the newly-designated beer wholesaler, may put such filings into effect immediately: PROVIDED, That prices and other conditions of such filings which are in effect at the time of such termination shall not be changed until subsequent filings are submitted to the board and become effective under regulatory procedures set forth in other subsections of this regulation and WAC 314-20-105 (Rule 49.5).

((8)) (10) The board may reject any price posting which it deems to be in violation of this or any other regulation or portion thereof which would tend to disrupt the orderly sale and distribution of beer. Whenever the board shall reject any posting the licensee submitting said posting may be heard by the board and shall have the burden of showing that said posting is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of beer. Thereupon if said posting is accepted it shall become effective at the time fixed by the board. If said posting is rejected, the last effective posting shall remain in effect until such time as an amended posting is filed and approved, in accordance with the provisions of this regulation.

((9)) (11) All price postings filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not within any sense be considered confidential.

((10)) (12) Any beer wholesaler or employee authorized by his wholesaler-employer may sell beer at the wholesaler's posted prices to any Class A, B, D, E, H, or G licensee upon presentation to such wholesaler or employee at the time of purchase of a special permit issued by the board to such licensee.

(a) Every Class A, B, D, E, H, or G licensee upon purchasing any beer from a wholesaler, shall immediately cause such beer to be delivered to his licensed premises, and he shall not thereafter permit such beer to be disposed of in any manner except as authorized by his licensee.

(b) Beer sold as provided herein shall be delivered by such wholesaler or his authorized employee either to such retailer's licensed

premises or directly to such retailer at the wholesaler's licensed premises: PROVIDED, HOWEVER, That a wholesaler's prices to retail licensees shall be the same at both such places of delivery.

(13) When a new beer wholesaler's license is issued by the board, the holder thereof may file an initial price schedule and request that such posting be placed into effect immediately. The board may grant such approval, providing that such posting is in compliance with all other applicable regulatory requirements, and that contracts and memoranda are on file, in accordance with WAC 314-20-105.

AMENDATORY SECTION (Amending Order 54, filed 5/24/77, effective 7/1/77)

WAC 314-20-105 BEER SUPPLIERS' PRICE FILINGS, CONTRACTS AND MEMORANDA (RULE 49.5). (1) Every licensed brewer shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such brewer may have with any beer wholesaler, which contracts or memoranda shall contain a schedule of prices charged to wholesalers for all items, all terms of sale, including all regular and special discounts; all advertising, sales and trade allowances and incentive programs; all commissions, bonuses or gifts and any and all other discounts or allowances. Whenever changed or modified such revised contracts or memoranda shall forthwith be filed with the board as provided in this regulation.

Each price schedule shall be made on a form prepared and furnished by the board, or a reasonable facsimile thereof, and shall set forth all brands, types, packages and containers of beer offered for sale by such licensed brewer; all additional information required may be filed as a supplement to said price schedule forms.

(2) ((No contract or memorandum of oral agreement shall become effective until fifteen days after the actual filing thereof with the board. In the event a contract or memorandum of oral agreement is filed before a previous one has become effective, the subsequent filing shall nullify said previous price posting.

(a) An exception is set forth in subsection (7) of WAC 314-20-105 which provides for a change in wholesalers:)) Filing date—All written contracts and memoranda of oral agreements must be received by the board not later than the fifteenth day of the month, and if approved will become effective on the first day of the second calendar month following the date of such filing. An additional period will be allowed for revision of such filings to correct errors and omissions, or to meet competitive prices, filed during the current posting period, but a revised contract or memorandum of oral agreement must be on file with the board not later than the twentieth day of the month in order to become effective on the first day of the second calendar month: PROVIDED, That the board may in individual cases, for good cause shown, extend the date on which the filings required by the rules are to be received by the board.

(a) When any price posting to be filed with the board under the provisions of this rule has been deposited in the United States mail addressed to the board, it shall be deemed filed or received on the date shown by the post office cancellation mark on the envelope containing it, or on the date it was mailed if proof satisfactory to the board established that the actual mailing occurred on an earlier date.

(b) Exceptions for changes in wholesalers and newly licensed wholesalers are set forth in subsections (9) and (13) in WAC 314-20-100.

(3) Filing date exception—Whenever the fifteenth day of any month falls on Saturday, Sunday, or a legal holiday, an original contract or memorandum of oral agreement may be filed not later than the close of business the next business day.

(4) In the event that a brewer determines to make no changes in any items or prices listed in the last filed and approved schedule, such prices listed in the schedule previously filed and in effect, shall remain in effect for each succeeding calendar month until a revised or amended schedule is filed and approved, as provided herein.

Provision for filing of temporary price reductions—In the event a licensed brewer elects to file postings listing selected items on which prices are temporarily reduced for a period of one calendar month only such filing shall be made on special forms provided for such purpose and clearly reflect all items, the selling price thereof, and the month for which the price reductions will be in effect. At the expiration of the month during which such reductions were effective the special filing will become void and the last regularly filed and effective price schedule shall again become effective until subsequently amended pursuant to regular filing dates.

((3)) (5) Prices filed by a licensed brewer shall be uniform prices to all wholesalers on a statewide basis less bona fide allowances for

freight differentials. Quantity discounts are prohibited. No price shall be filed which is below "cost," or below "cost of doing business," or a "loss leader" as those terms are defined in chapter 19.90 RCW, Unfair Practices Act, except as otherwise provided in such act.

((4)) (6) No licensed brewer shall sell or offer to sell any beer to any persons whatsoever in this state until copies of such written contracts or memoranda of such oral agreements are on file with the board.

((5)) (7) No licensed brewer shall sell or offer to sell any package or container of beer to any wholesaler at a price differing from the price for such package or container as shown in the schedule of prices filed by the brewer and then in effect.

((6)) (8) The provisions set forth in the foregoing subsections of this regulation shall also apply to written contracts and memoranda of oral agreements which must be filed with the board by every certificate of approval holder who sells beer to a beer importer, every beer importer who sells beer to another beer importer or to a beer wholesaler, and every beer wholesaler who sells beer to another beer wholesaler; PROVIDED, That the provisions of this subsection shall not apply, and filings will not be required in the instance of beer wholesalers making accommodation sales to other beer wholesalers when such sales are made at a selling price not to exceed the laid-in cost of the beer being sold. Accommodation sales may only be made when the wholesaler purchasing the beer is an authorized purchaser of the brand and product being sold, having been designated as an authorized purchaser by the manufacturer or importer of the product being sold, as demonstrated by an existing contract or memoranda on file and in effect under the provisions of this rule.

((7)) (9) Holders of certificates of approval may ship beer into this state when the beer has been sold and consigned to the holder of a beer importer's license at his licensed premises. The bill of lading covering such consignment shall not be changed or the beer diverted unless such diversion is to another beer importer, and the board so notified immediately.

((8)) (10) The board may reject any supplier's price filing, contract or memorandum of oral agreement or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of beer. Whenever the board shall reject any such price filing, contract or memorandum the licensee submitting said price filing, contract or memorandum may be heard by the board and shall have the burden of showing that the said price filing, contract or memorandum is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of beer. Thereupon if said price filing, contract or memorandum is accepted it shall become effective at a time fixed by the board. If said price filing, contract or memorandum or portion thereof is rejected, the last effective price filing, contract or memorandum shall remain in effect until such time as an amended price filing, contract or memorandum is filed and approved, in accordance with the provisions of this regulation.

((9)) (11) All prices, contracts and memoranda filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

AMENDATORY SECTION (Amending Order 85, Resolution 94, filed 10/28/81)

WAC 314-24-190 WINE WHOLESALE PRICE POSTING.

(1) Every wine wholesaler shall file with the board at its office in Olympia a wine price posting, showing the wholesale prices at which any and all brands of wine offered for sale by such wine wholesaler shall be sold to retailers within the state.

(2) All price postings must be received by the board not later than the ((fifteenth)) fifth day of the month, and if approved will become effective on the first day of the calendar month following the date of such filing. An additional period, not to exceed five days will be allowed for revision of ((a price)) such posting to correct errors, omissions, or to meet competitive prices filed during the current posting period, but a revised posting must be on file at the board office by not later than the ((twentieth)) tenth day of the month in order to become effective on the first day of the next calendar month: PROVIDED, That the board may in individual cases, for good cause shown, extend the date on which the filings required by the rules are to be received by the board.

When any price posting to be filed with the board under the provisions of this rule has been deposited in the United States mail addressed to the board, it shall be deemed filed or received on the date shown

by the post office cancellation mark on the envelope containing it or on the date it was mailed if proof satisfactory to the board established that the actual mailing occurred on an earlier date.

(3) Filing date exception—Whenever the ((fifteenth)) fifth day of any month falls on Saturday, Sunday or a legal holiday, an original price posting may be filed not later than the close of business the next business day.

(4) In the event that a wine wholesaler determines to make no changes in any items or prices listed in the last filed and approved schedule, such prices listed in the schedule previously filed and in effect, shall remain in effect for each succeeding calendar month until a revised or amended schedule is filed and approved, as provided herein.

Provision for filing of temporary price reductions—In the event a wine wholesaler elects to file postings listing selected items on which prices are temporarily reduced for a period of one calendar month only such filing shall be made on special forms provided for such purpose and clearly reflect all items, the selling price thereof, and the month for which the price reductions will be in effect. At the expiration of the month during which such reductions were effective the special filing will become void and the last regularly filed and effective price schedule shall again become effective until subsequently amended pursuant to regular filing dates.

(5) Postings shall be submitted upon forms prescribed and furnished by the board, or a reasonable facsimile thereof, and shall set forth:

(a) All brands, types and sizes of packages or containers of wine offered for sale in this state by such wine wholesaler, which packages or containers shall be limited to the sizes permitted in WAC 314-24-080 (Rule 66).

(b) The wholesale prices thereof within the state, which prices shall include the state wine tax of twenty and one-fourth cents per liter imposed under RCW 66.24.210.

(6) No wine wholesaler shall sell or offer for sale any package or container of wine at a price differing from the price of such item as shown in the price posting then in effect.

(7) Quantity discounts are prohibited. No price shall be posted which is below "cost," or below "cost of doing business," or a "loss leader" as those terms are defined in chapter 19.90 RCW, Unfair Practices Act, except as otherwise provided in such act.

(8) Wholesale prices on a "close-out" item shall be accepted by the board if in compliance with chapter 19.90 RCW and the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the wholesaler who posts such a "close-out" price shall not restock the item for a period of one year following the first effective date of such "close-out" price.

(9) If an existing written contract or memorandum of oral agreement between a domestic winery, certificate of approval holder, wine importer, or wine wholesaler and a wine wholesaler, as filed in accordance with WAC 314-24-200 (Rule 82), is terminated by either party, and a new written contract or memorandum of oral agreement is made by such a supplier with another wine wholesaler in the affected trade area, the board, after receiving such new written contract or memorandum of oral agreement, and a corresponding wholesale price posting from the newly designated wine wholesaler, may put such filings into effect immediately: PROVIDED, That prices and other conditions of any such filings which are in effect at the time of such termination shall not be changed prior to the next applicable filing period.

(10) When a new wine wholesaler's license is issued for the first time by the board, the holder thereof may file an initial price schedule and request that such posting be placed into effect immediately. The board may grant such approval, providing that such posting is in compliance with all other applicable regulatory requirements, and that contracts and memoranda are on file, in accordance with WAC 314-24-200 (Rule 82).

(11) The board may reject any price posting or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any posting the licensee submitting said posting may be heard by the board and shall have the burden of showing that the posting is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said posting is accepted it shall become effective at a time fixed by the board. If said posting or portion thereof is rejected the last effective posting shall remain in effect until such time as an amended posting is filed and approved in accordance with the provisions of this regulation.

(12) Any wine wholesaler or employee authorized by his wholesaler-employer may sell wine at the wholesaler's posted prices to any Class

C, F, H, or J licensee upon presentation to such wholesaler or employee at the time of purchase of a special permit issued by the board to such licensee.

(a) Every Class C, F, H, or J licensee, upon purchasing any wine from a wholesaler, shall immediately cause such wine to be delivered to his licensed premises, and he shall not thereafter permit such wine to be disposed of in any manner except as authorized by his license.

(b) Wine sold as provided herein shall be delivered by such wholesaler or his authorized employee either to such retailer's licensed premises or directly to such retailer at the wholesaler's licensed premises: **PROVIDED, HOWEVER,** That a wholesaler's prices to retail licensees shall be the same at both places of delivery.

(13) All price postings filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

AMENDATORY SECTION (Amending Order 85, Resolution 94, filed 10/28/81)

WAC 314-24-200 WINE SUPPLIERS' PRICE FILINGS, CONTRACTS AND MEMORANDA. (1) Every domestic winery shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such winery may have with any wine wholesaler, which contracts or memoranda shall contain a schedule of the prices charged to wholesalers for all items. Requirements for including or omitting from such prices the wine tax of twenty and one-fourth cents per liter, imposed under RCW 66.24.210, are set forth in subsection (8) of this regulation. Contracts and memoranda required to be filed under this subsection must list all terms of sale, including all regular and special discounts; all advertising, sales and trade allowances; and all commissions, bonuses or gifts and any and all other discounts or allowances. Whenever changed or modified such revised prices, contracts or memoranda shall be filed with the board, as provided in this regulation.

Each price schedule shall be made on a form prepared and furnished by the board, or a reasonable facsimile thereof, and shall set forth all brands, types, packages and containers of wine offered for sale by such licensed domestic winery; all additional information required may be filed as a supplement to said price schedule forms.

(2) Filing date—All written contracts and memoranda of oral agreements must be received by the board not later than the ~~((twenty-fifth))~~ fifteenth day of the month, and if approved will become effective on the first day of the second calendar month following the date of such filing. An additional period will be allowed for revision of such filings to correct errors and omissions, or to meet competitive prices, filed during the current posting period, but a revised contract or memorandum of oral agreement must be on file with the board not later than the ~~((first))~~ twentieth day of the month in order to become effective on the first day of the ~~((next))~~ second calendar month: **PROVIDED,** That the board may in individual cases, for good cause shown, extend the date on which the filings required by the rules are to be received by the board.

When any price posting to be filed with the board under the provisions of this rule has been deposited in the United States mail addressed to the board, it shall be deemed filed or received on the date shown by the post office cancellation mark on the envelope containing it or on the date it was mailed if proof satisfactory to the board established that the actual mailing occurred on an earlier date.

(3) Filing date exception—Whenever the ~~((twenty-fifth))~~ fifteenth day of any month falls on Saturday, Sunday, or a legal holiday, an original contract or memorandum of oral agreement may be filed not later than the close of business the next business day.

(4) Exceptions for changes in wholesalers and newly licensed wholesalers are set forth in subsections (9) and (10) in WAC 314-24-190.

(5) In the event that a domestic winery determines to make no changes in any contracts or memoranda last filed and then in effect, such contracts or memoranda shall remain in effect for each succeeding calendar month until revised or amended contracts or memoranda are filed and placed into effect as provided herein.

Provision for filing of temporary price reductions—In the event a licensed domestic winery elects to file postings listing selected items on which prices are temporarily reduced for a period of one calendar month only such filing shall be made on special forms provided for such purpose and clearly reflect all items, the selling price thereof, and the month for which the price reductions will be in effect. At the expiration of the month during which such reductions were effective the special filing will become void and the last regularly filed and effective

price schedule shall again become effective until subsequently amended pursuant to regular filing dates.

(6) Prices filed by a domestic winery shall be uniform prices to all wholesalers on a statewide basis less bona fide allowances for freight differentials. Quantity discounts are prohibited. No price shall be filed which is below "cost," or below "cost of doing business," or a "loss leader" as those terms are defined in chapter 19.90 RCW, Unfair Practices Act, except as otherwise provided in such act.

(7) The provisions set forth in subsections (1), (2), (3), (4), (5) and (6) shall also apply to written contracts and memoranda of oral agreements which must be filed with the board by certificate of approval holders who sell wine to wine importers; wine importers who sell to wine wholesalers; and wine wholesalers who sell to other wine wholesalers: **PROVIDED,** That the provisions of this subsection shall not apply, and filing will not be required, in the instance of wine wholesalers making accommodation sales to other wine wholesalers when such sales are made at a selling price not to exceed the laid-in cost of the wine being sold. Accommodation sales may only be made when the wholesaler purchasing the wine is an authorized purchaser of the brand and product being sold, having been designated as an authorized purchaser by the manufacturer or importer of the product being sold, as demonstrated by an existing contract or memoranda on file and in effect under the provisions of this rule.

(8) The wine tax, imposed under RCW 66.24.210, is not to be included in the prices filed as required by subsection (1) of this regulation by (a) a domestic winery, nor (b) by a certificate of approval holder who is not licensed as a wine wholesaler, nor (c) a wine importer who is not licensed as a wine wholesaler.

Every wine wholesaler who sells wine to another wine wholesaler shall include such tax in the prices posted on such required schedules.

(9) No domestic wineries, certificate of approval holders, wine importers, or wine wholesalers shall sell any wine to any persons whatsoever in this state until copies of such written contracts or memoranda of such oral agreements are on file with the board.

(10) Certificate of approval holders may ship wine into this state when the same has been sold and consigned to the holder of an importer's license at his licensed premises. The bill of lading covering such consignment shall not be changed or the wine diverted unless such diversion is to another importer, and the board so notified immediately.

(11) The board may reject any supplier's price filing, contract or memorandum of oral agreement or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any such price filing, contract or memorandum of oral agreement the licensee submitting said price filing, contract or memorandum may be heard by the board and shall have the burden of showing that the said price filing, contract or memorandum is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said price filing, contract or memorandum is accepted it shall become effective at a time fixed by the board. If said price filing, contract or memorandum or portion thereof is rejected the last effective price filing, contract or memorandum shall remain in effect until such time as an amended price filing, contract or memorandum is filed and approved, in accordance with the provisions of this regulation.

(12) All prices, contracts and memoranda filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

WSR 82-10-069

PROPOSED RULES

LIQUOR CONTROL BOARD

[Filed May 5, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning:

New WAC 314-16-195 Class H restricted—Qualifications.
Amd WAC 314-40-010 Operations under retail licenses;

that such agency will at 2:00 p.m., Wednesday, June 16, 1982, in the Office of the Liquor Control Board, 5th Floor, Capitol Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a hearing relative thereto.

The adoption, amendment, or repeal of such rules will take place immediately following such hearing.

The authority under which these rules are proposed is RCW 66.08.030 and 66.98.070 and Title 34 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 16, 1982, and/or orally at 2:00 p.m., Wednesday, June 16, 1982, Office of the Liquor Control Board, 5th Floor, Capitol Plaza Building, 1025 East Union Avenue, Olympia, WA 98504.

Dated: May 5, 1982

By: L. H. Pedersen
Member

STATEMENT OF PURPOSE

Title: WAC 314-16-195 Class H restricted—Qualifications.

Description of Purpose: This rule will establish minimum qualifications for the implementation of the new class H restricted license as authorized by the last session of the legislature in section 3, Laws of 1982, ESHB 1063.

Statutory Authority: RCW 66.08.030 and 66.98.070 and Title 34 RCW.

Title: WAC 314-40-010 Operations under retail licenses.

Description of Purpose: To correct a typographical error which referenced the wrong section of the Washington Administrative Code.

Statutory Authority: RCW 66.08.030 and 66.98.070 and Title 34 RCW.

Summary of Rule: WAC 314-16-195, the rule provides that a class H restricted license may be issued to businesses in operation for at least one year, who through membership selectively restrict admission to that business. The class H restricted licensee may sell liquor to members and invited guests but not members of the general public. The class H restricted license is a retail license and shall be governed in accordance with rules applicable to all retail licensees. The class H restricted licensee must meet all the requirements applicable to class H restaurants, including strict compliance with the provisions of WAC 314-16-190(1), (2), (3), (4), (5) and (7). The rule identifies guest privileges and provides criteria for the issuance of guest cards. Guests to a class H restricted premises must be issued a guest card, accompanied by a member, or a member in good standing of an organization with a reciprocal arrangement with said class H restricted business. WAC 314-40-010, this rule change corrects the reference to WAC 314-14-080 making it instead WAC 314-40-080.

Reason Supporting Proposed Action: WAC 314-16-195, the reason this rule is necessary is to implement ESHB 1063 enacted in the 1982 legislative session, and establish the qualifications for a class H restricted license. WAC 314-40-010, this rule change is necessary to correct a typographical error.

The Following Agency Personnel are Responsible for Drafting, Implementation and Enforcement of These Rules: Ray Hensel, Supervisor of License, 753-6259, Scan 234-6259; and Gary Gilbert, Assistant Chief of Enforcement: 753-6274, Scan 234-6274; 1025 East Union Avenue, Olympia, WA 98504.

Person or Organization Proposing Rule: These rules were proposed by the board.

Agency Comments: None.

These rule amendments were not made necessary as a result of federal law or federal or state court action.

NEW SECTION

WAC 314-16-195 CLASS H RESTRICTED—QUALIFICATIONS. (1) Class H restricted licensees shall govern their operations in selling liquor in accordance with the regulations set forth in Title I and II. Such licensees may sell liquor in accordance with these regulations, only to members, invited guests, and holders of cards as authorized by subsection (3) hereof. Class H restricted licensees shall not be prohibited from renting, leasing, or donating all or a portion of their facilities for, or making services available to, an activity where the public is invited or admitted under the conditions specified in subsection (4) hereof.

(2)(a) Applications for new class H restricted licenses shall be on forms prescribed by the board and shall be accompanied by proof that:

(i) The business has been in operation for at least one year immediately prior to the date of its application. Such proof should include records of membership as well as an indication as to numbers and types of membership.

(ii) Membership or admission will not be denied to any person because of race, creed, color, national origin, sex or the presence of any sensory, mental or physical handicap.

(b) Applications for renewal shall be made on forms prescribed by the board and shall be accompanied by such information as the board may request.

(c) Class H restricted applicants and licensees must meet the provisions of WAC 314-16-190(1), (2), (3), (4), (5) and (7).

(3)(a) Guest privilege cards may be issued only as follows:

(i) For class H restricted licensees within the limits of any city or town, only to those persons residing outside of an area ten miles from the limits of such city or town.

(ii) For class H restricted licensees outside of any city or town only to those persons residing outside an area fifteen miles from the location of such licensee: PROVIDED, That where such area limitation encroaches upon the limits of any city or town, the entire corporate limits of such city or town shall be included in the prohibited area.

(iii) Such guest privilege cards shall be issued for a reasonable period and must be numbered serially, with a record of the issuance of each such card to be filed on the licensed premises in such a manner as to be readily accessible for inspection.

(iv) The mileage restrictions in subsections (i) and (ii) hereof may be waived for special events upon written approval of the board.

(b) Guests may be introduced when accompanied at all times by a member and may remain as long as such member is present: PROVIDED, That any such guest may only enjoy the privileges of the organization a reasonable number of times in any one calendar year.

(c) Persons who are members in good standing of a licensed class H restricted organization may enjoy the privileges of any other licensed class H restricted organization: PROVIDED, That the operating rules of such organization authorize reciprocal privileges: PROVIDED, FURTHER, That subsections (a) and (b) hereof shall not apply to members of such organizations while exercising reciprocal privileges.

