

**AUGUST 21, 1985**

**OLYMPIA, WASHINGTON**

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

DENNIS W. COOPER  
Code Reviser

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# WASHINGTON STATE REGISTER

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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.

# 1985

## DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

| Issue No.                | Closing Dates <sup>1</sup> |                       |  | Distribution Date          | First Agency Action Date <sup>3</sup>   |
|--------------------------|----------------------------|-----------------------|--|----------------------------|---|
|                          | Non-OTS & 30 p. or more    | Non-OTS & 11 to 29 p. | OTS <sup>2</sup> or 10 p. max. Non-OTS |                            |   |
| <i>For Inclusion in—</i> | <i>File no later than—</i> |                       |  | <i>Count 20 days from—</i> | <i>For hearing/adoption on or after</i> |
| 85-01                    | Nov 21                     | Dec 5                 | Dec 19, 1984                           | Jan 2, 1985                | Jan 22                                  |
| 85-02                    | Dec 5                      | Dec 19, 1984          | Jan 2, 1985                            | Jan 16                     | Feb 5                                   |
| 85-03                    | Dec 26, 1984               | Jan 9, 1985           | Jan 23                                 | Feb 6                      | Feb 26                                  |
| 85-04                    | Jan 9                      | Jan 23                | Feb 6                                  | Feb 20                     | Mar 12                                  |
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| 85-13                    | May 22                     | Jun 5                 | Jun 19                                 | Jul 3                      | Jul 23                                  |
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<sup>1</sup>All 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.

<sup>2</sup>A 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.

<sup>3</sup>"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.

**WSR 85-16-001**  
**PROPOSED RULES**  
**EDMONDS COMMUNITY COLLEGE**  
 [Filed July 25, 1985]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Washington State Community College District 23 intends to adopt, amend, or repeal rules concerning dismissal of tenured and probationary faculty members, chapter 132Y-140 WAC;

that the institution will at 4:00 p.m., Thursday, September 12, 1985, in Lyn 424, Lynnwood Hall, Edmonds Community College, Lynnwood, Washington 98036, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.50.140 and 28B.50.850.

The specific statute these rules are intended to implement is RCW 28B.50.140.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before 3:00 p.m., September 12, 1985.

Dated: July 23, 1985

By: Jennis J. Bapst  
 V.P. Planning and Development

**STATEMENT OF PURPOSE**

Title: Dismissal of tenured and probationary faculty members.

Purpose of this Amendment: To delete the reference to reduction-in-force from chapter 132Y-140 WAC.

College Official Responsible for Drafting: Jennis J. Bapst, V.P. for Planning and Development, scan 721-1011; and Enforcing: Thomas C. Nielsen, President, scan 721-1011.

These rules are being proposed by Edmonds Community College.

**REPEALER**

The following sections of the Washington Advisory Code are hereby repealed:

- WAC 132Y-140-102 REDUCTION IN FORCE
- WAC 132Y-140-104 REDUCTION IN FORCE UNITS AND PROCEDURE FOR ASSIGNMENT

**WSR 85-16-002**  
**ADOPTED RULES**  
**PARKS AND RECREATION**  
**COMMISSION**

[Order 89—Filed July 25, 1985]

Be it resolved by the Washington State Parks and Recreation Commission, acting at Port Angeles, Washington, that it does adopt the annexed rules relating to definitions, WAC 352-36-010; certain vehicle lighting and equipment standards, WAC 352-36-110; excluded/limited recreation activities, WAC 352-36-130; and special group recreation event permit, WAC 352-36-140.

This action is taken pursuant to Notice No. WSR 85-12-058 filed with the code reviser on June 5, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 43.51.660, 43.51.665, 43.51.680, 43.51.040 and 43.51.060 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 19, 1985.