(4) If the licensee at any time rents any portion of the premises for any purpose other than to their membership or at any time holds any function within the premises to which the public is generally invited or admitted, then such portion devoted to liquor service must be closed to the public generally and no one admitted therein except for bona fide members and guests. If the premises does not have an area which can be so closed, then no liquor service whatever may be permitted during the entire time when such activity is taking place or when the public is generally admitted in the premises.

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

AMENDATORY SECTION (Amending Order 23, filed 7/3/73)

WAC 314-40-010 OPERATIONS UNDER RETAIL LICENSES. Clubs operating under any class of retail license shall govern their operations in selling liquor in accordance with the regulations set forth in Title II, applicable to all retail licensees, except as otherwise specifically provided in this title. Such clubs may sell liquor only to members, visitors and guests as specified in these regulations. Licensed clubs shall not be prohibited from renting, leasing or donating all or a portion of their facilities for, or making services available to, a non-club activity where the public is invited or admitted under conditions as permitted by (~~WAC 314-14-080~~) **WAC 314-40-080.**

WSR 82-10-070
PROPOSED RULES
LIQUOR CONTROL BOARD
 [Filed May 5, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning chapter 314-38 WAC, permits and WAC 314-38-010, special permit to consume liquor on the premises of a business not licensed under Title 66 RCW;

that such agency will at 11:00 a.m., Wednesday, June 16, 1982, in the Office of the Liquor Control Board, 5th Floor, Capitol Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a hearing relative thereto.

The adoption, amendment, or repeal of such rules will take place immediately following such hearing.

The authority under which these rules are proposed is RCW 66.08.030 and 66.20.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 16, 1982, and/or orally at 11:00 a.m., Wednesday, June 16, 1982, Office of the Liquor Control Board, 5th Floor, Capitol Plaza Building, 1025 East Union Avenue, Olympia, WA 98504.

Dated: May 5, 1982

By: L. H. Pedersen
 Member

STATEMENT OF PURPOSE

Title: WAC 314-38-010 Special permit to consume liquor on the premises of a business not licensed under Title 66 RCW.

Description of Purpose: The legislature recently enacted RCW 66.20.010(4) which provides for a special permit to consume liquor on the premises of a business not licensed under Title 66 RCW. This rule will establish the annual fee, establish the length of time the permit is valid, and establish what businesses are eligible for the permit.

Statutory Authority: RCW 66.08.030 and 66.20.010.

Summary of Rule: The rule provides that a special permit shall be issued to businesses not licensed under Title 66 RCW and shall only be issued to businesses at which the service and consumption of liquor is incidental

to, and does not form a portion of, the service the business is engaged in producing or marketing. The permit shall not be used by the holder thereof for purposes of stimulating or increasing business from the general public. Each permit shall be issued for a period of twelve months from the first day of the month in which it is issued. The fee for each permit issued shall be five hundred dollars. The permit shall be issued for, and service and consumption of liquor will be limited to, specified hospitality rooms and/or dining rooms which shall be on the premises of the business premises at which liquor is to be served or consumed. The general public shall not be permitted in the hospitality or dining room at any time during the service and consumption of liquor. The permit will authorize the service and consumption of liquor, without charge, by employees and invited guests of the business holding the permit. No sale of liquor will be authorized in any manner, whether by scrip, donation, contribution or otherwise. No charge of any kind may be made by the permittee to invited guests for admissions to the hospitality or dining room. All liquor served or consumed under the permit shall be purchased from a Washington state licensed retailer or a Washington state liquor store or agency at full retail price. The permit shall be issued in the name of the business applying for it, and the business shall not allow any other person, business, or organization to utilize the permit.

Reason Supporting Proposed Action: This rule is necessary to establish guidelines for issuance of special permits under RCW 66.20.010(4) authorizing consumption of liquor on the premises of a business not licensed under Title 66 RCW.

The Following Agency Personnel are Responsible for Drafting, Implementation and Enforcement of this Rule: Ray Hensel, Supervisor of Licenses, 753-6259, Scan 234-6259; Jim Halstrom, Supervisor of Manufacturers/Importers/Wholesalers Division, 753-6282, Scan 234-6282; and Gary Gilbert, Assistant Chief of Enforcement, 753-6274, Scan 234-6274; 1025 East Union Avenue, Olympia, WA 98504.

Persons or Organization Proposing Rule: This rule change was proposed by the board.

Agency Comments: None.

This rule amendment was not made necessary as a result of federal law or federal or state court action.

Chapter 314-38 WAC

PERMITS

WAC

314-38-010

SPECIAL PERMIT TO CONSUME LIQUOR ON THE PREMISES OF A BUSINESS NOT LICENSED UNDER TITLE 66.

WAC 314-38-010 SPECIAL PERMIT TO CONSUME LIQUOR ON THE PREMISES OF A BUSINESS NOT LICENSED UNDER TITLE 66. (1) The special permit provided by RCW 66.20.010(4) to consume liquor on the premises of a business not licensed under Title 66 RCW shall only be issued to businesses at which the service and consumption of liquor is incidental to, and does not form a portion of, the service the business is engaged in producing or marketing. The permit shall not be used by the holder thereof for purposes of stimulating or increasing business from the general public.

(2) Each permit shall be issued for a period of twelve months from the first day of the month in which it is issued. The fee for each permit issued shall be five hundred dollars.

(3) The permit shall be issued for, and service and consumption of liquor will be limited to, specified hospitality rooms and/or dining rooms which shall be on the premises of the business applying for the permit. A separate permit is required for each business premises at which liquor is to be served or consumed. The general public shall not be permitted in the hospitality or dining room at any time during the service or consumption of liquor.

(4) The permit will authorize the service and consumption of liquor, without charge, by employees and invited guests of the business holding the permit. No sale of liquor will be authorized in any manner, whether by scrip, donation, contribution, or otherwise. No charge of any kind may be made by the permittee to invited guests for admission to the hospitality or dining room, or for any meals or other services provided to them in the hospitality or dining room.

(5) All liquor served or consumed under the permit shall be purchased from a Washington state licensed retailer or a Washington state liquor store or agency at full retail price.

(6) The permit shall be issued in the name of the business applying for it, and that business shall not allow any other person, business, or organization to utilize the permit. The issuance of any permit by the board shall not be construed as granting a vested right in any of the privileges so conferred, and a misrepresentation of fact found to have been made by the applicant or permittee shall be deemed a lack of good faith and shall constitute good and sufficient cause for the disapproval of a permit application or for the revocation or suspension of any permit issued by the board.

WSR 82-10-071
EMERGENCY RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Order 82-14—Filed May 5, 1982]

I, Sam Kinville, director of the Department of Labor and Industries, do promulgate and adopt at Room 334, General Administration Building, Olympia, Washington 98504, the annexed rules relating to the amending of WAC 296-306-200(6)(d)(i) provides an exemption for the use of roll-over protection (ROPS) on tractors used in agricultural operations, providing the machine does not operate on slopes in excess of 40 degrees from the horizontal. This is an obvious error and the 40 degrees should be amended to read 40 percent.

I, Sam Kinville, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is track type agricultural tractor cannot operate on a 40 degree slope safely. There is danger of sliding and the machine can roll over even if it has roll-over protection or is not equipped with ROPS. A 40 percent maximum limitation is realistic as this is about as high a slope that a machine can operate on due to traction capability. This emergency rule is necessary to ensure that no person will operate a tractor on slopes in excess of 40 percent thereby reducing the possibility of an injury or fatality.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 49.17.050 and 49.17.240 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED May 5, 1982.

By Sam Kinville
Director

AMENDATORY SECTION (Amending Order 82-10, filed 3/30/82)

WAC 296-306-200 ROLL-OVER PROTECTIVE STRUCTURES (ROPS) FOR TRACTORS USED IN AGRICULTURAL OPERATIONS. (1) *Scope.* Agricultural tractors manufactured after October 25, 1976, shall meet the requirements in this section.

(2) *Roll-over protective structure.* A roll-over protective structure (ROPS) shall be provided by the employer for each tractor operated by an employee. Except as provided in subsection (6) of this section, ROPS used on wheel-type tractors shall meet the test and performance requirements of WAC 296-306-250 through 296-306-25023 and ROPS used on track-type tractors shall meet the test and performance requirements of WAC 296-306-260 through 296-306-270. (See ROPS Design and Testing Criteria Addendum.)

(3) *Seatbelts.* (a) Where ROPS are required by this section, the employer shall:

(i) Provide each tractor with a seatbelt which meets the requirements of this subsection;

(ii) Require that each employee uses such seatbelt while the tractor is moving; and

(iii) Require that each employee tightens the seatbelt sufficiently to confine the employee to the protected area provided by the ROPS.

(b) Each seatbelt shall meet the requirements set forth in Society of Automotive Engineers Standard SAE J4C, 1965 Motor Vehicle Seat Belt Assemblies,* except as noted hereafter:

(i) Where a suspended seat is used, the seatbelt shall be fastened to the movable portion of the seat to accommodate a ride motion of the operator.

(ii) The seatbelt anchorage shall be capable of withstanding tensile loading as required by WAC 296-306-275 through 296-306-275(2)(c).

(iii) The seatbelt webbing material shall have a resistance to acids, alkalis, mildew, aging, moisture and sunlight equal to or better than that of untreated polyester fiber.

(4) *Protection from spillage.* Batteries, fuel tanks, oil reservoirs and coolant systems shall be constructed and located or sealed to assure that spillage will not occur which may come in contact with the operator in the event of an upset.

(5) *Protection from sharp surfaces.* All sharp edges and corners at the operator's station shall be designed to minimize operator injury in the event of an upset.

(6) *Exempted uses.* Items (2) and (3) of this section do not apply to the following uses:

(a) "Low profile" tractors while they are used in orchards, vineyards or hop yards where the vertical clearance requirements would substantially interfere with normal operations, and while their use is incidental to the work performed therein.

(b) "Low profile" tractors while used inside a farm building or greenhouse in which the vertical clearance is insufficient to allow a ROPS equipped tractor to operate, and while their use is incidental to the work performed therein.

(c) Tractors while used with mounted equipment which is incompatible with ROPS (e.g., cornpickers, cotton strippers, vegetable pickers and fruit harvesters.)

(d) Track-type agricultural tractors whose overall width (as measured between the outside edges of the tracks) is at least three times the height of their rated center of gravity, and whose rated maximum speed in either forward or reverse is not greater than 7-miles per hour, when used only for tillage or harvesting operations and while their use is incidental thereto, and which:

(i) Does not involve operating on slopes in excess of 40 ((degrees)) percent from horizontal((:)); and

(ii) Does not involve operating on piled crop products or residue, as for example, silage in stacks or pits, and

(iii) Does not involve operating in close proximity to irrigation ditches, streams or other excavations more than two feet deep which contain slopes of more than 40 ((degrees)) percent from horizontal((:)); and

(iv) Does not involve construction-type operation, such as bulldozing, grading or land clearing.

(7) *Remounting.* Where ROPS are removed for any reason, they shall be remounted so as to meet the requirements of this subsection.

(8) *Labeling.* Each ROPS shall have a label, permanently affixed to the structure, which states:

(a) Manufacturer's or fabricator's name and address,

(b) ROPS model number, if any,

(c) Tractor makes, models, or series numbers that the structure is designed to fit; and

(d) That the ROPS model was tested in accordance with the requirements of this section.

(9) *Operating instructions.* Every employee who operates an agricultural tractor shall be informed of the operating practices contained in Exhibit A of this section and of any other practices dictated by the work environment. Such information shall be provided at the time of initial assignment and at least annually thereafter.

*Copies may be obtained from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, PA 15096.

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.
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.

NOTE: See Number LI-414-28.

WSR 82-10-072
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed May 5, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning adding a new section to chapter 296-350 WAC, administrative rules. These rules, regarding settlement agreements, state every settlement agreement shall contain a statement on an agreed upon abatement date and that the penalty will be paid.

Written submissions may contain data, views and arguments concerning the effect of the proposed rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules in response to written comments received.

The agency may need to change the date for adoption on short notice. To ascertain that the adoption will take place as stated in this notice, an interested person may contact the person named below:

Richard E. Martin, Acting Assistant Director
 Industrial Safety and Health
 Post Office Box 207
 Olympia, Washington 98507
 (206) 753-6500

The formal adoption, amendment, or repeal of such rules will take place at 9:30 a.m., Friday, June 11, 1982, in the Director's Office, Room 334, General Administration Building, Olympia, Washington.

The authority under which these rules are proposed is RCW 49.17.040 and 49.17.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 4, 1982.

Dated: May 5, 1982
 By: Sam Kinville
 Director

STATEMENT OF PURPOSE

Title and Number of Rule(s) or Chapter: WAC 296-350-095 Settlement agreements.

Statutory Authority: RCW 49.17.040 and 49.17.050.

Summary of the Rule(s): This notice proposes to add a new section to chapter 296-350 WAC, Administrative rules. These rules, regarding settlement agreements, state every settlement agreement shall contain a statement on an agreed upon abatement date and that the penalty will be paid.

Description of the Purpose of the Rule(s): The Department of Labor and Industries has proposed these rules to satisfy a federal law making requirement and to correct the deficiencies in the state's program.

Reasons Supporting the Proposed Rule(s): This amendment is necessary to satisfy requirements imposed on the department by the Federal Occupational Safety and Health Administration as a condition of its recent certification of the Washington state industrial safety and health plan.

The Agency Personnel Responsible for Drafting: Charles L. Preston, Acting Technical Services Chief, Division of Industrial Safety and Health, 814 East Fourth, Olympia, Washington 98504, (206) 753-6381; Implementation and Enforcement: Richard E. Martin, Acting Assistant Director, Division of Industrial Safety and Health, 814 East Fourth, Olympia, Washington 98504, (206) 753-6500.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule(s): Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule(s): None.

The rule is necessary to comply with a federal law or a federal or state court decision, 29 U.S.C. § 667(c)(2).

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

NEW SECTION

WAC 296-350-095 SETTLEMENT AGREEMENTS. (1) Every settlement agreement in an appeal of the Board of Industrial Insurance Appeals shall contain a statement of the abatement date for the cited condition or a statement that the condition has been abated. If any settlement agreement lacks a statement of abatement date, the Department shall assign an abatement date to the condition which allows the same amount of time for abatement as was allowed by the original abatement date; the amount of time for abatement shall be figured from the date that the Board of Industrial Insurance Appeals issues its order adopting the settlement agreement.

(2) Every settlement agreement shall contain a statement that payment of any penalty has been tendered or a statement of a promise to pay any penalty.

WSR 82-10-073

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Filed May 5, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning the repealing of chapter 173-130 WAC, Odessa ground-water subarea management policy and the adopting of chapter 173-130A WAC, Odessa ground-water subarea management policy;

that such agency will at 7:00 p.m., Thursday, June 10, 1982, in the Lincoln Mutual Savings Bank, 101 East 1st, Ritzville, WA, and such agency will also conduct a hearing relative thereto at 7:00 p.m., Wednesday, June 9, 1982, at Connell High School, Connell, Washington.

The formal adoption, amendment, or repeal of such rules will take place at 2:00 p.m., Tuesday, June 29, 1982, in the Hearings Room, Department of Ecology Air and Land Offices, Rowsix, 4224 Sixth Avenue S.E., Lacey, WA.

The authority under which these rules are proposed is RCW 43.21A.060, 43.21A.080, 43.27A.090, 90.44.130 and 90.54.040(2).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 18, 1982, and/or orally at the above hearings.

Dated: May 5, 1982
By: Donald W. Moos
Director

STATEMENT OF PURPOSE

Title: Repealing chapter 173-130 WAC, Odessa ground-water subarea management policy and adopting chapter 173-130A WAC, Odessa ground-water subarea management policy.

Description of Purpose: To establish a groundwater policy for management of the Odessa Ground-Water Subarea.

Statutory Authority: RCW 43.21A.060, 43.21A.080, 43.27A.090, 90.44.130 and 90.54.040(2).

Summary of Rule: To establish a ground water policy for management of the Odessa ground-water subarea.

Reasons Supporting Proposed Action: To provide a procedure for managing ground water within the Odessa ground water subarea to ensure the maintenance of a safe sustaining yield from the ground water body within a reasonable and feasible pumping lift.

Agency Personnel Responsible for Drafting: Bill Miller, Department of Ecology, MS PV-11, Olympia, WA 98504, (206) 459-6125; Implementation and Enforcement: Ted Olson, Department of Ecology, East 103 Indiana, Spokane, WA 99207, (509) 456-2926.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Chapter 173-130A WAC
ODESSA GROUND WATER SUBAREA MANAGEMENT POLICY

WAC

173-130A-010	Authority.
173-130A-020	Background.
173-130A-030	Definitions.
173-130A-040	Purpose.
173-130A-050	Exemptions.
173-130A-060	Rate of decline in water level to be controlled.
173-130A-070	Maximum lowering of the water table.
173-130A-080	Regulation of withdrawal of ground water.
173-130A-090	Notice of regulation.
173-130A-100	Applications for withdrawal of ground water.
173-130A-110	Distance of wells from East Low Canal.
173-130A-120	Ground water mound-Columbia Basin Project interests.
173-130A-130	Irrigation season.
173-130A-140	Airlines.
173-130A-150	Water duty.
173-130A-160	Development schedule.
173-130A-170	Casing and sealing.
173-130A-180	Reworking wells.
173-130A-190	Bore hole information.
173-130A-200	Acreage expansion program.
173-130A-210	Regulation review.

NEW SECTION

WAC 173-130A-010 AUTHORITY. This regulation is promulgated by the department of ecology under the authority and procedures provided in chapters 34.04, 43.21A, 90.03 and 90.44 RCW.

NEW SECTION

WAC 173-130A-020 BACKGROUND. The Odessa ground water subarea was established and the boundaries set forth in chapter 173-128A WAC.

NEW SECTION

WAC 173-130A-030 DEFINITIONS. For the purposes of this chapter, the following definitions shall be used:

- (1) "Upper Production Zone" shall include all soil and rocks contained within the Saddle Mountain and Wanapum Basalt units.
- (2) "Lower Production Zone" shall include all rocks contained within the Grande Ronde Basalt unit.
- (3) "Water table" shall mean the surface formed by mapping the altitude at which water stands in wells.
- (4) "Priority" shall mean the date of receipt by the department of ecology or its predecessor of an acceptable application to appropriate public ground water.
- (5) "Department" shall mean the department of ecology.
- (6) "Bore hole information" shall include data required to determine the extent and nature of subsurface geologic and hydrologic properties which may include data acquired from remote sensing tests (geophysical) and/or video scanning.

NEW SECTION

WAC 173-130A-040 PURPOSE. The purpose of this regulation is to provide a procedure for managing ground water within the Odessa ground water subarea to insure the maintenance of a safe sustaining yield from the ground water body within a reasonable and feasible pumping lift.

NEW SECTION

WAC 173-130A-050 EXEMPTIONS. The following shall not be subject to this management regulation:

- (1) Wells from which the withdrawal is less than 5,000 gallons per day;
- (2) Wells drilled under prior authorization which were defined as "Zone C" wells in WAC 173-130-030(3), now repealed.

NEW SECTION

WAC 173-130A-060 RATE OF DECLINE IN WATER LEVEL TO BE CONTROLLED. The rate of decline in the water level will be limited to a total amount of thirty feet in three consecutive years. In the case of a new well, The base time shall commence in the spring following the first season of irrigation use.

NEW SECTION

WAC 173-130A-070 MAXIMUM LOWERING OF THE WATER TABLE. These regulations will be used to prevent the spring water table from lowering more than three hundred feet below the altitude of the static water level as it existed in the spring of 1967.

NEW SECTION

WAC 173-130A-080 REGULATION OF WITHDRAWAL OF GROUND WATER. (1) Upon complaint from a water right holder that the water level in the associated well or wells is being drawn down at a rate in excess of thirty feet in three years as set forth in WAC 173-130A-060 as a primary result of pumping by subsequent appropriators, the department shall evaluate the complaint and take appropriate regulatory action, to the extent practicable, to protect the rights of the prior appropriator.

(2) Whenever the department has reason to believe that the provision of WAC 173-130A-070 is going to be violated, regulatory action to limit withdrawals in the affected area will be initiated. Such regulation shall conform to the priority of the pertinent, valid rights and shall prevail on an annual basis until the condition no longer exists, unless the aggregate withdrawal is decreased by mutual agreement of the affected water right holders pursuant to RCW 90.44.180.

(3) The department shall take regulatory action, to the extent necessary, to assure compliance with water right conditions.

NEW SECTION

WAC 173-130A-090 NOTICE OF REGULATION. (1) Notice of regulation shall be provided to each water right holder within the area identified pursuant to WAC 173-130A-080(2) by certified mail on or before May 1 of each year when regulation of withdrawals is contemplated for the next calendar year. Said notice shall also provide for a public meeting within thirty days to be held in the affected area to discuss proposed regulatory action.

(2) Within sixty days following this public meeting, departmental orders will be sent to those water right holders to be regulated.

NEW SECTION

WAC 173-130A-100 APPLICATIONS FOR WITHDRAWAL OF GROUND WATER. All applications for permits to appropriate ground water from within the Odessa ground water subarea shall be analyzed in order of priority to determine the calculated effect that the requested rate and volume of withdrawal will have on existing ground water declines. No permit will be issued for withdrawals which calculations show will cause the conditions of WAC 173-130A-060 or 173-130A-070 to be exceeded at any location within the subarea.

NEW SECTION

WAC 173-130A-110 DISTANCE OF WELLS FROM EAST LOW CANAL. No well may be drilled closer than one-quarter mile to the centerline of the East Low Canal.

NEW SECTION

WAC 173-130A-120 GROUND WATER MOUND-COLUMBIA BASIN PROJECT INTERESTS. Irrigation of Columbia Basin Project lands lying westerly of the East Low Canal and canal leakage have caused development of a ground water mound lying generally under the canal. The retention of existing water levels under the canal is necessary to maintain the present water table gradient toward the Potholes Reservoir to allow the recapture and utilization of artificially stored ground water. To assure noninterference with the ground water mound, all new wells constructed on lands lying within the following described area shall be cased and properly sealed into the lower production zone.

<u>Twp N</u>	<u>Rge E</u>	<u>Section</u>
17	30	15, 16, 23, 24 and all those portions of 9 through 11, 13 and 14 lying southerly of the East Low Canal.
	31	3, 4, 9 through 11, 14 through 16, 19 through 23, and those portions of 5, 6, 8, and 17 lying easterly of the East Low Canal.
18	30	1, 12, and all those portions of 2, 11, 13 and 14 lying easterly of East Low Canal.
	31	4 through 10, 15, 16, 21, 22, 27 through 29, 32 through 34, and all those portions of 17 through 20, 30 and 31 lying northerly and easterly of the East Low Canal.
19	29	1 through 3, 10 through 14, 24 through 26, and all those portions of 4, 9, 15, 16, 22, 23, 27, and 34 through 36 lying easterly and northerly of the East Low Canal.
	30	19 through 23, 25 through 27, 29, 30, 36, and all those portions of 28, 31 through 35 lying northerly and easterly of the East Low Canal.
	31	30 and 31
20	29	27, 35, and all those portions of 21, 28, 33 and 34 lying easterly of the East Low Canal.

NEW SECTION

WAC 173-130A-130 IRRIGATION SEASON. The irrigation season for withdrawal of ground water in the Odessa ground water subarea shall be from February 1 to November 30, each year. However, the department recognizes that conditions will vary from year to year, making application of water to the land necessary during December and/or January in some years. Permission to withdraw ground water during December and January may be granted by the department upon showing of a need by individual permit or certificate holders and if not inconsistent with the regulatory program of this chapter.

NEW SECTION

WAC 173-130A-140 AIRLINES. An airline and pressure gauge shall be installed and maintained in operating condition on all new or reworked wells and equipped with a standard tire valve, placed in an accessible location. The airline shall extend from land surface to the top of the pump bowls. The total length of the airline and any changes in length shall be reported to the department.

NEW SECTION

WAC 173-130A-150 WATER DUTY. The duty of water for agricultural irrigation shall be not more than 2.5 acre feet per acre per calendar year.

NEW SECTION

WAC 173-130A-160 DEVELOPMENT SCHEDULE. All new permits issued will require beginning of construction of the authorized well(s) within two years after permit issuance. Beginning of construction means that the well drilling has been started and is being actively pursued toward completion. No extensions of time will be granted to this schedule. Violation of this requirement will result in cancellation of the related permits.

NEW SECTION

WAC 173-130A-170 CASING AND SEALING. In order to protect domestic and stock water wells, casing and sealing requirements will be determined on a case-by-case basis and included as a provision on all new permits issued. New permits will also be conditioned to prohibit cascading water in wells and to prevent exchange of water between the upper production zone and lower production zone. Sealing of required casing shall consist of filling the annular space between casing and well bore with cement grout placed by pumping from the bottom of the casing to land surface.

NEW SECTION

WAC 173-130A-180 REWORKING WELLS. Any well which is reworked shall be constructed to comply with the casing and sealing

provisions of WAC 173-130A-170. Reworking shall include, but not be limited to, reaming to enlarge well diameter or deepening.

NEW SECTION

WAC 173-130A-190 BORE HOLE INFORMATION. It shall be the responsibility of the owner of all new or reworked wells drilled in the Odessa ground water subarea to provide the department of ecology with such logs as the department may reasonably require.

NEW SECTION

WAC 173-130A-200 ACREAGE EXPANSION PROGRAM.

(1) Water right certificate holders who wish to expand their authorized irrigated acreage while not increasing actual historic withdrawal rates in gallons per minute or acre feet per year, within the maximum limits of their water right, may submit a request in writing to the department at least four months prior to initiation of irrigation. Such request shall include documentation substantiating actual quantities applied to a beneficial use within authorized acreage for the three previous consecutive irrigation seasons. This documentation shall consist of accurate flow meter readings or electrical consumption which has been converted to actual acre footage withdrawn.

(2) The acreage expansion, if authorized, will allow the certificate holder to apply the average of quantity of water beneficially used during the past three consecutive years to more land. Any such expansion which would result in detriment to existing rights shall be denied.

(3) Where the acreage expansion program is continuous from year to year, the initial documentation for three consecutive years of beneficial use of water shall apply to each year.

(4) New wells will not be permitted to be drilled as part of this program. Every well authorized for use under this program must be equipped with an accurately operating flow meter before acreage expansion can be implemented.

(5) By December 31 of each year, the water user shall submit in writing to the department a statement of the total water used, in acre feet, under the acreage expansion program for the completed irrigation season.

(6) The acreage expansion program will be administered as a temporary change of place of use through an annual letter of authorization. No amendment or change in any water right certificate shall be issued as part of this program.

The penalty for noncompliance with the provisions of this section shall include, but not be limited to, termination from the acreage expansion program for one calendar year.

NEW SECTION

WAC 173-130A-210 REGULATION REVIEW. The department may review these regulations whenever requested or by action initiated by the department.

REPEALER

The following chapter of the Washington Administrative Code is repealed in its entirety:

- (1) WAC 173-130-010 BACKGROUND.
- (2) WAC 173-130-020 AUTHORITY.
- (3) WAC 173-130-030 DEFINITIONS.
- (4) WAC 173-130-040 PURPOSE.
- (5) WAC 173-130-050 DEPTH ZONE DESIGNATION.
- (6) WAC 173-130-060 RATE OF DECLINE IN WATER LEVEL TO BE CONTROLLED.
- (7) WAC 173-130-070 MAXIMUM LOWERING OF THE WATER TABLE.
- (8) WAC 173-130-080 REGULATION OF WITHDRAWAL OF GROUND WATER.
- (9) WAC 173-130-090 NOTICE OF REGULATION.
- (10) WAC 173-130-100 NO INCREASE IN GROUNDWATER WITHDRAWALS DURING REGULATION.
- (11) WAC 173-130-110 SUPPLEMENTAL WELLS REGULATED.
- (12) WAC 173-130-120 ANNUAL VOLUME OF WATER DETERMINED.
- (13) WAC 173-130-130 NEW GROUNDWATER WITHDRAWALS.
- (14) WAC 173-130-140 NEW APPLICATIONS FOR WITHDRAWAL OF GROUNDWATERS.

- (15) WAC 173-130-150 TIME SEQUENCE FOR PROCESSING NEW APPLICATIONS TO APPROPRIATE GROUND WATER.
- (16) WAC 173-130-155 REWORKING WELLS.
- (17) WAC 173-130-160 BORE HOLE LOGS REQUIRED.
- (18) WAC 173-130-170 DISTANCE OF WELLS FROM EAST LOW CANAL.
- (19) WAC 173-130-180 SUPPLEMENTAL SURFACE WATER.
- (20) WAC 173-130-190 GROUNDWATER SUPERVISORS.
- (21) WAC 173-130-195 IRRIGATION SEASON.
- (22) WAC 173-130-200 REVIEW OF REGULATIONS.

WSR 82-10-074
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed May 5, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning the repealing of chapter 173-128 WAC, Odessa ground-water management subarea and the adopting of chapter 173-128A WAC, Odessa ground-water management subarea;

that such agency will at 7:00 p.m., Thursday, June 10, 1982, in the Lincoln Mutual Savings Bank, 101 East 1st, Ritzville, WA, and such agency will also conduct a hearing relative thereto at 7:00 p.m., Wednesday, June 9, 1982, at Connell High School, Connell, Washington.

The formal adoption, amendment, or repeal of such rules will take place at 2:00 p.m., Tuesday, June 29, 1982, in the Hearings Room, Department of Ecology, Air and Land Offices, Rowsix, 4224 Sixth Avenue S.E., Lacey, WA.

The authority under which these rules are proposed is RCW 43.21A.060, 43.21A.080, 43.27A.090, 90.44.130 and 90.54.040(2).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 18, 1982, and/or orally at the above hearings.

Dated: May 5, 1982
 By: Donald W. Moos
 Director

STATEMENT OF PURPOSE

Title: Repealing chapter 173-128 WAC, Odessa ground-water management subarea and adopting chapter 173-128A WAC, Odessa ground-water management subarea.

Description of Purpose: To establish expanded ground water management subarea.

Statutory Authority: RCW 43.21A.060, 43.21A.080, 43.27A.090, 90.44.130 and 90.54.040(2).

Summary of Rule: Expand the boundaries of the Odessa ground water subarea as originally set forth in chapter 173-128 WAC.

Reasons Supporting Proposed Action: To establish an expanded ground water management subarea.

Agency Personnel Responsible for Drafting: Bill Miller, Department of Ecology, MS PV-11, Olympia, WA

98504, (206) 459-6125; Implementation and Enforcement: Ted Olson, Department of Ecology, East 103 Indiana, Spokane, WA 99207, (509) 456-2926.

Person or Organization Proposing the Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Chapter 173-128A WAC
ODESSA GROUND WATER MANAGEMENT SUBAREA

- WAC
- 173-128A-010 Authority.
 - 173-128A-020 Background.
 - 173-128A-030 Purpose.
 - 173-128A-040 Subarea definition.
 - 173-128A-050 Subarea map.

NEW SECTION

WAC 173-128A-010 AUTHORITY. This regulation is promulgated by the department of ecology under authority and procedures provided in chapters 34.04, 43.21A, 90.03, and 90.44 RCW.

NEW SECTION

WAC 173-128A-020 BACKGROUND. (1) Since 1967, the segment of the Columbia basin ground water system centered around the community of Odessa has experienced a steady decline in ground water levels.

(2) Spurred by local concern and foreseeable management problems, the department of water resources (now department of ecology) closed an area of approximately 1,100 square miles to the drilling of large producing water wells and initiated a detailed investigation of ground water conditions in the Odessa basin.

(3) As a result of this investigation, a digital ground water model of the Odessa basin was developed and used in 1974 and 1975 to predict the effect of additional ground water withdrawals on existing water level declines.

(4) In 1975, the department expanded its ground water monitoring program and discontinued use of the predictive model.

(5) The expanded monitoring program, with additional data on the actual effects of pumping, included wells south of the subarea which showed ground water declines similar in magnitude to those inside the subarea.

NEW SECTION

WAC 173-128A-030 PURPOSE. The purpose of this regulation is to expand the boundaries of the Odessa ground water subarea as originally set forth in Chapter 173-128 WAC.

NEW SECTION

WAC 173-128A-040 SUBAREA DEFINITION. "Odessa ground water subarea" shall mean those land lying within the Columbia basin described as follows:

Township (North)	Range (East)	Sections
13	31	1 thru 12
13	32	1 thru 12
14	31	*1 thru 6, 8 thru 17, 19 thru 36, and that part of 7 and 18 lying to the left of the center line of the East Low Canal
14	32	1 thru 36
15	30	*1, and that part of 2, 11, 12 lying to the left of the center line of the East Low Canal
15	31	*1 thru 29, 32 thru 36, and that part of 30 and 31 lying to the left of the center line of the East Low Canal
15	32	1 thru 36
15	33	1 thru 36
16	30	*1 thru 4, 10 thru 14, 23 thru 25, 36, and that

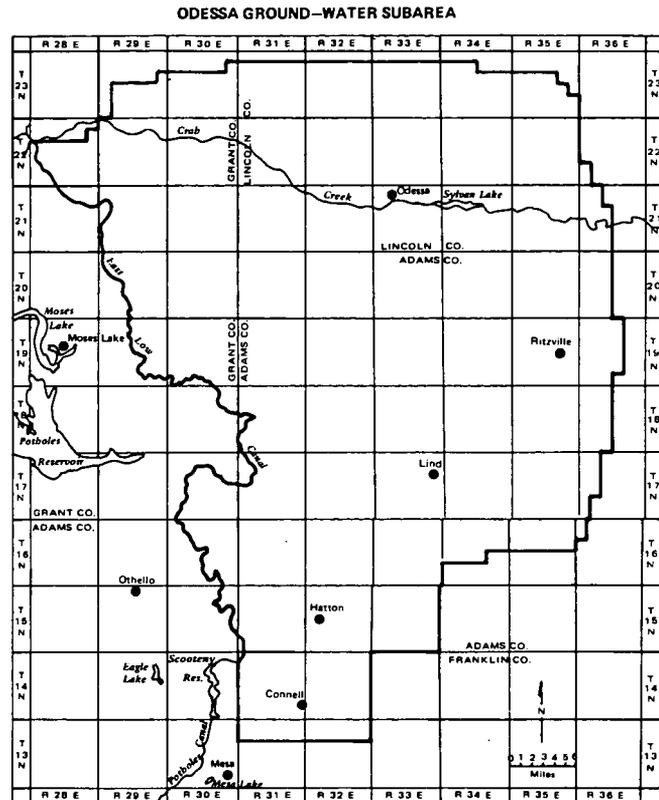
Township (North)	Range (East)	Sections
		part of 5, 6, 8, 9, 15, 16, 21, 22, 26, 27, 28, 34, and 35 lying to the left of the center line of the East Low Canal
16	31	1 thru 36
16	32	1 thru 36
16	33	1 thru 36
16	34	1 thru 22
16	35	1 thru 18
16	36	6 and 7
17	30	*15, 16, 21 thru 28, 33 thru 36, and that part of 8 thru 11, 13, 14, 17, 20, 29, 31, and 32 lying to the left of the center line of the East Low Canal
17	31	*1 thru 4, 9 thru 16, 19 thru 36, and that part of 5, 6, 8, 17 and 18 lying to the left of the center line of the East Low Canal
17	32	1 thru 36
17	33	1 thru 36
17	34	1 thru 36
17	35	1 thru 36
17	36	5 thru 8, 17 thru 20, 30 and 31
18	30	*1, 12 and that part of 2, 11, 13, and 14 lying to the left of the center line of the East Low Canal
18	31	*1 thru 16, 20 thru 29, 32 thru 36, and that part of 17, 18, 19, 30, and 31 lying to the left of the center line of the East Low Canal
18	32	1 thru 36
18	33	1 thru 36
18	34	1 thru 36
18	35	1 thru 36
18	36	4 thru 9, 16 thru 21, and 28 thru 33
19	29	*1 thru 3, 10 thru 14, 24, 25, and that part of 3, 4, 9, 10, 15, 16, 22, 23, 26, 27, 34, 35, and 36 lying to the left of the center line of the East Low Canal
19	30	*1 thru 27, 29, 30, 36 and that part of 28 and 31 thru 35 lying to the left of the center line of the East Low Canal
19	31	1 thru 36
19	32	1 thru 36
19	33	1 thru 36
19	34	1 thru 36
19	35	1 thru 36
19	36	3 thru 10, 15 thru 22 and 27 thru 33
20	29	*1 thru 5, 8 thru 15, 22 thru 27, 34 thru 36 and that part of 6, 7, 16, 17, 18, 21, 28 and 33 lying to the left of the center line of the East Low Canal
20	30	1 thru 36
20	31	1 thru 36
20	32	1 thru 36
20	33	1 thru 36
20	34	1 thru 36
20	35	1 thru 36
20	36	4 thru 9, 16 thru 21, and 28 thru 33
21	28	*1, 2, and that part of 3, 4, 10, 11 and 12 lying to the left of the center line of the East Low Canal
21	29	*1 thru 6, 9 thru 16, 20 thru 29, 32 thru 36 and that part of 7, 8, 17, 18, 19, 30 and 31 lying to the left of the center line of the East Low Canal
21	30	1 thru 36
21	31	1 thru 36
21	32	1 thru 36
21	33	1 thru 36
21	34	1 thru 36
21	35	1 thru 36
21	36	5 thru 8, 16 thru 21, and 28 thru 33
22	28	*12 thru 17, 20 thru 28, 34 thru 36 and that part of 18, 19, 29, 30, 32 and 33 lying to the left of the center line of the East Low Canal
22	29	1 thru 36
22	30	1 thru 36
22	31	1 thru 36
22	32	1 thru 36
22	33	1 thru 36
22	34	1 thru 36
22	35	1 thru 36
22	36	30 and 31
23	29	13, 20 thru 29, and 32 thru 36
23	30	12 thru 36
23	31	7 thru 36
23	32	7 thru 36
23	33	7 thru 36

Township (North)	Range (East)	Sections
23	34	7 thru 9 and 13 thru 36
23	35	15 thru 23 and 25 thru 36

*Right and left sides are determined by looking in the downstream or flow direction.

NEW SECTION

WAC 173-128A-050 SUBAREA MAP. "Odessa ground water subarea" shall include those land that lie within the heavy outline shown on the following map:



REPEALER

The following chapter of the Washington Administrative Code is repealed in its entirety:

- (1) WAC 173-128-010 BACKGROUND.
- (2) WAC 173-128-020 PURPOSE.
- (3) WAC 173-128-030 AUTHORITY.
- (4) WAC 173-128-040 SUBAREA DEFINITION.
- (5) WAC 173-128-050 SUBAREA MAP.

**WSR 82-10-075
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Filed May 5, 1982]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning the amending of WAC 173-19-310, Mason County and WAC 173-19-390, Snohomish County; that such agency will at 2:00 p.m., Tuesday, June 15, 1982, in the Hearings Room, Department of Ecology, Air and Land Offices, Rowesix, 4224 Sixth Avenue S.E., Lacey, WA, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 2:00 p.m., Wednesday, June 23, 1982, in Room 273, Department of Ecology, Abbott Rafael Hall, St. Martin's College Campus, Lacey, Washington.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 18, 1982 and/or orally at Hearings Room, Department of Ecology, Air and Land Offices, Rowsix, 4224 Sixth Avenue S.E., Lacey, WA.

Dated: May 5, 1982
By: Donald W. Moos
Director

STATEMENT OF PURPOSE

Title: Amending WAC 173-19-310, Mason County and WAC 173-19-390, Snohomish County.

Description of Purpose: Adoption of revised shoreline master programs into the state master program, chapter 173-19 WAC.

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendments adopt revisions to the shoreline master programs for Mason County and Snohomish County.

Reasons Supporting Proposed Action: Shoreline master programs and revisions thereto are developed by local government and submitted to the Department of Ecology for approval. The programs and revisions do not become effective until adopted by the department in accordance with the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Michael Rundlett, Department of Ecology, Mailstop PV-11, Olympia, WA 98504, 459-6276.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government, and local government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

AMENDATORY SECTION (Amending Order DE 80-12, filed 4/16/80)

WAC 173-19-310 MASON COUNTY. Mason County master program approved August 6, 1975. Revision approved December 18, 1975. Revision approved February 22, 1980. Revision approved June 23, 1982.

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-390 SNOHOMISH COUNTY. Snohomish County master program approved December 27, 1974. Revision approved June 16, 1978. Revision approved June 23, 1982.

WSR 82-10-076
PROPOSED RULES
DEPARTMENT OF ECOLOGY
(Filed May 5, 1982)

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning the amending of WAC 173-19-370, Skagit County and WAC 173-19-3704, La Conner, Town of;

that such agency will at 7:30 p.m., Wednesday, June 16, 1982, in the Skagit County Administration Building, Hearing Room C, Second and Kincaid, Mt. Vernon, Washington, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 2:00 p.m., Thursday, July 1, 1982, in the Hearings Room, Department of Ecology, Air and Land Offices, Rowsix, 4224 Sixth Avenue S.E., Lacey, WA.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 28, 1982 and/or orally at Skagit County Administration Building, Hearing Room C, Second and Kincaid, Mt. Vernon, Washington.

Dated: May 5, 1982
By: Donald W. Moos
Director

STATEMENT OF PURPOSE

Title: Amending WAC 173-19-370, Skagit County and WAC 173-19-3704, La Connor, Town of.

Description of Purpose: Adoption of revised shoreline master programs into state master program, chapter 173-19 WAC.

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendments adopt revisions to the shoreline master programs for Skagit County and the Town of LaConnor.

Reasons Supporting Proposed Action: Shoreline master programs and revisions thereto are developed by local government and submitted to the Department of Ecology for approval. The programs and revisions do not become effective until adopted by the department in accordance with the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Michael Rundlett, Department of Ecology, Mailstop PV-11, Olympia, WA 98504, 459-6276.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government, and local governments.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

AMENDATORY SECTION (Amending Order DE 81-38, filed 12/2/81)

WAC 173-19-370 SKAGIT COUNTY. Skagit County master program approved October 5, 1976. Revision approved January 5,

1979. Revision approved May 11, 1979. Revision approved March 3, 1980. Revision approved September 10, 1980. Revision approved December 10, 1980. Revision approved September 23, 1981. Revision approved November 23, 1981. Revision approved July 1, 1982.

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-3704 LA ((~~CONNOR~~)) CONNER, TOWN OF. Town of La Conner master program approved May 3, 1977. Revision approved July 1, 1982.

WSR 82-10-077
PROPOSED RULES
DEPARTMENT OF FISHERIES
(Filed May 5, 1982)

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning commercial fishing regulations;

that such agency will at 10:00 a.m., Monday, June 21, 1982, in the Conference Room, General Administration Building, Olympia, Washington, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 3:15 p.m., Tuesday, June 22, 1982, in the Department of Fisheries Conference Room, General Administration Building, Olympia, Washington.

The authority under which these rules are proposed is RCW 75.08.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 18, 1982, and/or orally at 10:00 a.m., Monday, June 21, 1982, Conference Room, General Administration Building, Olympia, Washington.

Dated: May 5, 1982

By: Rolland A. Schmitt
Director

STATEMENT OF PURPOSE

Title: WAC 220-22-410, 220-44-030, 220-44-040 and chapters 220-16 and 220-48 WAC.

Description of Purpose: Modify rules affecting coastal and Puget Sound commercial bottomfish fisheries.

Statutory Authority: RCW 75.08.080.

Summary of Rules: Chapter 220-16 WAC, redefines gear types; WAC 220-22-410, creates new Marine Fish-Shellfish Management and Catch Reporting Area; WAC 220-44-030, sets gear restrictions in coastal waters; WAC 220-44-040, sets season restrictions in coastal waters; and chapter 220-48 WAC, sets gear and season restrictions in Puget Sound.

Reasons Supporting Proposed Action: Chapter 220-16 WAC, conforms state and federal regulations under Pacific Coast Groundfish Management Plan; WAC 220-22-410, allows delimitation of catch from United States and Canadian coastal waters; WAC 220-44-030 and 220-44-040, conforms state and federal regulations under Pacific Coastal Ground Fish Management Plan; and chapter 220-48 WAC, Puget Sound gear regulations are conformed with coastal gear regulations. Pelagic trawl targets hake and pollock only.

Agency Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, 754-2429; Implementation: Gene DiDonato, 115 General Administration Building, Olympia, 753-6716; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, 753-6585.

These rules are proposed by the Washington State Department of Fisheries.

Comments: None.

These rules are not the result of federal law or any court order.

AMENDATORY SECTION (Amending Order 810, filed 4/17/69)

WAC 220-16-015 GENERAL DEFINITIONS—
((BEAM)) TRAWL GEAR. ("Beam trawl" shall be defined as a bag-shaped trawl net not utilizing weighted otter frames or otter doors when operated, with minimum mesh size 4 1/2 inches in a food fish fishery or 1-1/2 inches in the shrimp fishery.) (1) "Otter trawl" shall be defined as a cone or funnel-shaped net which is towed or drawn through the water by one or two vessels. Otter trawl nets may be used both on and off the seabed. Otter trawl nets may be fished with or without trawl doors, and may employ warps or cables to direct fish. Otter trawl nets are restricted to the following three categories:

(a) "Bottom trawl" means an otter trawl in which the otter boards or the footrope of the net contact the seabed, and includes Danish and Scottish seine gear.

(b) "Roller trawl" or "bobbin trawl" are identical, and mean an otter trawl with footropes equipped with rollers or bobbins made of wood, steel, rubber, plastic, or other hard material which protects the net during fishing on the seabed.

(c) "Pelagic trawl" means an otter trawl in which the otter boards may be in contact with the seabed but the footrope of the net remains above the seabed. Pelagic trawl nets may not have footropes protected at the trawl mouth with rollers, bobbins, or discs.

(2) "Beam trawl" shall be defined as a bag-shaped trawl net not utilizing weighted otter frames or otter doors when operated. The minimum mesh size for beam trawl nets is four and one-half inches in a food fish fishery and one and one-half inches in a shrimp fishery, unless otherwise provided.

(3) "Shrimp trawl" shall be defined as a tapered, funnel-shaped trawl net in which the mesh size is two inches or less in the intermediate and codend sections of the trawl. Otter doors or boards are used to spread the mouth of the net horizontally as it is towed. The mouth of the net is formed on the upper edge by a line to which floats are attached (headrope) and on the lower edge by a line which is usually weighted (footrope). Additional webbing is frequently attached to the codend section to prevent the net from chafing.