By Thomas M. Ryan, Chairperson  
 and Donald D. Ernst  
 State Maintenance Engineer  
 Department of Transportation

**AMENDATORY SECTION** (Amending Order 13, filed 4/19/72)

WAC 352-36-010 DEFINITIONS. Whenever used in this chapter the following terms shall have the meanings herein defined unless the context clearly indicates otherwise:

(1) "Commission" shall mean the Washington state parks and recreation commission.

(2) "Director" shall mean the director of the Washington state parks and recreation commission.

(3) "Person" shall mean all natural persons, firms, partnerships, corporations, clubs, and all associations or combinations of persons whenever acting for themselves or by an agent, servant, or employee.

(4) "Ocean beaches" shall mean all lands fronting on the Pacific Ocean between Cape Disappointment (~~on the south and Cape Flattery on the north~~) and Leadbetter Point; between Toke Point and the South jetty on Point Chehalis; and between Damon Point and the Makah Indian Reservation, and occupying the area between the line of ordinary high tide and the line of extreme low tide, as these lines now are or may hereafter be located, and, where applicable, between the Seashore Conservation Line, as established by survey of the Washington state parks and recreation commission and the line of extreme low tide, as these lines now are or may hereafter be located, or as defined in RCW 43.51-.655, provided, that the ocean beaches shall not include any lands within the established boundaries of any Indian reservation.

(5) "Long Beach" shall mean that area of the ocean beaches as defined in ((subparagraph)) subsection (4) ((above)) of this section lying between Cape Disappointment on the south and Leadbetter Point on the north.

(6) "South Beach" shall mean that area of the ocean beaches as defined in ((subparagraph)) subsection (4) ((above)) of this section lying between Toke Point on the south and the south jetty on Point Chehalis on the north.

(7) "North Beach" shall mean that area of the ocean beaches as defined in ((subparagraph)) subsection (4) ((above)) of this section lying between Damon Point on the south and Cape Flattery on the north.

(8) "Hard sand area" shall mean that area over which the tide ebbs and flows on a daily basis; and which is sufficiently hard or firm to support the weight of, and to provide unhindered traction for, an ordinary passenger vehicle.

(9) "Dry sand area" shall mean that area lying above and to the landward side of the hard sand area as defined in ~~((subparagraph))~~ subsection (8) ((above)) of this section.

(10) "Driveable beach" shall mean that area of the ocean beaches lying between the upper or landward limit of the hard sand area and the clam beds.

(11) "Motor vehicle" shall mean any self-propelled device capable of being moved upon a public highway, and in, upon, or by which any persons or property may be transported or drawn, and shall include, but not be limited to, automobiles, trucks, motorcycles, motor bikes, motor scooters, mopeds, jeeps, or similar type four-wheel drive vehicles, buses, ~~((campers))~~ camper trucks, motor homes, and other self-propelled recreational vehicles. A motor vehicle must have a means of propulsion associated or attached directly to the device, and not receive motive power from a source independent or outside of the device. A motor vehicle must be certified and licensed according to the provisions of chapters 46.12 (Certificates of ownership and registration) and 46.16 RCW (Vehicle licenses).

(12) "Wind/sand sailer" shall mean a wheeled, wind-driven recreational conveyance.

(13) "Parasail" shall mean a parachute-type device attached to a rope pulled by a motor vehicle, resulting in the participant being lifted from the ground by the force of the wind.

(14) "Hovercraft" shall mean a powered vehicle supported by a cushion of air, capable of transporting persons.