(4) "Scallop dredge" shall be defined as trawl gear with interlocking metal ring meshes, which is legal gear for harvest of scallops.

(5) "Codend" shall be defined as the terminal, closed end of a trawl net.

(a) Single-walled codend is a codend constructed of a single wall of webbing knitted with single-ply mesh, or with double-ply mesh (double twine tied into a single knot).

(b) Double-walled codend is a codend constructed of two walls of webbing. The double-walled portion of the codend must be tied knot-to-knot to the trawl net, and may not be longer than twenty-five trawl meshes or twelve feet, whichever is greater. The use of double-walled codends is unlawful in pelagic trawls, roller trawls, and bobbin trawls.

(6) "Chafing gear" shall be defined as webbing or other material attached to the bottom (underside) or around the codend of a trawl net to protect the codend from wear. Chafing gear must not be connected to the terminal (closed) end of the codend.

(7) "Trawl riblines" shall be defined as heavy ropes or lines that run down the sides, top or underside of a trawl net from the mouth of the net to the terminal end of the codend to strengthen the net during fishing.

(8) "Trawl mesh size" shall be defined as the distance between the inside of one knot and the inside of the opposite vertical knot in trawl mesh. Minimum trawl mesh size requirements are met if a wedge of legal size can be passed without undue force through sixteen of twenty sets of two meshes each of wet mesh in the codend.

AMENDATORY SECTION (Amending Order 810, filed 4/17/69)

WAC 220-16-090 DEFINITIONS—SET LINE. "Set line" shall be defined as a ~~((time))~~ stationary, buoyed, and anchored ground line with ~~((baited))~~ hooks attached ~~((thereto, laid on the bottom or held in suspension, either anchored or tied to shore, and attached to a marker buoy to which shall be affixed the license number under which the gear is operated))~~. Set lines must be marked at the surface at each terminal end with a pole, flag, light, radar reflector, and a buoy displaying clear identification of the owner or operator.

NEW SECTION

WAC 220-16-126 TROLL SPREAD. "Troll spread" shall be defined as a line which has one or more lures attached to it and is attached to the main troll line which cannot be removed from the vessel during its operation.

AMENDATORY SECTION (Amending Order 866, filed 6/12/70)

WAC 220-16-145 DEFINITIONS—BOTTOMFISH POT. "Bottomfish pot" shall be defined as a portable ~~((trap)), enclosed device with one or more gates or entrances ((ways, with line) and one or more lines attached to ((a)) surface ((buoy to which shall be affixed the license number under which the gear is operated and used for the purpose of taking any species of bottomfish. A section of one vertical wall must be constructed of cotton fiber or one of the walls of synthetic fiber must be attached to the frame with cotton hangings to permit escapement of fish if the bottomfish pot is lost)) floats. Bottomfish pots must have biodegradable escape panels constructed with #21 or smaller untreated cotton twine in such a manner that an opening at least eight inches in diameter results when the twine deteriorates. Bottom fish pots set individually must be marked at the surface with a pole and a flag, light, or radar reflector, and a buoy displaying clear identification of the owner. Bottomfish pots laid on a groundline must be marked at the surface at each terminal end of the groundline with a pole and a flag, light, or radar reflector, and a buoy displaying clear identification of the owner or operator.~~

AMENDATORY SECTION (Amending Order 82-6, filed 1/19/82)

WAC 220-16-315 GENERAL DEFINITIONS—NET MESH MEASUREMENT. The size of a mesh of any net shall be defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh when the mesh is stretched vertically, while wet, by using a tension of ten pounds on any three consecutive meshes, then measuring the middle mesh of the three while under tension ~~((; except when measuring mesh used in otter trawl and shrimp trawl nets, the size of a mesh shall be defined as the distance between the inside of one knot to the inside of the opposite vertical knot));~~ trawl net mesh - see WAC 220-16-015.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- (1) WAC 220-16-070 DEFINITIONS—OTTER TRAWL.
- (2) WAC 220-16-130 DEFINITIONS—SHRIMP TRAWL.
- (3) WAC 220-16-132 SCALLOP—DREDGE.

AMENDATORY SECTION (Amending Order 80-45, filed 6/11/80)

WAC 220-22-410 MARINE FISH-SHELLFISH MANAGEMENT AND CATCH REPORTING AREAS, COASTAL WATERS. (1) Area 50 shall include waters of the Bering Sea north of the Aleutian Islands.

(2) Area 51 shall include waters south of the Aleutian Islands and west of longitude 159° W.

(3) Area 52 shall include waters west of longitude 154° W and east of Area 51.

(4) Area 53 shall include waters west of longitude 147° W and east of Area 52.

(5) Area 54 shall include waters west of longitude 137° W and east of Area 53.

(6) Area 55 shall include waters north of latitude 54° 40' N and east of Area 54.

(7) Area 56 shall include waters north of latitude 50° 30' N and south of Area 55.

(8) Area 57 shall include waters north of latitude 48° 26' N and south of Area 56.

(9) Area 58A shall include waters north of the United States - Canada boundary and south of Area 57.

(10) Area 58B shall include waters west of a line projected 220° True southwest from the equidistant point between the United States and Canada along the Cape Flattery to Bonilla Point line, north of a line projected true west from Point Grenville and south of Area ((57)) 58A.

~~((+0))~~ (11) Area 59 shall include waters east of the 220° True line, west of a line from Cape Flattery to Bonilla Point, and north of a line true west from Point Grenville.

~~((+1))~~ (12) Area 60A shall include waters north of a line projected true west from the Washington-Oregon boundary in the Columbia River, and south of Areas 58 and 59, exclusive of the Columbia River estuary, Grays Harbor and Willapa Bay.

~~((+2))~~ (13) Area 60B shall include the waters of Grays Harbor east of a line projected from the outermost end of the north jetty to the outermost end of the south jetty.

~~((+3))~~ (14) Area 60C shall include the saltwater areas of Willapa Bay east of a line from Leadbetter Point to Cape Shoalwater light.

~~((+4))~~ (15) Area 60D shall include waters of the Columbia River east of a line projected from the inshore end of the north jetty in the state of Washington to the knuckle of the south jetty in the state of Oregon, and west of the Megler-Astoria Bridge.

~~((+5))~~ (16) Area 61 shall include waters north of latitude 42° 00' N, and south of Area 60A, exclusive of the Columbia River estuary.

~~((+6))~~ (17) Area 62 shall include waters north of latitude 38° 00' N, and south of Area 61.

~~((+7))~~ (18) Area 63 shall include waters north of latitude 32° 00' N, and south of Area 62.

~~((+8))~~ (19) Area 64 shall include all waters south of Area 63.

~~((+9))~~ (20) This WAC will not apply to hardshell clams, oysters, or geoducks.

AMENDATORY SECTION (Amending Order 82-6, filed 1/19/82)

WAC 220-44-030 COASTAL BOTTOMFISH GEAR. ~~((+))~~ It is unlawful to take, fish for, possess, transport through the waters of the state or land in any Washington state ports, bottomfish taken for commercial purposes in coastal or Pacific Ocean waters with any gear except as provided in ~~((subsection (8) of))~~ this section ~~((or as follows))~~:

~~((a))~~ (1) Otter trawl and beam trawl.

~~((b))~~ Set lines:

(c) Hand line jig gear:

(d) Troll lines:

(e) Bottomfish pots:

(2) In fishing with hand line jig gear within state waters, it is unlawful to use more than three hooks per license with a maximum of six hooks per vessel:

(3) In fishing with set lines within state waters, it is unlawful to use more than three lines and more than 500 hooks per line:

(4) It is unlawful for the operator of set lines to leave such gear unattended unless marked as provided in WAC 220-20-010(5):

(5) It is unlawful to take, fish for or possess any species of shellfish taken with lawful bottomfish gear except as provided in WAC 220-52-053, 220-52-063, 220-52-066, 220-52-069, and 220-52-071:

(6) It is unlawful to take, fish for or possess salmon while fishing for bottomfish with troll line gear under authority of a bottomfish troll license, provided, in any coastal waters it is lawful to retain for commercial purposes any species of bottomfish taken with commercial salmon gear incidental to a lawful salmon fishery:

(7) It is unlawful to use, operate, or carry aboard any fishing vessel, otter trawl gear having meshes measuring less than 3 inches, except that it is lawful to use otter trawl nets having a minimum mesh size of 2-1/2 inches when fishing for Pacific hake.

(8) It is lawful in any coastal waters to retain for commercial purposes any species of bottomfish taken with shrimp trawl or scallop dredge gear incidental to a lawful shrimp or scallop fishery:))

(a) It is unlawful to use, operate or carry aboard any fishing vessel otter trawl gear having meshes measuring less than 3 inches.

(b) It is unlawful to use or operate any bottom trawl having meshes less than 4.5 inches. A bottom trawl must have a minimum of two continuous riblines sewn to the net and extending from the mouth of the trawl net to the terminal end of the codend if the fishing vessel is simultaneously carrying aboard a net of less than 4.5-inch minimum mesh size.

For all bottom trawls, chafing gear must have a minimum mesh size of 15 inches unless only the bottom one-half (underside) of the codend is covered by chafing gear.

(c) It is unlawful to use or operate a roller or bobbin trawl with meshes less than 3.0 inches. It is unlawful to use a double wall codend in any roller or bobbin trawl. Chafing gear covering the upper one-half (top side) of the codend must have a minimum mesh size of 6.0 inches. Rollers, bobbins, or discs used in roller or bobbin trawls must be a minimum of 14 inches in diameter.

(d) It is unlawful to use or operate a pelagic trawl with meshes less than 3.0 inches. It is unlawful to use a double wall codend in any pelagic trawl. Chafing gear covering the upper one-half (top side) of the codend must have a minimum mesh size of 6 inches. Footropes of pelagic trawls must be less than 1.75 inches in diameter, including twine necessary for seizing material. Sweeplines, including the bottom leg of the bridle, must be bare.

(2) Set lines. In fishing with set lines within state waters, it is unlawful to use more than three lines and more than 500 hooks per line. It is unlawful for the operator of set lines to leave such gear unattended unless marked as provided in WAC 222-16-090. Set lines must be attended at least once every seven days.

(3) Bottomfish pots. It is unlawful for the operator of bottomfish pots to leave such gear unattended unless marked as provided in WAC 220-16-145. Bottomfish pots must be attended at least once every seven days.

(4) Hand line jig gear. In fishing with hand line jig gear within state waters, it is unlawful to use more than three hooks per license with a maximum of six hooks per vessel unless otherwise authorized by a permit from the director of the department of fisheries.

(5) Troll lines. It is unlawful to take, fish for or possess salmon while fishing for bottomfish with troll line gear under authority of a bottomfish troll license, except that in any coastal waters it is lawful to retain for commercial purposes any species of bottomfish taken with commercial salmon gear incidental to a lawful salmon fishery.

(6) Shrimp trawls. It is unlawful in any coastal waters, to retain for commercial purposes more than 1,500 pounds per day of any bottomfish species other than Pacific whiting, shortbelly rockfish or arrowtooth flounder taken with shrimp trawl gear incidental to a lawful shrimp fishery.

(7) It is unlawful to take, fish for or possess any species of shellfish taken with lawful bottomfish gear except as provided in WAC 220-52-053, 220-52-063, 220-52-066, 220-52-069, and 220-52-071.

AMENDATORY SECTION (Amending Order 81-3, filed 1/7/81)

WAC 220-44-040 COASTAL BOTTOMFISHING SEASONS.

(1) It ~~((shall be))~~ is lawful to take, fish for and possess for commercial purposes bottomfish in coastal waters taken with gear described in WAC 220-44-030 all year in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59, 60A and 61, ~~((and that portion of 58 within the United States 200 mile fishery conservation zone;))~~ unless otherwise provided.

(2) It ~~((shall be))~~ is unlawful to possess or transport through the waters of the state, or land in any Washington state ports, any Pacific ocean perch (*Sebastes alutus*) taken from Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59, 60A, and 61 ~~((and that portion of Area 58 within the United States 200 mile fishery conservation zone)),~~ in amounts in excess of ~~((+0,000))~~ 5,000 pounds or 10 percent of the total weight of fish on board, whichever is greater.

NEW SECTION

WAC 220-48-001 PUGET SOUND BOTTOMFISH GEAR. It

is unlawful to fish for bottomfish for commercial purposes in Puget Sound with any gear except as follows:

(1) Beam trawl and otter trawls, which include bottom trawl, roller trawl, and pelagic trawl.

(2) Set lines.

(3) Hand line jig.

(4) Troll lines.

(5) Drag seines.

(6) Bottomfish pots.

(7) Set nets, which include Pacific cod set nets and dogfish set nets.

NOTE: Gear specifications and seasons are provided for in the rest of chapter 220-48 WAC.

NEW SECTION

WAC 220-48-005 PUGET SOUND BOTTOMFISH—GENERAL PROVISIONS. (1) It is unlawful to retain for commercial purposes any species of dab or sole less than 12 inches in length taken by any commercial bottomfish gear in Marine Fish-Shellfish Area 20A from March 1 through April 15.

(2) It is unlawful to take, fish for, or possess for commercial purposes any starry flounder less than 14 inches in length taken by any commercial bottomfish gear in all Puget Sound Marine Fish-Shellfish Areas.

(3) It is unlawful to take or possess lingcod with any gear the entire year in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 25B, 26A, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, and 28D.

(4) It is unlawful to take or possess lingcod with any gear from December 1 through April 14 in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, 23, and 25A.

(5) It is unlawful to take, fish for or possess any species of shellfish taken with lawful bottomfish gear except as provided in WAC 220-52-053, 220-52-063, 220-52-066, 220-52-069, and 220-52-071.

(6) It is unlawful to return any dogfish or ratfish taken by commercial bottomfish gear to the waters of that portion of Puget Sound Marine Fish-Shellfish Area 25A (Discovery Bay) southerly of a line projected from Diamond Point to Cape George.

NEW SECTION

WAC 220-48-011 BEAM TRAWL AND OTTER TRAWL—GEAR. (1) Mesh sizes. It is unlawful to use or operate beam trawls or otter trawls having mesh size in the codend section less than 4 1/2 inches in waters of Puget Sound, unless otherwise provided.

(a) It is lawful to use or operate bottom trawl gear having mesh size in the codend section of not less than 3 inches in Marine Fish-Shellfish Catch Reporting Areas 28A, 28B, 28C, and 28D, during December 1 through March 31, and in Area 20A from March 1 through April 15.

(b) It is lawful to use or operate roller trawl gear having mesh size in the codend section of not less than 3 inches in Marine Fish-Shellfish Catch Reporting Area 20A from March 1 through April 15.

(c) It is lawful to use or operate pelagic trawl gear having mesh size of not less than 2 inches while fishing for Pacific hake during the season provided in WAC 220-48-017(1), and not less than 3 inches while fishing for walleye pollock during the season provided in WAC 220-48-017(2).

(2) Chafing gear.

(a) For bottom trawls, chafing gear must have a minimum mesh size of 15 inches unless only the bottom one-half (underside) of the codend is covered by chafing gear.

(b) For roller trawls and pelagic trawls chafing gear covering the upper one-half (top side) of the codend must have a minimum mesh size of 6.0 inches.

NEW SECTION

WAC 220-48-015 BEAM TRAWL AND BOTTOM TRAWL—SEASONS. (1) It is lawful to take, fish for and possess bottomfish taken with bottom trawl and beam trawl gear in Marine Fish-Shellfish Catch Reporting Areas 20A, 20B, 21A, 22A, 23, 25A, and 25B the entire year with the following exceptions:

(a) Those waters of Marine Fish-Shellfish Catch Reporting Areas 20A and 21A east of a line projected from Point Whitehorn to Sandy Point shall be closed the entire year.

(b) Washington Harbor (Sequim Bay) and that portion of Discovery Bay lying southerly of a line projected from Mill Point true east to the opposite shore shall be closed the entire year.

(c) It is unlawful to take, fish for or possess bottomfish taken with bottom trawl and beam trawl gear in that portion of Marine Fish-Shellfish Catch Reporting Area 25A lying southerly of a line projected from Diamond Point to Cape George during the period February 15 through November 30 each year.

(2) It is lawful to take, fish for and possess bottomfish with bottom trawl and beam trawl gear in Marine Fish-Shellfish Catch Reporting Areas 22B, 24A, 24B, 26A, 26B, and 26D from April 15 through February 15 with the following exceptions:

(a) Those waters of Area 24A east of a line from Polnell Point on Whidbey Island to Rocky Point on Camano Island, and west of a line

from Strawberry Point on Whidbey Island to Brown Point on Camano Island, are closed except from June 15 through February 15.

(b) Holmes Harbor south of a line projected true west from Hackney Island to Whidbey Island is closed, except from January 3 through February 15.

(c) Elliot Bay inside a line projected from Four Mile Rock to Alki Point is closed the entire year.

(d) Those waters of Area 26D inside lines projected from Dash Point to Point Piner on Maury Island, and from Point Dalco on Vashon Island to Point Defiance, and those waters south of a line true west from Point Defiance to the Kitsap Peninsula are closed the entire year.

(e) Those waters provided for in WAC 220-20-020(5).

(f) It is lawful to take, fish for and possess Pacific hake taken with bottom trawl and beam trawl gear the entire year.

(3) It is unlawful to take, fish for or possess bottomfish taken with bottom trawl and beam trawl gear for commercial purposes in Marine Fish-Shellfish Catch Reporting Areas 27A, 27B, and 27C except on Mondays and Thursdays from December 1 through February 28.

(4) It is lawful to take, fish for and possess bottomfish taken with bottom trawl and beam trawl gear in Marine Fish-Shellfish Catch Reporting Areas 28A, 28B, 28C, and 28D from December 1 through March 31, with the exception of the following closed waters:

(a) Those waters of Hale Passage and the Narrows east and north of lines projected from Fox Point on Fox Island true east to the mainland, and from the northwest point on Fox Island true north to the mainland.

(b) Budd Inlet south of the northern boundary of the restricted berthage area shown on United States Coast Guard Chart No. 6460.

(c) Eld Inlet south and west of a line projected true south from Flapjack Point.

(d) Totten Inlet south and west of lines projected true north and true east from the outermost point on the west side of Gallagher Cove.

(e) Henderson Inlet south of a line projected true east from Dickerson Point; the waters inside Hartstene Island between lines projected from Unsal Point to Brisco Point and Salmon Point true east to Hartstene Island; and all of Hammersley Inlet.

(5) It is unlawful to take, fish for or possess bottomfish taken with bottom trawl or beam trawl gear for commercial purposes in Marine Fish-Shellfish Catch Reporting Areas 21B and 26C the entire year.

NEW SECTION

WAC 220-48-017 PELAGIC TRAWL—SEASONS. It is lawful to take, fish for and possess bottomfish taken with pelagic trawl gear:

(1) All year in Marine Fish-Shellfish Catch Reporting Areas 22B, 24A, 24B, 26A, 26B, and 26D.

(2) March 1 through April 15 in Marine Fish-Shellfish Catch Reporting Area 20A.

(3) In any area at any time so designated by a permit issued by the director of the department of fisheries.

NEW SECTION

WAC 220-48-019 ROLLER TRAWL—SEASONS. It is lawful to use roller trawls in the same areas and during the same seasons as bottom trawl.

NEW SECTION

WAC 220-48-025 SET NET—PACIFIC COD—GEAR. (1) It is lawful to take, fish for and possess Pacific cod with the following set net gear:

(a) Maximum three nets per vessel, each net having a length not to exceed 600 feet.

(b) Net mesh must not be less than 5 inches.

(c) Net depth must not exceed 25 meshes.

(2) Pacific cod set net tags, issued by the department of fisheries, must be affixed to buoys on each end of each net.

NEW SECTION

WAC 220-48-026 SET NET—PACIFIC COD—SEASONS. It is lawful to take, fish for and possess Pacific cod and other species of bottomfish, except halibut, salmon and shellfish, taken with Pacific cod set net gear for commercial purposes in Area 25B from January 15 through April 15, except in those waters west of a line projected from Point Hudson to Marrowstone Point and north of the Indian Island Bridge, the open season is February 1 through March 31.

NEW SECTION

WAC 220-48-028 SET NET—DOGFISH—GEAR. (1) It is lawful to take, fish for and possess dogfish with set net gear as described below:

(a) Maximum four nets, per vessel each net having a length not to exceed 1,000 feet.

(b) Net depth must not exceed 25 meshes.

(c) Net mesh must not be less than 5 inches.

(d) Net web material must be no finer than 210/30 denier nylon which is regular seine thread size number 12, or 0.048 inches in diameter.

(e) Dogfish set net tags, issued by the department of fisheries must be affixed to buoys on each end of each net.

NEW SECTION

WAC 220-48-029 SET NET—DOGFISH—SEASONS. It is lawful to take, fish for and possess dogfish and other species of bottomfish, except halibut, salmon and shellfish, taken with set net gear for commercial purposes in the following Puget Sound Marine Fish-Shellfish Areas during the seasons provided hereinafter in each respective area:

(1) Areas 20A and 20B and that portion of 21A west of a line from Sandy Point to Point Migley - November 1 through June 15.

(2) Area 21A east of a line from Sandy Point to Point Migley - March 1 through June 15.

(3) Areas 21B, 22A, 22B - Closed all year.

(4) Area 23 - Open all year.

(5) Area 24A - Open all year, except those waters south of a line projected due east of East Point on Whidbey Island are closed November 1 through April 30.

(6) Area 24B - Open all year.

(7) Area 25A - Open all year, except those waters south of a line between Cape George and Diamond Point are closed all year except by permit issued by the director.

(8) Area 25B - Open all year, except those waters west of a line from Point Hudson to Marrowstone Point and north of the Indian Island Bridge shall be closed from April 1 through January 31.

(9) Area 26A - Open all year, except those waters southerly and westerly of a line between the ferry dock at Mukilteo and the ferry dock at Clinton are closed all year.

(10) Area 26B - Open all year, except those waters west of a line from Point Monroe to the entrance of Miller Bay are closed January 15 through April 30.

(11) Area 26C - Open all year, except those waters north of a line projected true east of Point Bolin are closed January 15 through April 30.

(12) Area 26D - Open all year, except those waters south of lines projected from Dash Point to Point Piner on Maury Island and from Point Dalco on Vashon Island to Point Defiance and true west from Point Defiance to the Kitsap Peninsula are closed all year.

(13) Areas 27A, 27B, and 27C - Open all year.

(14) Area 28A - Open all year, except those waters north of a line projected true east of Fox Point on Fox Island, and east of a line projected due north from the northwest tip of Fox Island are closed all year.

(15) Areas 28B, 28C, and 28D - Open all year.

NEW SECTION

WAC 220-48-031 SET LINE—GEAR. It is lawful to take, fish for, and possess bottomfish with set line gear as described below:

(1) Three set lines per license, having not more than 500 hooks per line.

(2) Hook size must not be smaller than 9/0.

(3) Gangions made of single strand monofilament synthetic material are unlawful.

NEW SECTION

WAC 220-48-032 SET LINE—SEASONS. It is lawful to take, fish for, and possess dogfish and other bottomfish with set lines in all Marine Fish-Shellfish Catch Reporting Areas the entire year.

NEW SECTION

WAC 220-48-041 HAND LINE JIG—GEAR. It is lawful to take fish, for, and possess bottomfish with hand line jig gear so long as

no more than 3 hooks per license or 6 hooks per vessel may be used unless otherwise authorized by a permit from the director.

NEW SECTION

WAC 220-48-042 **HAND LINE JIG—SEASONS.** It shall be lawful to take, fish for, and possess bottomfish for commercial purposes with hand line jig gear in Marine Fish—Shellfish Catch Reporting Area 23 the entire year. All other Marine Fish—Shellfish Areas are open from April 1 through November 30.

NEW SECTION

WAC 220-48-051 **TROLL LINES—BOTTOMFISH—GEAR.** It is lawful to take, fish for, and possess bottomfish with troll line gear as specified below, unless otherwise provided:

- (1) No more than two troll lines per vessel.
- (2) No more than four spreads per line.
- (3) The top spread can not be more than twenty-four feet from the weight on the end of the line.

NEW SECTION

WAC 220-48-052 **TROLL LINES—BOTTOMFISH—SEASONS.** (1) It is lawful to take, fish for, and possess bottomfish, unless otherwise provided, with troll lines in Area 23 the entire year. All other Marine Fish—Shellfish Catch Reporting Areas are open from April 1 through November 30.

(2) It is unlawful to take, fish for or possess salmon while fishing for bottomfish with troll line gear under authority of a bottomfish troll license, provided; in any waters of Puget Sound it is lawful to retain for commercial purposes bottomfish taken with commercial salmon gear incidental to a lawful salmon fishery, except lingcod during closures provided in WAC 220-48-005.

NEW SECTION

WAC 220-48-061 **DRAG SEINES—GEAR.** It is lawful to take, fish for, and possess bottomfish, unless otherwise provided, with drag seine or beach seine gear as described below:

- (1) Seines must not be longer than 350 feet in length.
- (2) Net mesh must not be smaller than 1/2 inch stretch measure.

NEW SECTION

WAC 220-48-062 **DRAG SEINES—SEASONS.** It is lawful to take, fish for, and possess bottomfish with drag seine gear for commercial purposes in the following Marine Fish—Shellfish Catch Reporting Areas during the seasons designated below:

- (1) Areas 28A, 28B, 28C, and 28D - January 1 through May 14.
- (2) All other areas - September 1 through May 14.

NEW SECTION

WAC 220-48-071 **BOTTOMFISH POTS—GEAR AND SEASONS.** It shall be lawful to take, fish for, and possess bottomfish, unless otherwise provided, for commercial purposes with bottomfish pot gear as described in WAC 220-16-145, in all Marine Fish—Shellfish Catch Reporting Areas the entire year.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- (1) WAC 220-48-080 **PUGET SOUND BOTTOMFISH GEAR.**
- (2) WAC 220-48-090 **OTTER TRAWL AND BEAM TRAWL SEASONS.**
- (3) WAC 220-48-09001 **SIZE LIMIT—DAB AND SOLE.**
- (4) WAC 220-48-091 **SET NET—PACIFIC COD—SEASONS.**
- (5) WAC 220-48-092 **SET NET—PACIFIC COD—GEAR.**
- (6) WAC 220-48-095 **SET NET—DOGFISH—GEAR.**
- (7) WAC 220-48-096 **SET NET—DOGFISH—SEASONS.**
- (8) WAC 220-48-098 **LINGCOD—SEASONS.**
- (9) WAC 220-48-100 **SEASONS—OTHER BOTTOMFISH GEARS.**

WSR 82-10-078
PROPOSED RULES
DEPARTMENT OF FISHERIES
[Filed May 5, 1982]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning commercial fishing regulations;

that such agency will at 7:00 p.m., Tuesday, June 8, 1982, in the South Bend Community Center, South Bend, Washington, conduct a hearing relative thereto.

The formal adoption, amendment, or repeal of such rules will take place at 3:15 p.m., Wednesday, June 9, 1982, in the Department of Fisheries Conference Room, General Administration Building, Olympia, Washington.

The authority under which these rules are proposed is RCW 75.08.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to June 7, 1982, and/or orally at 7:00 p.m., Tuesday, June 8, 1982, South Bend Community Center, South Bend, Washington.

Dated: May 5, 1982
By: Rolland A. Schmitt
Director

STATEMENT OF PURPOSE

Title: WAC 220-22-020, 220-36-021, 220-36-022, 220-36-023, 220-40-021, 220-40-022 and 220-40-024.

Description of Purpose: Modify rule affecting Grays Harbor and Willapa Harbor commercial salmon fisheries for the 1982 season.

Statutory Authority: RCW 75.08.080.

Summary of Rule: WAC 220-22-020, creates new Willapa Harbor Salmon Management and Catch Reporting Area; 220-36-021, changes Grays Harbor season openings; 220-36-022, changes Grays Harbor weekly openings; 220-36-023, changes Grays Harbor legal gear; 220-40-021, changes Willapa Harbor season openings; 220-40-022, changes Willapa Harbor weekly openings; and 220-40-024, changes Willapa Harbor legal gear.

Reasons Supporting Proposed Action: WAC 220-22-020, change needed to provide for additional harvest opportunity on fish expected to return to the Naselle Hatchery; chapter 220-36 WAC, changes needed to allow harvest of Grays Harbor salmon expected to return in 1982; and chapter 220-40 WAC, changes needed to allow harvest of Willapa Harbor salmon expected to return in 1982.

Agency Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, 754-2429; Implementation: Duane Phinney, 115 General Administration Building, 753-6600; and Enforcement: James W. McKillip, 115 General Administration Building, 753-6585.

These rules are proposed by the Washington Department of Fisheries.

Comments: None.

These rules are not the result of federal law or any court order.

AMENDATORY SECTION (Amending Order 81-37, filed 6/8/81)

WAC 220-22-020 COAST, WILLAPA HARBOR, GRAYS HARBOR SALMON MANAGEMENT AND CATCH REPORTING AREAS. (1) Area 1 shall include those waters of District 1 and the Oregon coast westerly of a line projected from the inshore end of the north Columbia River jetty in the state of Washington to the knuckle of the south Columbia River jetty in the state of Oregon, northerly of a line projected true west from Tillamook Head in Oregon and southerly of a line projected true west from Leadbetter Point in Washington.

(2) Area 2 shall include those waters of District 1 northerly of a line projected true west from Leadbetter Point and southerly of a line projected true west from the Queets River mouth.

(3) Area 2A shall include those waters of Grays Harbor and the Chehalis River estuary upstream from the Union Pacific Railroad Bridge at Aberdeen to a line projected from the Standard Oil Dock at a right angle to the thread of the stream to a fishing boundary marker set on the opposite shore.

(4) Area 2B shall include those waters of Grays Harbor lying easterly of a straight line projected from the Point Chehalis Light, located 123 feet above mean high water at Westport, through lighted buoy 13 to where it intersects with the shore at Point Brown, southerly of a line projected from a fishing boundary marker at Ocean Shores Marina, to a fishing boundary marker on Sand Island and thence to the tripod station at Brackenridge Bluff, westerly of a line projected from the tripod station at Brackenridge Bluff southward and extending through channel marker 8 in the south channel at the mouth of Johns River to the mainland, and northerly of the Bay City Bridge.

(5) Area 2C shall include those waters of Grays Harbor northerly of a line projected from a fishing boundary marker at Ocean Shores Marina to a fishing boundary marker on Sand Island to the tripod station at Brackenridge Bluff and westerly of a line starting at a monument located at the point of Holman Bluff near the mouth of Grass Creek and projected to a monument set on Point New, exclusive of those waters within 1/4 mile of a monument set on the beach near the mouth of Chenois Creek and those waters northerly of a line starting at a monument located near the beach in front of the Giles Hogan residence located west of the mouth of the Humptulips River, thence projected in a southeasterly direction to a monument set on the most southerly tip of the grass spit at the mouth of the Humptulips River, thence projected in an easterly direction to a point on Chenois Bluff at 47° 0' 32" N latitude, 124° 1' W longitude.

(6) Area 2D shall include those waters of Grays Harbor and the Chehalis River estuary easterly of a line projected from the tripod station at Brackenridge Bluff southward and through channel marker 8 at the mouth of Johns River in the south channel to the mainland and westerly of the Union Pacific Railroad Bridge in Aberdeen and westerly (downstream) of the Highway 105 bridge on Johns River.

(7) Area 2G shall include those waters of Willapa Harbor northerly of a line projected from Needle Point approximately 285° true to the Island Sands Light approximately 2 miles south of Riddle Spit Light No. 10 and thence true west to the North Beach Peninsula, westerly of a line projected from Needle Point northerly to day beacon No. 14 and thence to Ramsey Point, outside and westerly of a line projected from Stony Point to the Bay Center Channel Light (F1 4 seconds, 16 feet) to the northern tip of Goose Point, downstream and westerly of a line projected from the outermost tip of Johnson Point to a fishing boundary marker on the Willapa River's south bank, outside and southerly of a line commencing at a boundary marker on the west shore of the North River projected 82 degrees true through channel marker No. 16 to a boundary marker on the east shore, outside and southerly of a line projected from the Cedar River's meander corner between Section 31, Township 15N, and Section 6, Township 14N, Range 10W, W.M., to the meander corner between Sections 36, Township 15N, and Section 1, Township 14N, Range 11W, W.M., and inside and easterly of a straight line projected from the Cape Shoalwater Light through buoy 8A, located between buoy 8 and buoy 10, approximately 1,500 yards from Cape Shoalwater Light on a line 171° true, to Leadbetter Point.

(8) Area 2H shall include those waters of Willapa Harbor and the Willapa River estuary lying upstream from a line projected from the outermost tip of Johnson Point to a fishing boundary marker on the river's south bank and downstream from a line projected true north across the river from a fishing boundary marker on the section line between Section 27 and 28, Township 14N, Range 9W.

(9) Area 2J shall include those waters of Willapa Harbor lying southerly (~~of a line projected from Needle Point approximately 285° true to the Island Sands Light approximately 2 miles south of Riddle~~

~~Spit Light No. 10, and thence due west to the North Beach Peninsula, northerly of a line projected true east-west through Marker 20 between Long Island and the North Beach Peninsula, downstream and westerly of the Highway 101 Bridge over the Naselle River, and northerly of a line projected true east from a fishing boundary marker at the south entrance to Baldwin Slough on Long Island to a fishing boundary marker on the shore of Stanley Peninsula on the mainland)) and westerly of a line projected from Diamond Point to the Island Sands Light, approximately 2 miles south of Riddle Spit Light No. 10, and thence due west to the North Beach Peninsula, and northerly of a line projected true east-west through marker 20 between Long Island and the North Beach Peninsula.~~

(10) Area 2K shall include those waters of Willapa Harbor easterly of a line projected from the northern tip of Goose Point to the Bay Center Channel Light (F1 4 seconds, 16 feet) to Stony Point and westerly of the Palix River Highway 101 Bridge.

(11) Area 2M shall include those waters of Willapa Harbor lying southerly and easterly of a line projected from Needle Point approximately 285° true to the Island Sands Light, approximately 2 miles south of Riddle Spit Light No. 10, and south to Diamond Point, downstream and westerly of the Highway 101 Bridge over the Naselle River, and northerly and easterly of a line from Stanley Point to Paradise Point.

((+)) (12) Area 3 shall include those waters of District 1 northerly of a line projected true west from the Queets River mouth and southerly of a line projected true west from Cape Alava.

((+)) (13) Area 4 shall include those waters of District 1 northerly of a line projected true west from Cape Alava, westerly of lines projected from the northern tip of Portage Head to the southern tip of Waatch Point and from the Tatoosh Island Light to Bonilla Point and southerly of a line projected true west from the intersection of the Bonilla-Tatoosh line with the U.S.-Canada International Boundary Line.

((+)) (14) Area 4A shall include those waters easterly and inside of a line projected from the northern tip of Portage Head to the southern tip of Waatch Point, outside and westerly of the mouth of any river or stream flowing to the sea.

Reviser's note: RCW 34.04.058 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 herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 81-37, filed 6/8/81)

WAC 220-36-021 SALMON FISHING AREAS—GILL NET—SEASONS. It is unlawful to take, fish for or possess salmon for commercial purposes with gill net gear in the following Grays Harbor Fishing Areas except during the seasons provided for hereinafter in each respective fishing area:

Area 2A

6:00 p.m. (~~September 23~~) October 3 to 6:00 p.m. October ((2)) 8, ((+98+)) 1982.

Areas 2B, 2C and 2D -

6:00 p.m. July ((6)) 7 to 6:00 p.m. (~~October 29, 1981~~) August 15, 1982
6:00 p.m. October 3 to 6:00 p.m. October 8, 1982

AMENDATORY SECTION (Amending Order 81-37, filed 6/8/81)

WAC 220-36-022 SALMON FISHING AREAS—WEEKLY PERIODS. It is unlawful to take, fish for or possess salmon taken with gill net gear except during the weekly open periods hereinafter designated in the following Grays Harbor Fishing Areas:

Area 2A

~~((September 23 to September 25, 1981: 6:00 p.m. Wednesday to 6:00 p.m. Friday; September 27 to October 2, 1981: 6:00 p.m. Sunday to 6:00 p.m. Friday; October 25, 6:00 p.m. to October 29, 1981, 6:00 p.m.:))~~
6:00 p.m. October 3 to 6:00 p.m. October 8, 1982: Open continuously.

Areas 2B, 2C and 2D

((~~July 6,~~) 6:00 p.m. July 7 to ((~~August 14, 1981,~~) 6:00 p.m. August 15, 1982: Open continuously.
 ((~~September 23 to September 25, 1981: 6:00 p.m. Wednesday to 6:00 p.m. Friday.~~
~~September 27, 6:00 p.m. to October 2, 1981, 6:00 p.m. 6:00 p.m. Sunday to 6:00 p.m. Friday.~~
~~October 25, 6:00 p.m. to October 29, 1981, 6:00 p.m.:~~
6:00 p.m. October 3 to 6:00 p.m. October 8, 1982: Open continuously.

AMENDATORY SECTION (Amending Order 81-37, filed 6/8/81)

WAC 220-36-024 SALMON FISHING—MESH SIZES—GEAR. (1) It is unlawful to take, fish for or possess salmon with gill net gear containing mesh smaller than the minimum sizes or larger than the maximum size stretch measure as hereinafter designated in the following Grays Harbor Fishing Areas:

Areas 2A, 2B, 2C and 2D

For the period ((~~September 23~~) October 3 to October ((2, 1981) 8, 1982: 5-inch minimum and ((7-inch) 6-1/2-inch maximum mesh.

(2) Except as provided for in subsection (1) of this section, it is unlawful to fish in Grays Harbor with gill net gear containing meshes less than 5 inches stretch measure or longer than 1,500 feet in length.

Reviser's note: RCW 34.04.058 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.

AMENDATORY SECTION (Amending Order 81-37, 6/8/81)

WAC 220-40-021 WILLAPA HARBOR—GILL NET—SEASONS. It is unlawful to take, fish for or possess salmon for commercial purposes with gill net gear in the following Willapa Harbor Fishing Areas, except during the seasons provided for hereinafter in each respective fishing area:

Area 2G—6:00 p.m. July ((6) 7 to ((~~12:00 midnight November 30, 1981~~) 6:00 p.m. August 20, 6:00 p.m. September 13 to 6:00 p.m. October 9 and 6:00 p.m. November 1 to 11:59 p.m. November 30, 1982

Area 2H—6:00 p.m. September 13 to 6:00 p.m. October ((+)) 9, and 6:00 p.m. November ((4) 1 to ((~~12:00 midnight~~) 11:59 p.m. November 30, ((+1981)) 1982.

Area 2J and 2K—6:00 p.m. July ((6) 7 to ((~~12:00 midnight November 30, 1981~~) 6:00 p.m. August 20, 6:00 p.m. September 13 to 6:00 p.m. October 9 and 6:00 p.m. November 1 to 11:59 p.m. November 30, 1982.

Area 2M—6:00 p.m. September 13 to 6:00 p.m. October 9, and 6:00 p.m. November 1 to 11:59 p.m. November 30, 1982.

Reviser's note: RCW 34.04.058 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.

AMENDATORY SECTION (Amending Order 81-37, filed 6/8/81)

WAC 220-40-022 WILLAPA HARBOR—WEEKLY PERIODS. It is unlawful to take, fish for or possess salmon taken with gill net gear, except during the weekly open periods hereafter designated in the following Willapa Harbor Fishing Areas:

Area 2G

July ((6) 7, 6:00 p.m. to August 20, ((+1981)) 1982, 6:00 p.m.—Open continuously.
 ((~~August 24 to September 13, 1981—6:00 p.m. Monday to 6:00 p.m. Tuesday.~~)

September 13 to October ((+1, 1981)) 9, 1982—6:00 p.m. Sunday to 6:00 p.m. ((Friday)) Saturday.

((~~October 11 to November 4, 1981—6:00 p.m. Sunday, October 11 to 6:00 p.m. Monday, October 12, 6:00 p.m. Thursday, October 15 to 6:00 p.m. Friday, October 16, 6:00 p.m. Sunday, October 18 to 6:00 p.m. Monday, October 19, 6:00 p.m. Sunday, October 25 to 6:00 p.m. Monday, October 26.~~

~~November 4, 6:00 p.m. to 12:00 midnight November 30, 1981—Open continuously.)~~

November 1, 6:00 p.m. to 11:59 p.m. November 30, 1982—Open continuously.

Area 2H

September 13 to October ((+1, 1981)) 9, 1982—6:00 p.m. Sunday to 6:00 p.m. ((Friday)) Saturday.

November ((4) 1, 6:00 p.m. to ((~~12:00 midnight~~) 11:59 p.m. November 30, ((+1981)) 1982—Open continuously.

Areas 2J and 2K

July ((6) 7, 6:00 p.m. to August 20, ((+1981)) 1982, 6:00 p.m.—Open continuously.

((~~August 24 to September 13, 1981—6:00 p.m. Monday to 6:00 p.m. Tuesday.~~)

September 13 to October ((+1, 1981)) 9, 1982—6:00 p.m. Sunday to 6:00 p.m. Monday and 6:00 p.m. Wednesday to 6:00 p.m. Thursday.

((~~October 11 to November 4, 1981—6:00 p.m. Sunday, October 11 to 6:00 p.m. Monday, October 12, 6:00 p.m. Thursday, October 15 to 6:00 p.m. Friday, October 16, 6:00 p.m. Sunday, October 18 to 6:00 p.m. Monday, October 19, 6:00 p.m. Sunday, October 25 to 6:00 p.m. Monday, October 26.~~

~~November 4, 6:00 p.m. to 12:00 midnight November 30, 1981—Open continuously.)~~

November 1, 6:00 p.m. to 11:59 p.m. November 30, 1982—Open continuously.

Area 2M

September 13 to October 9, 1982—6:00 p.m. Sunday to 6:00 p.m. Saturday.

November 1, 6:00 p.m. to 11:59 p.m. November 30, 1982—Open continuously.

Reviser's note: RCW 34.04.058 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.

AMENDATORY SECTION (Amending Order 81-37, filed 6/8/81)

WAC 220-40-024 WILLAPA HARBOR—MESH SIZES—GEAR. (1) It is unlawful to take, fish for or possess salmon with gill net gear containing mesh smaller than the minimum or larger than the maximum size stretch measure as hereinafter designated in the following Willapa Harbor Fishing Areas:

Areas 2G, 2H, 2J (and), 2K and 2M

For the period September 13 to October ((+1, 1981)) 9, 1982: 5-inch minimum to ((7-inch) 6-1/2-inch maximum mesh.

For the period 12:01 a.m. November 19 to ((~~12:00 midnight~~) 11:59 p.m. November 30, ((+1981)) 1982: 7-1/2-inch minimum mesh.

(2) Except as provided in subsection (1) of this section, it shall be unlawful to fish in Willapa Harbor with gill net gear containing meshes less than 5 inches stretch measure or longer than 1,500 feet in length.

Reviser's note: RCW 34.04.058 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.

Table of WAC Sections Affected

KEY TO TABLE

Symbols:

- AMD = Amendment of existing section
- NEW = New section not previously codified
- REP = Repeal of existing section
- AM/DE = Amendment and Decodification of existing section
- RECOD = Recodification of previously codified section
- REMOV = Removal of rule pursuant to RCW 34.04.050(5)
- RES = Restoration of section to previous form
- REVIEW = Review of previously adopted rule

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- W = Withdrawal of proposed action
- No suffix means permanent action

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.

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 show the sequence of the document within the issue.