AMENDATORY SECTION (Amending Order 28, filed 11/19/76)

WAC 352-36-110 CERTAIN VEHICLE LIGHTING AND EQUIPMENT STANDARDS INCORPORATED. ~~((The following sections of chapter 46.37 RCW, entitled Vehicle Lighting and Other Equipment, are herewith expressly incorporated herein, and the vehicle lighting and equipment required in those sections are hereby expressly required when operating any motor vehicle on and along the ocean beaches:~~

~~(1) RCW 46.37.020 WHEN LIGHTED LAMPS AND SIGNALLING DEVICES ARE REQUIRED:~~

~~(2) RCW 46.37.240 BRAKING EQUIPMENT REQUIRED:~~

~~(3) RCW 46.37.380 HORNS AND WARNING DEVICES:~~

~~(4) RCW 46.37.390 MUFFLERS, PREVENTION OF NOISE AND SMOKE:~~

~~(5) RCW 46.37.420 RESTRICTIONS AS TO TIRE EQUIPMENT:~~

~~(6) RCW 46.37.530(3) MOTORCYCLES - MIRRORS, GOGGLES, FACE SHIELDS, AND HELMETS - REGULATIONS AND SPECIFICATIONS BY COMMISSION ON EQUIPMENT:~~

~~(7) All vehicles must have current valid motor vehicles license or ATV use permit:~~

~~Section 3 of chapter 77 of the Laws of 1971 is also herewith expressly incorporated herein, and the requirement of that section is hereby expressly required when operating any motor vehicle on and along the ocean beaches:~~

~~UNSAFE CONDITION OF TIRES:)) Except where otherwise obviously inapplicable to the use and operation of motor vehicles on the ocean beaches, chapter 46.37 RCW, constituting vehicle lighting and other equipment, is herewith expressly incorporated herein, and the requirements of that chapter are hereby expressly required when operating any motor vehicles on and along the ocean beaches.~~

NEW SECTION

WAC 352-36-130 EXCLUDED/LIMITED RECREATION ACTIVITIES. The following forms of public outdoor recreation activities or devices are prohibited on the ocean beaches unless specifically authorized by the director as a special recreation event pursuant to WAC 352-36-140:

(1) Vehicles not licensed and certificated pursuant to chapters 46.12 and 46.16 RCW.

(2) Wind/sand sailers.

(3) Parasails.

(4) Hovercraft.

NEW SECTION

WAC 352-36-140 SPECIAL GROUP RECREATION EVENT PERMIT. Any person or group desiring to make use of a portion of the ocean beaches for a group recreation event which will require the closure of the area to certain conflicting recreational uses, may apply to the director for a special group recreation event permit. The director, or his/her designee, may issue such a permit after consultation with the appropriate local government, if the event does not unduly interfere with normal public recreation. Such authorization shall include the closure of the specified area to recreational activities, including motor vehicle traffic, which are determined to have the potential to interfere with the event or which could risk the safety of the recreating public or the special event participants. However, no such authorization may result in the unreasonable exclusion of pedestrian recreationists from the specified portion of the ocean beach; all events authorized under this permit shall be open to public participation and/or observation.

In determining whether to issue the permit, the director or designee will review the proposal for consistency with established approval criteria developed by the agency, which are designed to ensure the appropriateness of the event to the ocean beaches, and the basis for any associated public recreation restrictions. The criteria are available upon request from the agency.

A special group recreation event permit shall be issued only for recreational events where there is a reasonable expectation that a minimum of twenty persons will participate. The event must be oriented towards a recreational pursuit. Not more than three permits will be issued to a given applicant for the same event during a

one-year period. The group recreation activity must be consistent with the Seashore conservation area (RCW 43.51.650 through 43.51.685), and may include an activity otherwise excluded under WAC 352-36-130. Special group recreation events shall not exceed three days or seventy-two hours.

Persons or organizations that desire to conduct a special group recreation event on the ocean beaches shall submit a permit application provided by the director to the:

Washington State Parks and  
Recreation Commission  
7150 Cleanwater Lane KY-11  
Olympia, WA 98504

Such application shall be submitted at least fifteen days in advance of the proposed date of the event, to allow for necessary internal review and analysis, consultation with local governments, public notice, establishment of permit conditions, and required agency preparations and coordination. The director or his/her designee shall approve or disapprove a permit application and establish the conditions for an approved application. The director or the designee shall determine the need for any fees necessary to cover costs incurred by the agency, as well as the need for any bond, damage deposit, or liability insurance arising from any potential hazards associated with the character of the event. Any such fees, bond, damage deposit, or liability insurance shall be provided prior to the issuance of the permit.