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132T-06-085	NEW	82-07-033	137-56-140	NEW	82-08-055	137-60-060	NEW-P	82-03-015
132T-06-090	REP	82-07-033	137-56-150	NEW-P	82-04-059	137-60-060	NEW-E	82-03-016
132T-06-095	NEW	82-07-033	137-56-150	NEW	82-08-055	137-60-060	NEW	82-07-006
132T-104-040	AMD-P	82-06-024	137-56-160	NEW-P	82-04-059	137-60-070	NEW-P	82-03-015
132T-104-070	AMD-P	82-06-024	137-56-160	NEW	82-08-055	137-60-070	NEW-E	82-03-016
132T-104-080	AMD-P	82-06-024	137-56-170	NEW-P	82-04-059	137-60-070	NEW	82-07-006
132T-104-110	AMD-P	82-06-024	137-56-170	NEW	82-08-055	137-60-080	NEW-P	82-03-015
132T-104-120	AMD-P	82-06-024	137-56-180	NEW-P	82-04-059	137-60-080	NEW-E	82-03-016
132T-104-130	AMD-P	82-06-024	137-56-180	NEW	82-08-055	137-60-080	NEW	82-07-006
132T-104-210	AMD-P	82-06-024	137-56-190	NEW-P	82-04-059	137-60-090	NEW-P	82-03-015
132T-104-240	AMD-P	82-06-024	137-56-190	NEW	82-08-055	137-60-090	NEW-E	82-03-016
132T-104-260	AMD-P	82-06-024	137-56-200	NEW-P	82-04-059	137-60-090	NEW	82-07-006
132T-104-265	NEW-P	82-06-024	137-56-200	NEW	82-08-055	137-60-100	NEW-P	82-03-015
132T-104-270	AMD-P	82-06-024	137-56-210	NEW-P	82-04-059	137-60-100	NEW-E	82-03-016
132T-104-280	AMD-P	82-06-024	137-56-210	NEW	82-08-055	137-60-100	NEW	82-07-006
132Y-125-004	NEW-P	82-05-039	137-56-220	NEW-P	82-04-059	137-60-110	NEW-P	82-03-015
132Y-125-004	NEW	82-10-013	137-56-220	NEW	82-08-055	137-60-110	NEW-E	82-03-016
132Y-136-001	NEW	82-04-018	137-56-230	NEW-P	82-04-059	137-60-110	NEW	82-07-006
132Y-136-101	NEW	82-04-018	137-56-230	NEW	82-08-055	137-60-120	NEW-P	82-03-015
132Y-136-201	NEW	82-04-018	137-56-240	NEW-P	82-04-059	137-60-120	NEW-E	82-03-016
132Y-136-204	NEW	82-04-018	137-56-240	NEW	82-08-055	137-60-120	NEW	82-07-006
132Y-136-208	NEW	82-04-018	137-56-250	NEW-P	82-04-059	137-60-130	NEW-P	82-03-015
132Y-136-212	NEW	82-04-018	137-56-250	NEW	82-08-055	137-60-130	NEW-E	82-03-016
132Y-136-216	NEW	82-04-018	137-56-260	NEW-P	82-04-059	137-60-130	NEW	82-07-006
132Y-136-220	NEW	82-04-018	137-56-260	NEW	82-08-055	137-60-140	NEW-P	82-03-015
132Y-136-224	NEW	82-04-018	137-56-270	NEW-P	82-04-059	137-60-140	NEW-E	82-03-016
132Y-136-228	NEW	82-04-018	137-56-270	NEW	82-08-055	137-60-140	NEW	82-07-006
132Y-136-236	NEW	82-04-018	137-57-005	NEW-P	82-04-059	139-36-010	REP-P	82-04-065
132Y-136-304	NEW	82-04-018	137-57-005	NEW	82-08-055	139-36-010	REP	82-07-051
132Y-136-401	NEW	82-04-018	137-57-010	NEW-P	82-04-059	139-36-020	NEW-P	82-04-066
132Y-136-404	NEW	82-04-018	137-57-010	NEW	82-08-055	139-36-020	NEW	82-07-052
132Y-136-501	NEW	82-04-018	137-57-020	NEW-P	82-04-059	139-36-030	NEW-P	82-04-066
132Y-136-540	NEW	82-04-018	137-57-020	NEW	82-08-055	139-36-030	NEW	82-07-052
137-04-010	NEW	82-04-023	137-57-030	NEW-P	82-04-059	139-36-031	NEW-P	82-04-066
137-04-015	NEW	82-04-023	137-57-030	NEW	82-08-055	139-36-031	NEW	82-07-052
137-04-020	NEW	82-04-023	137-57-040	NEW-P	82-04-059	139-36-032	NEW-P	82-04-066
137-04-030	NEW	82-04-023	137-57-040	NEW	82-08-055	139-36-032	NEW	82-07-052
137-08-010	NEW	82-04-023	137-57-050	NEW-P	82-04-059	139-36-033	NEW-P	82-04-066
137-08-020	NEW	82-04-023	137-57-050	NEW	82-08-055	139-36-033	NEW	82-07-052
137-08-060	NEW	82-04-023	137-57-060	NEW-P	82-04-059	139-36-034	NEW-P	82-04-066
137-08-070	NEW	82-04-023	137-57-060	NEW	82-08-055	139-36-034	NEW	82-07-052
137-08-080	NEW	82-04-023	137-57-070	NEW-P	82-04-059	139-36-040	NEW-P	82-04-066
137-08-090	NEW	82-04-023	137-57-070	NEW	82-08-055	139-36-040	NEW	82-07-052
137-08-100	NEW	82-04-023	137-57-080	NEW-P	82-04-059	139-36-041	NEW-P	82-04-066
137-08-110	NEW	82-04-023	137-57-080	NEW	82-08-055	139-36-041	NEW	82-07-052
137-08-120	NEW	82-04-023	137-58-010	NEW-P	82-03-013	139-36-050	NEW-P	82-04-066
137-08-130	NEW	82-04-023	137-58-010	NEW-E	82-03-014	139-36-050	NEW	82-07-052
137-08-140	NEW	82-04-023	137-58-010	NEW	82-07-067	139-36-051	NEW-P	82-04-066
137-08-150	NEW	82-04-023	137-58-020	NEW-P	82-03-013	139-36-051	NEW	82-07-052
137-08-160	NEW	82-04-023	137-58-020	NEW-E	82-03-014	139-36-060	NEW-P	82-04-066
137-08-170	NEW	82-04-023	137-58-020	NEW	82-07-067	139-36-060	NEW	82-07-052
137-08-180	NEW	82-04-023	137-58-030	NEW-P	82-03-013	139-36-061	NEW-P	82-04-066
137-56-005	NEW-P	82-04-059	137-58-030	NEW-E	82-03-014	139-36-061	NEW	82-07-052
137-56-005	NEW	82-08-055	137-58-030	NEW	82-07-067	139-50-010	NEW-P	82-03-047

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
139-50-010	NEW	82-07-053	154-32	NEW-C	82-08-054	172-116-250	AMD	82-07-038
154-01	NEW-C	82-08-054	154-32-010	NEW-E	82-04-017	172-116-260	AMD	82-07-038
154-01-010	NEW-E	82-04-017	154-32-010	NEW-E	82-10-005	172-116-270	AMD	82-07-038
154-01-010	NEW-E	82-10-005	154-32-020	NEW-E	82-04-017	172-116-280	AMD	82-07-038
154-04	NEW-C	82-08-054	154-32-020	NEW-E	82-10-005	172-116-300	AMD	82-07-038
154-04-010	NEW-E	82-04-017	154-36	NEW-C	82-08-054	172-116-310	AMD	82-07-038
154-04-010	NEW-E	81-10-005	154-36-010	NEW-E	82-04-017	172-116-315	AMD	82-07-038
154-04-020	NEW-E	82-04-017	154-36-010	NEW-E	82-10-005	172-116-320	AMD	82-07-038
154-04-020	NEW-E	81-10-005	154-40	NEW-C	82-08-054	172-116-330	AMD	82-07-038
154-04-030	NEW-E	82-04-017	154-40-010	NEW-E	82-04-017	172-116-340	AMD	82-07-038
154-04-030	NEW-E	81-10-005	154-40-010	NEW-E	82-10-005	172-116-345	NEW	82-07-038
154-04-040	NEW-E	82-04-017	154-44	NEW-C	82-08-054	172-168-010	AMD	82-07-064
154-04-040	NEW-E	81-10-005	154-44-010	NEW-E	82-04-017	172-168-020	AMD	82-07-064
154-04-050	NEW-E	82-04-017	154-44-010	NEW-E	82-10-005	172-168-060	AMD	82-07-064
154-04-050	NEW-E	81-10-005	154-48	NEW-C	82-08-054	172-168-070	AMD	82-07-064
154-04-060	NEW-E	81-10-005	154-48-010	NEW-E	82-04-017	172-168-080	AMD	82-07-064
154-04-060	NEW-E	82-04-017	154-48-010	NEW-E	82-10-005	172-168-090	AMD	82-07-064
154-04-070	NEW-E	82-04-017	154-52	NEW-C	82-08-054	172-168-100	AMD	82-07-064
154-04-070	NEW-E	81-10-005	154-52-010	NEW-E	82-04-017	172-168-110	AMD	82-07-064
154-04-080	NEW-E	82-04-017	154-52-010	NEW-E	82-10-005	172-168-120	AMD	82-07-064
154-04-080	NEW-E	81-10-005	154-56	NEW-C	82-08-054	172-168-130	AMD	82-07-064
154-04-090	NEW-E	82-04-017	154-56-010	NEW-E	82-04-017	173-19-160	AMD	82-05-017
154-04-090	NEW-E	81-10-005	154-56-010	NEW-E	82-10-005	173-19-160	AMD-P	82-08-075
154-04-100	NEW-E	82-04-017	154-60	NEW-C	82-08-054	173-19-250	AMD	82-05-018
154-04-100	NEW-E	81-10-005	154-60-010	NEW-E	82-04-017	173-19-2521	AMD	82-02-079
154-04-110	NEW-E	82-04-017	154-60-010	NEW-E	82-10-005	173-19-2524	AMD-P	82-08-075
154-04-110	NEW-E	81-10-005	154-64	NEW-C	82-08-054	173-19-2601	AMD-C	82-02-076
154-08	NEW-C	82-08-054	154-64-010	NEW-E	82-04-017	173-19-2601	AMD	82-03-042
154-08-010	NEW-E	82-04-017	154-64-010	NEW-E	82-10-005	173-19-2601	AMD-P	82-03-043
154-08-010	NEW-E	82-10-005	154-64-020	NEW-E	82-04-017	173-19-2601	AMD	82-07-003
154-08-020	NEW-E	82-04-017	154-64-020	NEW-E	82-10-005	173-19-2902	AMD	82-02-078
154-08-020	NEW-E	82-10-005	154-64-030	NEW-E	82-04-017	173-19-310	AMD-P	82-10-075
154-08-030	NEW-E	82-04-017	154-64-030	NEW-E	82-10-005	173-19-330	AMD-C	82-05-015
154-08-030	NEW-E	82-10-005	154-64-040	NEW-E	82-04-017	173-19-330	AMD-C	82-06-012
154-08-040	NEW-E	82-04-017	154-64-040	NEW-E	82-10-005	173-19-330	AMD	82-07-045
154-08-040	NEW-E	82-10-005	154-64-050	NEW-E	82-04-017	173-19-3514	AMD-P	82-05-056
154-08-050	NEW-E	82-04-017	154-64-050	NEW-E	82-10-005	173-19-3514	AMD	82-10-002
154-08-050	NEW-E	82-10-005	154-64-060	NEW-E	82-04-017	173-19-370	AMD-P	82-10-076
154-12	NEW-C	82-08-054	154-64-060	NEW-E	82-10-005	173-19-3704	AMD-P	82-10-076
154-12-010	NEW-E	82-04-017	154-68	NEW-C	82-08-054	173-19-390	AMD-P	82-10-075
154-12-010	NEW-E	82-10-005	154-68-010	NEW-E	82-04-017	173-19-3910	AMD-C	82-05-016
154-12-020	NEW-E	82-04-017	154-68-010	NEW-E	82-10-005	173-19-3910	AMD	82-06-013
154-12-020	NEW-E	82-10-005	154-68-020	NEW-E	82-04-017	173-19-420	AMD-P	82-03-043
154-12-030	NEW-E	82-04-017	154-68-020	NEW-E	82-10-005	173-19-420	AMD	82-07-004
154-12-030	NEW-E	82-10-005	162-16-160	NEW-P	82-08-070	173-19-4202	AMD	82-02-080
154-12-040	NEW-E	82-04-017	162-16-170	NEW-P	82-08-070	173-19-4206	AMD	82-02-081
154-12-040	NEW-E	82-10-005	167-04-010	REP-P	82-07-084	173-19-450	AMD	82-02-077
154-12-050	NEW-E	82-04-017	167-04-030	REP-P	82-07-084	173-19-450	AMD-P	82-03-043
154-12-050	NEW-E	82-10-005	167-04-050	REP-P	82-07-084	173-19-450	AMD	82-07-005
154-12-060	NEW-E	82-04-017	167-06-010	REP-P	82-07-084	173-19-4502	AMD-P	82-05-056
154-12-060	NEW-E	82-10-005	167-06-020	REP-P	82-07-084	173-19-4502	AMD	82-10-001
154-12-070	NEW-E	82-04-017	167-08-010	REP-P	82-07-084	173-20-520	AMD-P	82-07-099
154-12-070	NEW-E	82-10-005	172-116-010	AMD	82-07-038	173-80-010	NEW	82-05-011
154-12-080	NEW-E	82-04-017	172-116-015	NEW	82-07-038	173-80-020	NEW	82-05-011
154-12-080	NEW-E	82-10-005	172-116-020	AMD	82-07-038	173-80-030	NEW	82-05-011
154-12-090	NEW-E	82-04-017	172-116-030	AMD	82-07-038	173-80-040	NEW	82-05-011
154-12-090	NEW-E	82-10-005	172-116-040	AMD	82-07-038	173-80-050	NEW	82-05-011
154-12-100	NEW-E	82-04-017	172-116-050	AMD	82-07-038	173-80-060	NEW	82-05-011
154-12-100	NEW-E	82-10-005	172-116-060	AMD	82-07-038	173-80-070	NEW	82-05-011
154-12-110	NEW-E	82-04-017	172-116-080	AMD	82-07-038	173-128-010	REP-P	82-10-074
154-12-110	NEW-E	82-10-005	172-116-090	AMD	82-07-038	173-128-020	REP-P	82-10-074
154-16	NEW-C	82-08-054	172-116-100	REP	82-07-038	173-128-030	REP-P	82-10-074
154-16-010	NEW-E	82-04-017	172-116-110	AMD	82-07-038	173-128-040	REP-P	82-10-074
154-16-010	NEW-E	82-10-005	172-116-120	REP	82-07-038	173-128-050	REP-P	82-10-074
154-16-020	NEW-E	82-04-017	172-116-130	AMD	82-07-038	173-128A-010	NEW-P	82-10-074
154-16-020	NEW-E	82-10-005	172-116-140	AMD	82-07-038	173-128A-020	NEW-P	82-10-074
154-20	NEW-C	82-08-054	172-116-150	AMD	82-07-038	173-128A-030	NEW-P	82-10-074
154-20-010	NEW-E	82-04-017	172-116-160	AMD	82-07-038	173-128A-040	NEW-P	82-10-074
154-20-010	NEW-E	82-10-005	172-116-170	AMD	82-07-038	173-128A-050	NEW-P	82-10-074
154-20-020	NEW-E	82-04-017	172-116-175	AMD	82-07-038	173-130-010	REP-P	82-10-073
154-20-020	NEW-E	82-10-005	172-116-185	REP	82-07-038	173-130-020	REP-P	82-10-073
154-24	NEW-C	82-08-054	172-116-190	AMD	82-07-038	173-130-030	REP-P	82-10-073
154-24-010	NEW-E	82-04-017	172-116-200	AMD	82-07-038	173-130-040	REP-P	82-10-073
154-24-010	NEW-E	82-10-005	172-116-210	AMD	82-07-038	173-130-050	REP-P	82-10-073
154-28	NEW-C	82-08-054	172-116-220	AMD	82-07-038	173-130-060	REP-P	82-10-073
154-28-010	NEW-E	82-04-017	172-116-230	AMD	82-07-038	173-130-070	REP-P	82-10-073
154-28-010	NEW-E	82-10-005	172-116-240	AMD	82-07-038	173-130-080	REP-P	82-10-073

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
173-130-090	REP-P	82-10-073	173-302-100	REP	82-05-023	173-303-320	NEW	82-05-023
173-130-100	REP-P	82-10-073	173-302-110	REP	82-05-023	173-303-330	NEW	82-05-023
173-130-110	REP-P	82-10-073	173-302-120	REP	82-05-023	173-303-340	NEW	82-05-023
173-130-120	REP-P	82-10-073	173-302-130	REP	82-05-023	173-303-350	NEW	82-05-023
173-130-130	REP-P	82-10-073	173-302-140	REP	82-05-023	173-303-360	NEW	82-05-023
173-130-140	REP-P	82-10-073	173-302-150	REP	82-05-023	173-303-370	NEW	82-05-023
173-130-150	REP-P	82-10-073	173-302-160	REP	82-05-023	173-303-380	NEW	82-05-023
173-130-155	REP-P	82-10-073	173-302-165	REP	82-05-023	173-303-390	NEW	82-05-023
173-130-160	REP-P	82-10-073	173-302-170	REP	82-05-023	173-303-395	NEW	82-05-023
173-130-170	REP-P	82-10-073	173-302-180	REP	82-05-023	173-303-400	NEW	82-05-023
173-130-180	REP-P	82-10-073	173-302-190	REP	82-05-023	173-303-500	NEW	82-05-023
173-130-190	REP-P	82-10-073	173-302-200	REP	82-05-023	173-303-510	NEW	82-05-023
173-130-195	REP-P	82-10-073	173-302-210	REP	82-05-023	173-303-520	NEW	82-05-023
173-130-200	REP-P	82-10-073	173-302-220	REP	82-05-023	173-303-575	NEW	82-05-023
173-130A-010	NEW-P	82-10-073	173-302-230	REP	82-05-023	173-303-600	NEW	82-05-023
173-130A-020	NEW-P	82-10-073	173-302-240	REP	82-05-023	173-303-610	NEW	82-05-023
173-130A-030	NEW-P	82-10-073	173-302-250	REP	82-05-023	173-303-620	NEW	82-05-023
173-130A-040	NEW-P	82-10-073	173-302-260	REP	82-05-023	173-303-630	NEW	82-05-023
173-130A-050	NEW-P	82-10-073	173-302-270	REP	82-05-023	173-303-640	NEW	82-05-023
173-130A-060	NEW-P	82-10-073	173-302-280	REP	82-05-023	173-303-650	NEW	82-05-023
173-130A-070	NEW-P	82-10-073	173-302-290	REP	82-05-023	173-303-660	NEW	82-05-023
173-130A-080	NEW-P	82-10-073	173-302-300	REP	82-05-023	173-303-670	NEW	82-05-023
173-130A-090	NEW-P	82-10-073	173-302-310	REP	82-05-023	173-303-700	NEW	82-05-023
173-130A-100	NEW-P	82-10-073	173-302-320	REP	82-05-023	173-303-800	NEW	82-05-023
173-130A-110	NEW-P	82-10-073	173-302-330	REP	82-05-023	173-303-801	NEW	82-05-023
173-130A-120	NEW-P	82-10-073	173-302-340	REP	82-05-023	173-303-805	NEW	82-05-023
173-130A-130	NEW-P	82-10-073	173-302-350	REP	82-05-023	173-303-810	NEW	82-05-023
173-130A-140	NEW-P	82-10-073	173-302-360	REP	82-05-023	173-303-815	NEW	82-05-023
173-130A-150	NEW-P	82-10-073	173-302-370	REP	82-05-023	173-303-820	NEW	82-05-023
173-130A-160	NEW-P	82-10-073	173-302-380	REP	82-05-023	173-303-825	NEW	82-05-023
173-130A-170	NEW-P	82-10-073	173-302-390	REP	82-05-023	173-303-830	NEW	82-05-023
173-130A-180	NEW-P	82-10-073	173-303	AMD-C	82-04-046	173-303-840	NEW	82-05-023
173-130A-190	NEW-P	82-10-073	173-303-010	NEW	82-05-023	173-303-845	NEW	82-05-023
173-130A-200	NEW-P	82-10-073	173-303-020	NEW	82-05-023	173-303-900	NEW	82-05-023
173-130A-210	NEW-P	82-10-073	173-303-030	NEW	82-05-023	173-303-910	NEW	82-05-023
173-201-010	AMD-P	82-06-056	173-303-040	NEW	82-05-023	173-303-9901	NEW	82-05-023
173-201-020	REP-P	82-06-056	173-303-045	NEW	82-05-023	173-303-9902	NEW	82-05-023
173-201-025	AMD-P	82-06-056	173-303-050	NEW	82-05-023	173-303-9903	NEW	82-05-023
173-201-035	AMD-P	82-06-056	173-303-060	NEW	82-05-023	173-303-9904	NEW	82-05-023
173-201-045	AMD-P	82-06-056	173-303-070	NEW	82-05-023	173-303-9905	NEW	82-05-023
173-201-050	REP-P	82-06-056	173-303-071	NEW	82-05-023	173-303-9906	NEW	82-05-023
173-201-070	AMD-P	82-06-056	173-303-075	NEW	82-05-023	173-303-9907	NEW	82-05-023
173-201-080	AMD-P	82-06-056	173-303-080	NEW	82-05-023	174-104-010	AMD-P	82-06-008
173-201-085	AMD-P	82-06-056	173-303-081	NEW	82-05-023	174-104-010	AMD-C	82-09-009
173-201-090	AMD-P	82-06-056	173-303-082	NEW	82-05-023	174-104-010	AMD	82-10-035
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173-201-140	REP-P	82-06-056	173-303-084	NEW	82-05-023	180-56-230	AMD	82-04-003
173-230-010	AMD-P	82-05-055	173-303-090	NEW	82-05-023	180-90-130	AMD	82-04-004
173-230-010	AMD	82-09-056	173-303-100	NEW	82-05-023	180-90-140	AMD	82-04-004
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173-230-020	AMD	82-09-056	173-303-102	NEW	82-05-023	192-16-050	NEW-P	82-09-063
173-230-040	AMD-P	82-05-055	173-303-103	NEW	82-05-023	192-16-050	NEW-E	82-09-064
173-230-040	AMD	82-09-056	173-303-104	NEW	82-05-023	192-18-050	AMD-E	82-03-054
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173-230-050	AMD	82-09-056	173-303-120	NEW	82-05-023	194-16-010	NEW-P	82-07-088
173-230-060	REP-P	82-05-055	173-303-130	NEW	82-05-023	194-16-020	NEW-E	82-07-087
173-230-060	REP	82-09-056	173-303-140	NEW	82-05-023	194-16-020	NEW-P	82-07-088
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173-230-070	AMD-P	82-05-055	173-303-150	NEW	82-05-023	194-16-040	NEW-E	82-07-087
173-230-070	AMD	82-09-056	173-303-160	NEW	82-05-023	194-16-040	NEW-P	82-07-088
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173-230-080	AMD	82-09-056	173-303-180	NEW	82-05-023	194-16-050	NEW-P	82-07-088
173-230-100	AMD-P	82-05-055	173-303-190	NEW	82-05-023	194-16-060	NEW-E	82-07-087
173-230-100	AMD	82-09-056	173-303-200	NEW	82-05-023	194-16-060	NEW-P	82-07-088
173-230-110	AMD-P	82-05-055	173-303-210	NEW	82-05-023	194-16-070	NEW-E	82-07-087
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173-302-030	REP	82-05-023	173-303-260	NEW	82-05-023	204-24-050	AMD-E	82-04-048
173-302-040	REP	82-05-023	173-303-270	NEW	82-05-023	204-24-050	AMD-P	82-04-049
173-302-050	REP	82-05-023	173-303-275	NEW	82-05-023	204-56-010	REP-P	82-06-041
173-302-060	REP	82-05-023	173-303-280	NEW	82-05-023	204-56-015	NEW-P	82-06-041
173-302-070	REP	82-05-023	173-303-290	NEW	82-05-023	204-56-020	REP-P	82-06-041
173-302-080	REP	82-05-023	173-303-300	NEW	82-05-023	204-56-025	NEW-P	82-06-041
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220-57-120	AMD-C	82-06-023	220-57-300	AMD-C	82-06-023	220-57-520	AMD-P	82-02-097
220-57-120	AMD-C	82-07-044	220-57-300	AMD-C	82-07-044	220-57-520	AMD-C	82-06-023
220-57-120	AMD	82-07-047	220-57-300	AMD	82-07-047	220-57-520	AMD-C	82-07-044
220-57-130	AMD-P	82-02-097	220-57-310	AMD-P	82-02-097	220-57-520	AMD	82-07-047
220-57-130	AMD-C	82-06-023	220-57-310	AMD-C	82-06-023	220-57-525	AMD-P	82-02-097
220-57-130	AMD-C	82-07-044	220-57-310	AMD-C	82-07-044	220-57-525	AMD-C	82-06-023
220-57-130	AMD	82-07-047	220-57-310	AMD	82-07-047	220-57-525	AMD-C	82-07-044
220-57-135	AMD-P	82-02-097	220-57-315	AMD-P	82-02-097	220-57-525	AMD	82-07-047
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220-57A-180	AMD-P	82-09-082	223-08-235	AMD	82-09-024	232-23-60404	NEW-E	82-05-010
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223-08-010	AMD	82-09-024	223-12-030	AMD	82-09-024	232-28-60403	REP-P	82-06-048
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223-08-015	AMD	82-09-024	223-12-050	AMD	82-09-024	232-28-60405	NEW-E	82-09-026
223-08-020	AMD-P	82-06-058	223-12-070	AMD-P	82-06-058	232-28-60405	NEW	82-10-014
223-08-020	AMD	82-09-024	223-12-070	AMD	82-09-024	232-28-60406	NEW-P	82-06-048
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223-08-055	AMD	82-09-024	223-12-140	AMD	82-09-024	232-28-803	REP-P	82-06-048
223-08-065	AMD-P	82-06-058	230-04-050	AMD	82-04-009	232-28-804	NEW-P	82-06-048
223-08-065	AMD	82-09-024	230-08-010	AMD	82-03-033	232-32-134	REP-E	82-03-017
223-08-070	AMD-P	82-06-058	230-08-090	AMD-P	82-04-085	232-32-135	NEW-E	82-02-066
223-08-070	AMD	82-09-024	230-08-090	AMD-C	82-07-040	232-32-135	REP-E	82-03-017
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223-08-075	AMD	82-09-024	230-08-100	AMD-P	82-04-085	232-32-136	REP-E	82-03-017
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223-08-080	AMD	82-09-024	230-08-130	AMD	82-04-010	232-32-137	REP-E	82-03-017
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223-08-110	AMD	82-09-024	230-40-120	AMD	82-04-010	232-32-145	NEW-E	82-08-011
223-08-120	AMD-P	82-06-058	230-40-315	NEW	82-06-007	247-02-050	AMD-E	82-09-002
223-08-120	AMD	82-09-024	230-40-400	AMD	82-04-010	248-14-065	AMD-P	82-02-053
223-08-125	AMD-P	82-06-058	230-60-045	AMD-P	82-08-050	248-14-065	AMD-E	82-02-057
223-08-125	AMD	82-09-024	232-12-021	AMD	82-04-034	248-14-065	AMD	82-06-005
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223-08-145	REP	82-09-024	232-12-047	AMD	82-04-034	248-14-260	AMD	82-07-025
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223-08-147	NEW	82-09-024	232-12-064	AMD	82-04-034	248-17-020	AMD	82-04-041
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248-17-215	NEW	82-04-041	260-36-090	AMD-E	82-09-008	275-27-660	REP-E	82-02-056
248-17-216	NEW	82-04-041	260-44-060	AMD-P	82-05-044	275-27-660	REP	82-06-034
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248-18-025	REP-E	82-03-011	260-44-120	AMD-P	82-06-033	275-27-665	REP-E	82-02-056
248-18-025	AMD-P	82-06-060	260-70-021	AMD	82-03-053	275-27-665	REP	82-06-034
248-18-025	AMD-E	82-07-023	260-70-040	AMD-P	82-03-052	275-27-680	REP-P	82-02-054
248-18-025	AMD-C	82-09-054	260-70-040	AMD	82-07-016	275-27-680	REP-E	82-02-056
248-18-539	NEW-P	82-02-061	260-70-100	AMD	82-03-053	275-27-680	REP	82-06-034
248-18-539	NEW	82-06-031	260-70-200	AMD-P	82-05-044	275-27-685	REP-P	82-02-054
248-25-001	NEW-E	82-06-016	260-70-200	AMD-C	82-06-032	275-27-685	REP-E	82-02-056
248-25-001	NEW-P	82-06-018	260-70-200	AMD	82-09-016	275-27-685	REP	82-06-034
248-25-002	NEW-E	82-06-016	260-70-290	NEW-P	82-05-044	275-38-001	NEW-P	82-09-071
248-25-002	NEW-P	82-06-018	260-70-290	AMD-C	82-06-032	275-38-001	NEW-E	82-10-032
248-25-010	NEW-E	82-06-016	260-70-290	NEW	82-09-016	275-38-005	NEW-P	82-09-071
248-25-010	NEW-P	82-06-018	260-70-300	NEW-P	82-06-033	275-38-005	NEW-E	82-10-032
248-25-020	NEW-E	82-06-016	260-70-300	NEW	82-09-016	275-38-007	NEW-P	82-09-071
248-25-020	NEW-P	82-06-018	260-88-010	AMD-P	82-03-052	275-38-007	NEW-E	82-10-032
248-25-030	NEW-E	82-06-016	260-88-010	AMD-C	82-06-055	275-38-015	NEW-P	82-09-071
248-25-030	NEW-P	82-06-018	260-88-010	AMD	82-09-016	275-38-015	NEW-E	82-10-032
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248-25-040	NEW-P	82-06-018	260-88-020	NEW-C	82-06-055	275-38-020	NEW-E	82-10-032
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248-25-050	NEW-P	82-06-018	260-997	REP-C	82-06-032	275-38-025	NEW-E	82-10-032
248-25-060	NEW-E	82-06-016	260-997	REP	82-09-016	275-38-030	NEW-P	82-09-071
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248-25-070	NEW-P	82-06-018	263-12-020	AMD	82-03-031	275-38-035	NEW-E	82-10-032
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248-64-260	AMD	82-07-015	263-12-100	AMD	82-03-031	275-38-060	NEW-E	82-10-032
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248-64-300	AMD	82-07-015	263-12-175	AMD	82-03-031	275-38-080	NEW-E	82-10-032
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248-64-310	AMD	82-07-015	275-25-520	AMD-E	82-02-056	275-38-510	NEW-E	82-10-032
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251-09-015	NEW-P	82-06-047	275-27-600	REP-P	82-02-054	275-38-530	NEW-E	82-10-032
251-10-030	AMD-P	82-04-068	275-27-600	REP-E	82-02-056	275-38-535	NEW-P	82-09-071
251-10-030	AMD-C	82-06-026	275-27-600	REP	82-06-034	275-38-535	NEW-E	82-10-032
251-10-030	AMD	82-07-074	275-27-605	REP-P	82-02-054	275-38-540	NEW-P	82-09-071
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251-10-110	AMD	82-10-006	275-27-605	REP	82-06-034	275-38-545	NEW-P	82-09-071
251-12-080	AMD-P	82-06-047	275-27-610	REP-P	82-02-054	275-38-545	NEW-E	82-10-032
251-12-080	AMD	82-10-006	275-27-610	REP-E	82-02-056	275-38-550	NEW-P	82-09-071
251-14-030	AMD-P	82-06-047	275-27-610	REP	82-06-034	275-38-550	NEW-E	82-10-032
251-14-030	AMD	82-10-006	275-27-615	REP-P	82-02-054	275-38-555	NEW-P	82-09-071
251-14-040	AMD-P	82-06-047	275-27-615	REP-E	82-02-056	275-38-555	NEW-E	82-10-032
251-14-040	AMD	82-10-006	275-27-615	REP	82-06-034	275-38-560	NEW-P	82-09-071
251-18-350	AMD	82-04-069	275-27-620	REP-P	82-02-054	275-38-560	NEW-E	82-10-032
251-22-111	AMD-P	82-06-047	275-27-620	REP-E	82-02-056	275-38-565	NEW-P	82-09-071
251-22-111	AMD	82-10-006	275-27-620	REP	82-06-034	275-38-565	NEW-E	82-10-032
260-12-200	AMD-P	82-03-052	275-27-630	REP-P	82-02-054	275-38-570	NEW-P	82-09-071
260-12-200	AMD	82-07-016	275-27-630	REP-E	82-02-056	275-38-570	NEW-E	82-10-032
260-28-050	AMD-E	82-09-008	275-27-630	REP	82-06-034	275-38-575	NEW-P	82-09-071
260-32-110	AMD-P	82-03-052	275-27-635	REP-P	82-02-054	275-38-575	NEW-E	82-10-032
260-32-110	AMD-C	82-06-055	275-27-635	REP-E	82-02-056	275-38-580	NEW-P	82-09-071
260-32-420	NEW-P	82-06-033	275-27-635	REP	82-06-034	275-38-580	NEW-E	82-10-032
260-32-420	NEW	82-09-016	275-27-640	REP-P	82-02-054	275-38-585	NEW-P	82-09-071
260-36-020	AMD-E	82-09-008	275-27-640	REP-E	82-02-056	275-38-585	NEW-E	82-10-032

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
275-92-310	REP	82-08-055	275-93-090	REP	82-07-006	296-17-919	AMD	82-05-019
275-92-315	REP-P	82-04-059	275-93-100	REP-P	82-03-015	296-17-91901	AMD	82-05-019
275-92-315	REP	82-08-055	275-93-100	REP-E	82-03-016	296-17-91902	AMD	82-05-019
275-92-320	REP-P	82-04-059	275-93-100	REP	82-07-006	296-24-12005	AMD-P	82-08-004
275-92-320	REP	82-08-055	275-93-110	REP-P	82-03-015	296-24-12009	AMD-P	82-02-065
275-92-325	REP-P	82-04-059	275-93-110	REP-E	82-03-016	296-24-12009	AMD	82-08-026
275-92-325	REP	82-08-055	275-93-110	REP	82-07-006	296-24-130	REP-P	82-02-065
275-92-330	REP-P	82-04-059	275-93-120	REP-P	82-03-015	296-24-130	REP	82-08-026
275-92-330	REP	82-08-055	275-93-120	REP-E	82-03-016	296-24-13001	REP-P	82-02-065
275-92-335	REP-P	82-04-059	275-93-120	REP	82-07-006	296-24-13001	REP	82-08-026
275-92-335	REP	82-08-055	275-93-130	REP-P	82-03-015	296-24-13003	REP-P	82-02-065
275-92-340	REP-P	82-04-059	275-93-130	REP-E	82-03-016	296-24-13003	REP	82-08-026
275-92-340	REP	82-08-055	275-93-130	REP	82-07-006	296-24-13005	REP-P	82-02-065
275-92-345	REP-P	82-04-059	275-93-140	REP-P	82-03-015	296-24-13005	REP	82-08-026
275-92-345	REP	82-08-055	275-93-140	REP-E	82-03-016	296-24-13007	REP-P	82-02-065
275-92-350	REP-P	82-04-059	275-93-140	REP	82-07-006	296-24-13007	REP	82-08-026
275-92-350	REP	82-08-055	284-17-100	REP-P	82-07-056	296-24-13009	REP-P	82-02-065
275-92-355	REP-P	82-04-059	284-17-100	REP	82-10-016	296-24-13009	REP	82-08-026
275-92-355	REP	82-08-055	284-17-110	REP-P	82-07-056	296-24-13011	REP-P	82-02-065
275-92-400	REP-P	82-04-059	284-17-110	REP	82-10-016	296-24-13011	REP	82-08-026
275-92-400	REP	82-08-055	284-17-120	NEW-P	82-07-056	296-24-13013	REP-P	82-02-065
275-92-405	REP-P	82-04-059	284-17-120	NEW	82-10-016	296-24-13013	REP	82-08-026
275-92-405	REP	82-08-055	284-17-210	AMD-P	82-07-056	296-24-13501	AMD-P	82-08-004
275-92-410	REP-P	82-04-059	284-17-210	AMD	82-10-016	296-24-14007	AMD-P	82-08-004
275-92-410	REP	82-08-055	284-17-310	AMD-P	82-07-056	296-24-16503	AMD-P	82-08-004
275-92-415	REP-P	82-04-059	284-17-310	AMD	82-10-016	296-24-16539	AMD-P	82-08-004
275-92-415	REP	82-08-055	284-24-010	REP-P	82-02-059	296-24-170	REP-P	82-08-004
275-92-510	REP-P	82-04-059	284-24-010	REP	82-06-036	296-24-17001	REP-P	82-08-004
275-92-510	REP	82-08-055	284-24-015	NEW-P	82-02-059	296-24-17003	REP-P	82-08-004
275-92-515	REP-P	82-04-059	284-24-015	NEW	82-06-036	296-24-17005	REP-P	82-08-004
275-92-515	REP	82-08-055	284-24-020	REP-P	82-02-059	296-24-17007	REP-P	82-08-004
275-92-520	REP-P	82-04-059	284-24-020	REP	82-06-036	296-24-17009	REP-P	82-08-004
275-92-520	REP	82-08-055	284-24-030	REP-P	82-02-059	296-24-17011	REP-P	82-08-004
275-92-525	REP-P	82-04-059	284-24-030	REP	82-06-036	296-24-17013	REP-P	82-08-004
275-92-525	REP	82-08-055	284-24-035	REP-P	82-02-059	296-24-17015	REP-P	82-08-004
275-92-530	REP-P	82-04-059	284-24-035	REP	82-06-036	296-24-17017	REP-P	82-08-004
275-92-530	REP	82-08-055	284-24-040	REP-P	82-02-059	296-24-17019	REP-P	82-08-004
275-92-535	REP-P	82-04-059	284-24-040	REP	82-06-036	296-24-17021	REP-P	82-08-004
275-92-535	REP	82-08-055	284-24-050	REP-P	82-02-059	296-24-17023	REP-P	82-08-004
275-92-540	REP-P	82-04-059	284-24-050	REP	82-06-036	296-24-17025	REP-P	82-08-004
275-92-540	REP	82-08-055	284-24-060	NEW-P	82-02-059	296-24-17027	REP-P	82-08-004
275-92-545	REP-P	82-04-059	284-24-060	NEW	82-06-036	296-24-17029	REP-P	82-08-004
275-92-545	REP	82-08-055	284-24-070	NEW-P	82-02-059	296-24-17031	REP-P	82-08-004
275-92-550	REP-P	82-04-059	284-24-070	NEW	82-06-036	296-24-17033	REP-P	82-08-004
275-92-550	REP	82-08-055	284-24-080	NEW-P	82-02-059	296-24-17035	REP-P	82-08-004
275-92-555	REP-P	82-04-059	284-24-080	NEW	82-06-036	296-24-17037	REP-P	82-08-004
275-92-555	REP	82-08-055	284-44-180	REP-P	82-09-030	296-24-17039	REP-P	82-08-004
275-92-560	REP-P	82-04-059	284-50-380	AMD-P	82-09-030	296-24-17041	REP-P	82-08-004
275-92-560	REP	82-08-055	284-55-010	AMD-P	82-09-030	296-24-17043	REP-P	82-08-004
275-92-565	REP-P	82-04-059	284-55-035	NEW-P	82-09-030	296-24-17045	REP-P	82-08-004
275-92-565	REP	82-08-055	284-55-040	AMD-P	82-09-030	296-24-17047	REP-P	82-08-004
275-93-005	REP-P	82-03-015	284-55-045	NEW-P	82-09-030	296-24-33001	AMD-P	82-02-065
275-93-005	REP-E	82-03-016	284-55-065	NEW-P	82-09-030	296-24-33001	AMD	82-08-026
275-93-005	REP	82-07-006	284-55-067	NEW-P	82-09-030	296-24-955	REP-P	82-02-065
275-93-010	REP-P	82-03-015	284-55-110	AMD-P	82-09-030	296-24-955	REP	82-08-026
275-93-010	REP-E	82-03-016	289-12-030	AMD-E	82-05-042	296-24-956	NEW-P	82-02-065
275-93-010	REP	82-07-006	289-12-030	AMD-P	82-05-046	296-24-956	NEW	82-08-026
275-93-020	REP-P	82-03-015	289-12-030	AMD	82-08-051	296-24-95601	NEW-P	82-02-065
275-93-020	REP-E	82-03-016	289-12-035	NEW-E	82-08-052	296-24-95601	NEW	82-08-026
275-93-020	REP	82-07-006	289-12-035	NEW-P	82-08-068	296-24-95603	NEW-P	82-02-065
275-93-040	REP-P	82-03-015	289-13-070	AMD-E	82-08-053	296-24-95603	NEW	82-08-026
275-93-040	REP-E	82-03-016	289-13-070	AMD-P	82-08-069	296-24-95605	NEW-P	82-02-065
275-93-040	REP	82-07-006	289-15-225	NEW-P	82-05-045	296-24-95605	NEW	82-08-026
275-93-050	REP-P	82-03-015	289-15-225	NEW-C	82-08-067	296-24-95607	NEW-P	82-02-065
275-93-050	REP-E	82-03-016	289-20-205	AMD	82-04-088	296-24-95607	NEW	82-08-026
275-93-050	REP	82-07-006	289-20-210	AMD	82-04-088	296-24-95609	NEW-P	82-02-065
275-93-060	REP-P	82-03-015	296-15-025	NEW-P	82-04-040	296-24-95609	NEW	82-08-026
275-93-060	REP-E	82-03-016	296-15-025	NEW	82-07-019	296-24-95611	NEW-P	82-02-065
275-93-060	REP	82-07-006	296-15-070	AMD-P	82-09-067	296-24-95611	NEW	82-08-026
275-93-070	REP-P	82-03-015	296-17-351	AMD-P	82-07-022	296-24-95613	NEW-P	82-02-065
275-93-070	REP-E	82-03-016	296-17-351	AMD	82-10-034	296-24-95613	NEW	82-08-026
275-93-070	REP	82-07-006	296-17-910	AMD	82-05-019	296-24-95615	NEW-P	82-02-065
275-93-080	REP-P	82-03-015	296-17-911	AMD	82-05-019	296-24-95615	NEW	82-08-026
275-93-080	REP-E	82-03-016	296-17-913	AMD	82-05-019	296-24-95617	NEW-P	82-02-065
275-93-080	REP	82-07-006	296-17-914	AMD	82-05-019	296-24-95617	NEW	82-08-026
275-93-090	REP-P	82-03-015	296-17-915	AMD	82-05-019	296-24-95699	NEW-P	82-02-065
275-93-090	REP-E	82-03-016	296-17-917	AMD	82-05-019	296-24-95699	NEW	82-08-026

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
296-24-960	AMD-P	82-08-004	296-48-761	REP	82-09-053	296-48B-040	REP	82-04-060
296-32-250	AMD-P	82-08-004	296-48-765	REP-P	82-05-006	296-48B-050	REP	82-04-060
296-45-65043	AMD-P	82-02-065	296-48-765	REP	82-09-053	296-48B-055	REP	82-04-060
296-45-65043	AMD-E	82-07-013	296-48-770	REP-P	82-05-006	296-48B-060	REP	82-04-060
296-45-65043	AMD	82-08-026	296-48-770	REP	82-09-053	296-48B-065	REP	82-04-060
296-45-66007	AMD-E	82-07-001	296-48-775	REP-P	82-05-006	296-48B-068	REP	82-04-060
296-46-493	AMD-P	82-08-003	296-48-775	REP	82-09-053	296-48B-070	REP	82-04-060
296-46-910	AMD-P	82-08-003	296-48-776	REP-P	82-05-006	296-48B-075	REP	82-04-060
296-46-910	AMD-E	82-08-035	296-48-776	REP	82-09-053	296-48B-080	REP	82-04-060
296-48	REP-C	82-02-052	296-48-780	REP-P	82-05-006	296-48B-085	REP	82-04-060
296-48-005	REP-P	82-05-006	296-48-780	REP	82-09-053	296-48B-090	REP	82-04-060
296-48-005	REP	82-09-053	296-48-781	REP-P	82-05-006	296-48B-095	REP	82-04-060
296-48-010	REP-P	82-05-006	296-48-781	REP	82-09-053	296-48B-100	REP	82-04-060
296-48-010	REP	82-09-053	296-48-782	REP-P	82-05-006	296-48B-105	REP	82-04-060
296-48-020	REP-P	82-05-006	296-48-782	REP	82-09-053	296-48B-115	REP	82-04-060
296-48-020	REP	82-09-053	296-48-785	REP-P	82-05-006	296-48B-120	REP	82-04-060
296-48-051	REP-P	82-05-006	296-48-785	REP	82-09-053	296-48B-125	REP	82-04-060
296-48-051	REP	82-09-053	296-48-790	REP-P	82-05-006	296-48B-140	REP	82-04-060
296-48-600	REP-P	82-05-006	296-48-790	REP	82-09-053	296-48B-142	REP	82-04-060
296-48-600	REP	82-09-053	296-48-795	REP-P	82-05-006	296-48B-143	REP	82-04-060
296-48-602	REP-P	82-05-006	296-48-795	REP	82-09-053	296-48B-145	REP	82-04-060
296-48-602	REP	82-09-053	296-48-800	AMD-E	82-04-014	296-48B-150	REP	82-04-060
296-48-604	REP-P	82-05-006	296-48-800	REP-P	82-05-006	296-48B-160	REP	82-04-060
296-48-604	REP	82-09-053	296-48-800	AMD-E	82-09-031	296-48B-165	REP	82-04-060
296-48-605	REP-P	82-05-006	296-48-800	REP	82-09-053	296-48B-175	REP	82-04-060
296-48-605	REP	82-09-053	296-48-825	REP-P	82-05-006	296-48B-177	REP	82-04-060
296-48-610	REP-P	82-05-006	296-48-825	REP	82-09-053	296-48B-178	REP	82-04-060
296-48-610	REP	82-09-053	296-48-830	REP-P	82-05-006	296-48B-179	REP	82-04-060
296-48-615	REP-P	82-05-006	296-48-830	REP	82-09-053	296-48B-180	REP	82-04-060
296-48-615	REP	82-09-053	296-48-890	REP-P	82-05-006	296-48B-185	REP	82-04-060
296-48-620	REP-P	82-05-006	296-48-890	REP	82-09-053	296-48B-190	REP	82-04-060
296-48-620	REP	82-09-053	296-48A	REP-C	82-02-052	296-48B-19001	REP	82-04-060
296-48-625	REP-P	82-05-006	296-48A-001	REP-P	82-05-006	296-48B-19002	REP	82-04-060
296-48-625	REP	82-09-053	296-48A-001	REP	82-09-053	296-48B-19003	REP	82-04-060
296-48-630	REP-P	82-05-006	296-48A-200	REP-P	82-05-006	296-48B-19004	REP	82-04-060
296-48-630	REP	82-09-053	296-48A-200	REP	82-09-053	296-48B-19005	REP	82-04-060
296-48-635	REP-P	82-05-006	296-48A-400	REP-P	82-05-006	296-48B-193	REP	82-04-060
296-48-635	REP	82-09-053	296-48A-400	REP	82-09-053	296-48B-196	REP	82-04-060
296-48-636	REP-P	82-05-006	296-48A-405	REP-P	82-05-006	296-48B-200	REP	82-04-060
296-48-636	REP	82-09-053	296-48A-405	REP	82-09-053	296-48B-210	REP	82-04-060
296-48-640	REP-P	82-05-006	296-48A-410	REP-P	82-05-006	296-48B-215	REP	82-04-060
296-48-640	REP	82-09-053	296-48A-410	REP	82-09-053	296-48B-220	REP	82-04-060
296-48-645	REP-P	82-05-006	296-48A-600	REP-P	82-05-006	296-48B-225	REP	82-04-060
296-48-645	REP	82-09-053	296-48A-600	REP	82-09-053	296-48B-230	REP	82-04-060
296-48-701	REP-P	82-05-006	296-48A-605	REP-P	82-05-006	296-48B-235	REP	82-04-060
296-48-701	REP	82-09-053	296-48A-605	REP	82-09-053	296-48B-245	REP	82-04-060
296-48-702	REP-P	82-05-006	296-48A-610	REP-P	82-05-006	296-48B-250	REP	82-04-060
296-48-702	REP	82-09-053	296-48A-610	REP	82-09-053	296-48B-255	REP	82-04-060
296-48-703	REP-P	82-05-006	296-48A-615	REP-P	82-05-006	296-48B-260	REP	82-04-060
296-48-703	REP	82-09-053	296-48A-615	REP	82-09-053	296-48B-265	REP	82-04-060
296-48-704	REP-P	82-05-006	296-48A-700	REP-P	82-05-006	296-48B-270	REP	82-04-060
296-48-704	REP	82-09-053	296-48A-700	REP	82-09-053	296-48B-275	REP	82-04-060
296-48-706	REP-P	82-05-006	296-48A-750	REP-P	82-05-006	296-48B-280	REP	82-04-060
296-48-706	REP	82-09-053	296-48A-750	REP	82-09-053	296-48B-285	REP	82-04-060
296-48-710	REP-P	82-05-006	296-48A-755	REP-P	82-05-006	296-48B-290	REP	82-04-060
296-48-710	REP	82-09-053	296-48A-755	REP	82-09-053	296-48B-295	REP	82-04-060
296-48-715	REP-P	82-05-006	296-48A-770	REP-P	82-05-006	296-48B-400	REP	82-04-060
296-48-715	REP	82-09-053	296-48A-770	REP	82-09-053	296-48B-405	REP	82-04-060
296-48-720	REP-P	82-05-006	296-48A-780	REP-P	82-05-006	296-48B-410	REP	82-04-060
296-48-720	REP	82-09-053	296-48A-780	REP	82-09-053	296-48B-415	REP	82-04-060
296-48-725	REP-P	82-05-006	296-48A-800	REP-P	82-05-006	296-48B-420	REP	82-04-060
296-48-725	REP	82-09-053	296-48A-800	REP	82-09-053	296-48B-425	REP	82-04-060
296-48-730	REP-P	82-05-006	296-48A-990	REP-P	82-05-006	296-48B-430	REP	82-04-060
296-48-730	REP	82-09-053	296-48A-990	REP	82-09-053	296-48B-435	REP	82-04-060
296-48-735	REP-P	82-05-006	296-48B	REP-C	82-02-052	296-48B-440	REP	82-04-060
296-48-735	REP	82-09-053	296-48B-001	REP	82-04-060	296-48B-445	REP	82-04-060
296-48-740	REP-P	82-05-006	296-48B-002	REP	82-04-060	296-48B-450	REP	82-04-060
296-48-740	REP	82-09-053	296-48B-005	REP	82-04-060	296-48B-455	REP	82-04-060
296-48-745	REP-P	82-05-006	296-48B-006	REP	82-04-060	296-48B-460	REP	82-04-060
296-48-745	REP	82-09-053	296-48B-009	REP	82-04-060	296-48B-465	REP	82-04-060
296-48-750	REP-P	82-05-006	296-48B-010	REP	82-04-060	296-48B-467	REP	82-04-060
296-48-750	REP	82-09-053	296-48B-015	REP	82-04-060	296-48B-468	REP	82-04-060
296-48-755	REP-P	82-05-006	296-48B-020	REP	82-04-060	296-48B-469	REP	82-04-060
296-48-755	REP	82-09-053	296-48B-025	REP	82-04-060	296-48B-46901	REP	82-04-060
296-48-760	REP-P	82-05-006	296-48B-030	REP	82-04-060	296-48B-470	REP	82-04-060
296-48-760	REP	82-09-053	296-48B-032	REP	82-04-060	296-48B-475	REP	82-04-060
296-48-761	REP-P	82-05-006	296-48B-035	REP	82-04-060	296-48B-480	REP	82-04-060