If additional costs are incurred by the commission resulting from the event, the applicant shall reimburse the commission for such costs in a timely manner. If the additional costs are not paid, the director may recover such costs from the bond or damage deposits provided if previously required. Any funds remaining from the bond or damage deposit shall be returned to the applicant.

**WSR 85-16-003**  
**PROPOSED RULES**  
**WASHINGTON STATE PATROL**  
[Filed July 25, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Patrol intends to adopt, amend, or repeal rules concerning transportation of hazardous materials, hazardous waste, and radioactive waste materials, chapter 446-50 WAC;

that the agency will at 10:00 a.m., Tuesday, September 10, 1985, in the Commercial Vehicle Enforcement Section Office, 515 15th Street, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Tuesday, September 10, 1985.

The authority under which these rules are proposed is RCW 46.48.170 and 46.48.190.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 10, 1985.

Dated: July 15, 1985  
By: George B. Tellevik  
Chief

**STATEMENT OF PURPOSE**

Statutory Authority: Chapter 46.48 RCW.

We, the State Patrol and the Hazardous Materials Technical Advisory Committee, find these proposed amendments for adoption necessary to ensure safe transportation of hazardous materials within the state of Washington.

The amendment was drafted by Deputy Chief Larry R. Hart and the Hazardous Materials Technical Advisory Committee. Deputy Chief Hart can be contacted by phone at (206) 753-1904. Implementation of these rules was by the Washington State Patrol and the Hazardous Materials Technical Advisory Committee and shall be enforced by the Washington State Patrol.

**AMENDATORY SECTION** (Amending Order 82-3, filed 2/7/84)

WAC 446-50-080 TRANSPORTATION REQUIREMENTS. (1) The Washington State Patrol acting by and through the Chief of the Washington State Patrol after conferring with the committee created by RCW 46.48.190 hereby adopts the following parts of Title 49 Code of Federal Regulations, (~~including all appendices and amendments thereto;~~) as they exist during ~~((1984))~~ 1985, subject to any appendices and amendments in the future: 170 (Reserved), 171 General information, regulations, and definitions, 172 Hazardous materials table and hazardous materials communications regulations, 173 Shippers -General requirements for shipments and packaging, 177 Carriage on public highway, 178 Shipping container specifications, 180-189 (Reserved). Title 49 CFR, parts 100 through 199, relates to safety in the transportation of hazardous materials upon the public highways. This regulation is intended to apply only to the transportation of hazardous materials by highway in Washington, to the handling and storage operations incident to such transportation, and to the highway portion of an intermodal shipment of hazardous materials.

(2) Copies of Title 49 CFR, parts 100 through 199, now in force are on file at the code reviser's office, Olympia and at the Washington State Patrol headquarters, commercial vehicle enforcement section, Olympia. Additional copies may be available for review at Washington State Patrol district headquarters offices, public libraries, Washington utilities and transportation (commission offices and at the United States Department of Transportation), bureau of motor carrier safety office, Olympia. Copies of the CFR may be purchased through the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402.

**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 85-16-004**  
**ADOPTED RULES**  
**DEPARTMENT OF GAME**  
**(Game Commission)**  
[Order 260—Filed July 25, 1985]

Be it resolved by the State Game Commission, acting at Bellingham, Washington, that it does adopt the annexed rules relating to hunter education training program requirements, WAC 232-12-227.

This action is taken pursuant to Notice No. WSR 85-12-035 filed with the code reviser on June 3, 1985. These rules shall take effect thirty days after they are

filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 77.32.155 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 10, 1985.