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
296-48B-485	REP	82-04-060	296-62-09033	AMD-P	82-08-004	296-150-150	NEW-W	82-04-015
296-48B-490	REP	82-04-060	296-62-09035	NEW	82-03-023	296-150-155	NEW-W	82-04-015
296-48B-500	REP	82-04-060	296-62-09037	NEW	82-03-023	296-150-160	NEW-W	82-04-015
296-48B-505	REP	82-04-060	296-62-09039	NEW	82-03-023	296-150-165	NEW-W	82-04-015
296-48B-510	REP	82-04-060	296-62-09041	NEW	82-03-023	296-150-170	NEW-W	82-04-015
296-48B-515	REP	82-04-060	296-62-09043	NEW	82-03-023	296-150-175	NEW-W	82-04-015
296-48B-520	REP	82-04-060	296-62-09045	NEW	82-03-023	296-150-180	NEW-W	82-04-015
296-48B-525	REP	82-04-060	296-62-09047	NEW	82-03-023	296-150-990	NEW-W	82-04-015
296-48B-530	REP	82-04-060	296-62-09049	NEW	82-03-023	296-150A	NEW-C	82-02-052
296-48B-535	REP	82-04-060	296-62-09051	NEW	82-03-023	296-150A-005	NEW-P	82-05-007
296-48B-540	REP	82-04-060	296-62-09051	AMD-P	82-08-004	296-150A-010	REP-P	82-05-007
296-48B-550	REP	82-04-060	296-62-09053	NEW	82-03-023	296-150A-011	NEW-P	82-05-007
296-48B-555	REP	82-04-060	296-62-14515	AMD-P	82-08-004	296-150A-015	REP-P	82-05-007
296-48B-560	REP	82-04-060	296-62-14525	AMD	82-03-023	296-150A-016	NEW-P	82-05-007
296-48B-565	REP	82-04-060	296-62-14533	AMD	82-03-023	296-150A-020	REP-P	82-05-007
296-48B-570	REP	82-04-060	296-78-71023	AMD-P	82-08-004	296-150A-021	NEW-P	82-05-007
296-48B-575	REP	82-04-060	296-79-020	AMD-P	82-08-004	296-150A-024	NEW-P	82-05-007
296-48B-580	REP	82-04-060	296-79-050	AMD-P	82-08-004	296-150A-025	REP-P	82-05-007
296-48B-585	REP	82-04-060	296-81-002	REP-P	82-07-079	296-150A-026	REP-P	82-05-007
296-48B-590	REP	82-04-060	296-81-003	REP-P	82-07-079	296-150A-027	REP-P	82-05-007
296-48B-595	REP	82-04-060	296-81-005	AMD-P	82-07-079	296-150A-030	NEW-P	82-05-007
296-48B-598	REP	82-04-060	296-81-006	AMD-P	82-07-079	296-150A-035	NEW-P	82-05-007
296-48B-600	REP	82-04-060	296-81-007	AMD-P	82-07-079	296-150A-040	NEW-P	82-05-007
296-48B-610	REP	82-04-060	296-81-008	AMD-P	82-07-079	296-150A-045	NEW-P	82-05-007
296-48B-615	REP	82-04-060	296-81-260	AMD-P	82-07-079	296-150A-050	REP-P	82-05-007
296-48B-620	REP	82-04-060	296-81-990	NEW-P	82-07-079	296-150A-051	NEW-P	82-05-007
296-48B-675	REP	82-04-060	296-86-010	AMD-P	82-07-079	296-150A-055	NEW-P	82-05-007
296-48B-680	REP	82-04-060	296-86-020	AMD-P	82-07-079	296-150A-060	NEW-P	82-05-007
296-48B-685	REP	82-04-060	296-86-030	AMD-P	82-07-079	296-150A-065	NEW-P	82-05-007
296-48B-690	REP	82-04-060	296-86-040	AMD-P	82-07-079	296-150A-070	NEW-P	82-05-007
296-48B-695	REP	82-04-060	296-86-060	AMD-P	82-07-079	296-150A-075	NEW-P	82-05-007
296-48B-720	REP	82-04-060	296-86-070	AMD-P	82-07-079	296-150A-080	NEW-P	82-05-007
296-48B-725	REP	82-04-060	296-86-075	AMD-P	82-07-079	296-150A-085	NEW-P	82-05-007
296-48B-730	REP	82-04-060	296-86-080	AMD-P	82-07-079	296-150A-090	NEW-P	82-05-007
296-48B-735	REP	82-04-060	296-104-200	AMD	82-05-003	296-150A-095	NEW-P	82-05-007
296-48B-740	REP	82-04-060	296-116-075	NEW-P	82-06-054	296-150A-100	NEW-P	82-05-007
296-48B-800	REP	82-04-060	296-116-075	NEW-C	82-09-060	296-150A-105	NEW-P	82-05-007
296-48B-805	REP	82-04-060	296-116-080	AMD-P	82-06-054	296-150A-110	NEW-P	82-05-007
296-48B-810	REP	82-04-060	296-116-080	AMD-C	82-09-060	296-150A-115	NEW-P	82-05-007
296-48B-815	REP	82-04-060	296-116-085	AMD-P	82-10-049	296-150A-120	NEW-P	82-05-007
296-48B-820	REP	82-04-060	296-116-185	AMD-P	82-02-068	296-150A-125	NEW-P	82-05-007
296-48B-825	REP	82-04-060	296-116-185	AMD-C	82-05-035	296-150A-130	NEW-P	82-05-007
296-48B-830	REP	82-04-060	296-116-185	AMD	82-08-016	296-150A-135	NEW-P	82-05-007
296-48B-835	REP	82-04-060	296-116-185	AMD-E	82-08-017	296-150A-140	NEW-P	82-05-007
296-52-043	AMD-P	82-02-065	296-116-205	AMD-P	82-10-049	296-150A-145	NEW-P	82-05-007
296-52-043	AMD-E	82-07-013	296-116-300	AMD-P	82-08-062	296-150A-150	NEW-P	82-05-007
296-52-043	AMD	82-08-026	296-116-320	AMD-P	82-10-049	296-150A-155	NEW-P	82-05-007
296-52-090	AMD-P	82-02-065	296-150	NEW-C	82-02-052	296-150A-160	NEW-P	82-05-007
296-52-090	AMD-E	82-07-013	296-150-005	NEW-W	82-04-015	296-150A-165	NEW-P	82-05-007
296-52-090	AMD	82-08-026	296-150-010	NEW-W	82-04-015	296-150A-170	NEW-P	82-05-007
296-54-543	AMD-P	82-08-004	296-150-015	NEW-W	82-04-015	296-150A-300	NEW-P	82-05-007
296-62-07101	AMD-P	82-02-065	296-150-020	NEW-W	82-04-015	296-150A-315	REP-P	82-05-007
296-62-07101	AMD	82-08-026	296-150-025	NEW-W	82-04-015	296-150A-320	REP-P	82-05-007
296-62-07107	AMD	82-03-023	296-150-030	NEW-W	82-04-015	296-150A-325	REP-P	82-05-007
296-62-07109	AMD	82-03-023	296-150-035	NEW-W	82-04-015	296-150A-330	REP-P	82-05-007
296-62-07109	AMD-P	82-08-004	296-150-040	NEW-W	82-04-015	296-150A-333	REP-P	82-05-007
296-62-07115	AMD-P	82-02-065	296-150-045	NEW-W	82-04-015	296-150A-335	REP-P	82-05-007
296-62-07115	AMD	82-08-026	296-150-050	NEW-W	82-04-015	296-150A-400	REP-P	82-05-007
296-62-07302	AMD-P	82-08-004	296-150-055	NEW-W	82-04-015	296-150A-405	REP-P	82-05-007
296-62-07329	AMD-P	82-08-004	296-150-060	NEW-W	82-04-015	296-150A-410	REP-P	82-05-007
296-62-07349	AM/DE-P	82-08-004	296-150-065	NEW-W	82-04-015	296-150A-415	REP-P	82-05-007
296-62-07501	AMD	82-03-023	296-150-070	NEW-W	82-04-015	296-150A-417	REP-P	82-05-007
296-62-07515	AMD-P	82-08-004	296-150-075	NEW-W	82-04-015	296-150A-420	REP-P	82-05-007
296-62-07521	RECOD-P	82-08-004	296-150-080	NEW-W	82-04-015	296-150A-423	REP-P	82-05-007
296-62-09003	AMD-P	82-08-004	296-150-085	NEW-W	82-04-015	296-150A-424	REP-P	82-05-007
296-62-09011	AMD	82-03-023	296-150-090	NEW-W	82-04-015	296-150A-425	REP-P	82-05-007
296-62-09015	NEW	82-03-023	296-150-095	NEW-W	82-04-015	296-150A-430	REP-P	82-05-007
296-62-09017	NEW	82-03-023	296-150-100	NEW-W	82-04-015	296-150A-435	REP-P	82-05-007
296-62-09019	NEW	82-03-023	296-150-105	NEW-W	82-04-015	296-150A-440	REP-P	82-05-007
296-62-09021	NEW	82-03-023	296-150-110	NEW-W	82-04-015	296-150A-445	REP-P	82-05-007
296-62-09023	NEW	82-03-023	296-150-115	NEW-W	82-04-015	296-150A-450	REP-P	82-05-007
296-62-09025	NEW	82-03-023	296-150-120	NEW-W	82-04-015	296-150A-500	REP-P	82-05-007
296-62-09027	NEW	82-03-023	296-150-125	NEW-W	82-04-015	296-150A-505	REP-P	82-05-007
296-62-09029	NEW	82-03-023	296-150-130	NEW-W	82-04-015	296-150A-506	REP-P	82-05-007
296-62-09031	NEW	82-03-023	296-150-135	NEW-W	82-04-015	296-150A-510	REP-P	82-05-007
296-62-09031	AMD-P	82-08-004	296-150-140	NEW-W	82-04-015	296-150A-515	REP-P	82-05-007
296-62-09033	NEW	82-03-023	296-150-145	NEW-W	82-04-015	296-150A-516	REP-P	82-05-007

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
296-150B-707	NEW	82-04-060	308-25-020	NEW	82-06-043	308-100-010	AMD	82-03-046
296-150B-710	NEW	82-04-060	308-25-020	AMD-P	82-08-077	308-100-020	AMD	82-03-046
296-150B-713	NEW	82-04-060	308-25-030	NEW-P	82-02-093	308-100-030	AMD-P	82-10-048
296-150B-717	NEW	82-04-060	308-25-030	NEW	82-06-043	308-100-050	AMD	82-03-046
296-150B-720	NEW	82-04-060	308-25-030	AMD-P	82-08-077	308-100-060	AMD	82-03-046
296-150B-723	NEW	82-04-060	308-25-040	NEW-P	82-02-093	308-100-070	REP	82-03-046
296-150B-727	NEW	82-04-060	308-25-040	NEW	82-06-043	308-102-012	AMD	82-03-046
296-150B-730	NEW	82-04-060	308-25-040	AMD-P	82-08-077	308-102-013	REP	82-03-046
296-150B-733	NEW	82-04-060	308-25-050	NEW-P	82-02-093	308-102-210	AMD	82-03-046
296-150B-737	NEW	82-04-060	308-25-050	NEW	82-06-043	308-102-260	AMD	82-03-046
296-150B-740	NEW	82-04-060	308-25-060	NEW-P	82-02-093	308-102-290	AMD	82-03-046
296-150B-743	NEW	82-04-060	308-25-060	NEW	82-06-043	308-102-295	NEW-E	82-07-002
296-150B-747	NEW	82-04-060	308-25-070	NEW-P	82-02-093	308-102-295	NEW-P	82-08-076
296-150B-750	NEW	82-04-060	308-25-070	NEW	82-06-043	308-104-015	NEW	82-03-046
296-150B-753	NEW	82-04-060	308-26-017	NEW-P	82-08-049	308-104-020	REP	82-03-046
296-150B-757	NEW	82-04-060	308-34-010	NEW-P	82-05-052	308-104-025	NEW	82-03-046
296-150B-760	NEW	82-04-060	308-34-010	NEW	82-09-043	308-104-030	REP	82-03-046
296-150B-763	NEW	82-04-060	308-34-020	NEW-P	82-05-052	308-104-040	AMD	82-03-046
296-150B-767	NEW	82-04-060	308-34-020	NEW	82-09-043	308-104-050	AMD	82-03-046
296-150B-770	NEW	82-04-060	308-34-030	NEW-P	82-05-052	308-104-058	NEW	82-03-046
296-150B-773	NEW	82-04-060	308-34-030	NEW	82-09-043	308-104-100	AMD	82-03-046
296-150B-777	NEW	82-04-060	308-34-040	NEW-P	82-05-052	308-104-150	NEW	82-03-046
296-150B-780	NEW	82-04-060	308-34-040	NEW	82-09-043	308-104-160	NEW	82-03-046
296-150B-783	NEW	82-04-060	308-34-050	NEW-P	82-05-052	308-104-160	AMD-P	82-08-076
296-150B-787	NEW	82-04-060	308-34-050	NEW	82-09-043	308-104-170	NEW	82-03-046
296-150B-790	NEW	82-04-060	308-34-060	NEW-P	82-05-052	308-104-180	NEW	82-03-046
296-150B-793	NEW	82-04-060	308-34-060	NEW	82-09-043	308-122-220	AMD-P	82-09-078
296-150B-797	NEW	82-04-060	308-34-070	NEW-P	82-05-052	308-124D-015	NEW-P	82-05-051
296-150B-800	NEW	82-04-060	308-34-070	NEW	82-09-043	308-400-010	NEW	82-05-014
296-150B-803	NEW	82-04-060	308-34-080	NEW-P	82-05-052	308-400-020	NEW	82-05-014
296-150B-807	NEW	82-04-060	308-34-080	NEW	82-09-043	308-400-030	NEW	82-05-014
296-150B-810	NEW	82-04-060	308-36-020	REP-P	82-04-008	308-400-040	NEW	82-05-014
296-150B-813	NEW	82-04-060	308-36-020	REP	82-07-094	308-400-040	AMD-P	82-08-075A
296-150B-817	NEW	82-04-060	308-36-030	REP-P	82-04-008	308-400-042	NEW-P	82-04-084
296-150B-820	NEW	82-04-060	308-36-030	REP	82-07-094	308-400-042	NEW	82-08-021
296-150B-950	NEW	82-04-060	308-36-040	REP-P	82-04-008	308-400-044	NEW	82-05-014
296-150B-990	NEW-P	82-05-006	308-36-040	REP	82-07-094	308-400-046	NEW	82-05-014
296-150B-990	NEW-P	82-08-002	308-36-050	REP-P	82-04-008	308-400-048	NEW	82-05-014
296-150B-990	NEW	82-09-053	308-36-050	REP	82-07-094	308-400-048	AMD-P	82-08-075A
296-155-485	AMD-P	82-02-065	308-36-060	REP-P	82-04-008	308-400-050	NEW	82-05-014
296-155-485	AMD-E	82-07-013	308-36-060	REP	82-07-094	308-400-052	NEW-P	82-08-075A
296-155-485	AMD	82-08-026	308-36-065	REP-P	82-04-008	308-400-053	NEW-E	82-10-043
296-155-48501	REP-P	82-02-065	308-36-065	REP	82-07-094	308-400-054	NEW-P	82-08-075A
296-155-48501	REP	82-08-026	308-36-070	REP-P	82-04-008	308-400-056	NEW-P	82-08-075A
296-155-48502	REP-P	82-02-065	308-36-070	REP	82-07-094	308-400-058	NEW-P	82-08-075A
296-155-48502	REP	82-08-026	308-36-080	REP-P	82-04-008	308-400-060	NEW	82-05-014
296-155-66501	AMD-P	82-08-004	308-36-080	REP	82-07-094	308-400-060	AMD-P	82-08-075A
296-306-200	AMD-P	82-02-065	308-37-110	AMD-P	82-04-087	308-400-062	NEW-P	82-08-075A
296-306-200	AMD-E	82-07-013	308-37-110	AMD	82-07-043	308-400-063	NEW-E	82-10-043
296-306-200	AMD	82-08-026	308-40-020	AMD	82-04-024	308-400-070	NEW	82-05-014
296-306-200	AMD-E	82-10-071	308-40-101	AMD	82-04-024	308-400-070	AMD-P	82-08-075A
296-350-080	AMD-P	82-08-004	308-40-102	AMD	82-04-024	308-400-080	NEW	82-05-014
296-350-095	NEW-P	82-10-072	308-40-103	NEW	82-04-024	308-400-090	NEW	82-05-014
296-350-35055	AMD-P	82-08-004	308-40-104	NEW	82-04-024	308-400-090	REP-P	82-08-075A
296-350-400	AMD-P	82-08-004	308-40-105	AMD	82-04-024	308-400-092	NEW-P	82-08-075A
296-360-030	AMD-P	82-08-004	308-40-110	AMD	82-04-024	314-12-010	AMD	82-04-031
296-401-010	AMD-P	82-08-003	308-52-135	AMD	82-03-022	314-12-035	NEW	82-04-032
308-16-440	NEW-P	82-05-049	308-52-140	AMD	82-03-022	314-12-040	AMD-P	82-07-046
308-16-440	NEW	82-08-064	308-52-201	AMD	82-03-022	314-12-040	AMD	82-10-020
308-16-450	NEW-P	82-05-049	308-53-080	AMD-P	82-08-048	314-16-195	NEW-P	82-10-069
308-16-450	NEW	82-08-064	308-53-085	NEW-P	82-08-048	314-16-200	AMD-P	82-06-046
308-16-460	NEW-P	82-05-049	308-53-151	NEW-P	82-08-048	314-16-200	AMD-W	82-07-009
308-16-460	NEW	82-08-064	308-61-010	AMD-P	82-09-079	314-16-200	AMD-P	82-07-014
308-16-470	NEW-P	82-05-049	308-61-030	AMD-P	82-09-079	314-16-200	AMD	82-10-019
308-16-470	NEW	82-08-064	308-61-100	AMD-P	82-09-079	314-20-100	AMD-P	82-10-068
308-24-510	NEW-P	82-05-048	308-61-110	AMD-P	82-09-079	314-20-105	AMD-P	82-10-068
308-24-510	NEW	82-08-063	308-61-120	AMD-P	82-09-079	314-24-120	AMD	82-04-035
308-24-520	NEW-P	82-05-048	308-61-130	AMD-P	82-09-079	314-24-190	AMD-P	82-10-068
308-24-520	NEW	82-08-063	308-61-200	AMD-P	82-09-080	314-24-200	AMD-P	82-10-068
308-24-530	NEW-P	82-05-048	308-61-210	AMD-P	82-09-080	314-38-010	NEW-P	82-10-070
308-24-530	NEW	82-08-063	308-61-220	AMD-P	82-09-080	314-40-010	AMD-P	82-10-069
308-24-540	NEW-P	82-05-048	308-61-240	AMD-P	82-09-080	314-40-040	AMD	82-04-028
308-24-540	NEW	82-08-063	308-61-260	AMD-P	82-09-080	314-44-005	AMD	82-04-029
308-25-010	NEW-P	82-02-093	308-61-270	AMD-P	82-09-080	314-60-030	AMD	82-04-030
308-25-010	NEW	82-06-043	308-61-320	AMD-P	82-09-080	314-60-040	AMD	82-04-030
308-25-010	AMD-P	82-08-077	308-61-400	AMD-P	82-09-080	314-60-040	AMD-P	82-07-095
308-25-020	NEW-P	82-02-093	308-61-420	AMD-P	82-09-080	314-60-040	AMD	82-10-021

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
314-60-150	REP	82-04-030	344-12-255	NEW-P	82-03-051	356-34-116	NEW-P	82-06-029
314-60-900	REP	82-04-030	344-12-260	NEW-P	82-03-051	356-34-116	NEW-W	82-09-023
314-60-901	REP	82-04-030	344-12-262	NEW-P	82-03-051	356-34-117	NEW-P	82-06-029
314-60-902	REP	82-04-030	344-12-265	NEW-P	82-03-051	356-34-117	NEW-W	82-09-023
314-60-903	REP	82-04-030	344-12-270	NEW-P	82-03-051	356-34-118	NEW-P	82-06-029
314-60-904	REP	82-04-030	344-12-275	NEW-P	82-03-051	356-34-118	NEW-W	82-09-023
314-60-905	REP	82-04-030	344-12-280	NEW-P	82-03-051	356-34-119	NEW-P	82-06-029
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