By Jack S. Wayland  
for Archie U. Mills  
Chairman, Game Commission

AMENDATORY SECTION (Amending Order 165, filed 6/1/81)

WAC 232-12-227 HUNTER EDUCATION TRAINING PROGRAM REQUIREMENTS. (1) The director may designate a state coordinator for the purpose of administering the hunter education program. The state coordinator shall be responsible for the certification of volunteer instructors and the development of instructional materials, training aids, operating policies and procedures necessary to comply with the provisions of this section and RCW 77.32.155.

(2) It is unlawful for any person under the age of eighteen to ~~((purchase))~~ obtain a hunting license in the state of Washington without having completed a Department-approved course involving at least ~~((eight))~~ ten hours of instruction in conservation, safety and sportsmanship.

(3) Upon satisfactory completion of these requirements, each student shall be issued a certificate of accreditation signed by an authorized instructor or the state coordinator.

(4) It is unlawful for a license dealer to ~~((set))~~ issue a hunting license ~~((to))~~ for a person under eighteen years of age unless a hunter education certificate issued to said person is presented at the time of purchase.

**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 85-16-005**

**EMERGENCY RULES**

**DEPARTMENT OF NATURAL RESOURCES**

[Order 454—Filed July 25, 1985]

I, Brian J. Boyle, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the adoption of an emergency rule restricting logging, land clearing, and other industrial operations which may cause a fire to start on lands under the protection of the Department of Natural Resources in Western Washington. Restrict burning permits and burning privileges in Western Washington.

I, Brian J. Boyle, find that an emergency exists and that this 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 the emergency is due to existing and forecasted weather conditions, forest lands in Western Washington are exposed to increasing fire danger. Logging restrictions are imposed in all shutdown zones in Western Washington.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 76.04.190 and 76.04.150 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 25, 1985.

By Brian J. Boyle  
Commissioner of Public Lands

AMENDATORY SECTION (Amending Emergency Order 453, filed 7/19/85)

WAC 332-26-083 HOOT OWL LOGGING RESTRICTIONS ON LANDS PROTECTED BY THE DEPARTMENT OF NATURAL RESOURCES IN WESTERN WASHINGTON. *Effective midnight, ((Friday, July 19, 1985, through midnight, Thursday, July 25, 1985.)) Thursday, July 25, 1985, through midnight, Monday, July 29, 1985, all logging, land clearing, and other industrial operations which may cause a fire to start are to cease operation during the following times and under the following conditions: 1) All power saws, except those used on landings, to shutdown from 11:00 a.m. to 8:00 p.m. during the shutdown period. Landing saws to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 2) All yarding, skidding, loading, and hauling to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 3) All other operations not specifically listed here will shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period((-)); 4) Watchperson required for a minimum of one hour following operation of spark emitting equipment.*

*Affected Areas: Olympic Area – shutdown zones 649, 650, 651L, 653, 654; Central Area – shutdown zones ((649;)) 651L, 651H, 655, 657; Southwest Area – shutdown zones 649, 651L, 651H, 655, 621 West, 621 East, 660; South Puget Sound Area – shutdown zones 654, 657; Northwest Area – shutdown zones 653, 656.*

*All persons are excluded from logging operating areas and areas of logging slash, except those present in the interest of fire protection, from 1:00 p.m. to 8:00 p.m. during the shutdown period.*

*All burning permits and burning privileges are cancelled in the affected ~~((areas))~~ shutdown zones.*

**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 Emergency Order 453, filed 7/19/85*)

**WAC 332-26-084 LOGGING RESTRICTIONS ON LANDS PROTECTED BY THE DEPARTMENT OF NATURAL RESOURCES IN WESTERN WASHINGTON.** *Effective midnight, ((Friday, July 19, 1985, through midnight, Thursday, July 25, 1985,)) Thursday, July 25, 1985, through midnight, Monday, July 29, 1985, all logging, land clearing, and other industrial operations which may cause a fire to start shall cease operations.*

Areas effected by these restrictions are:

1) Shutdown zone(~~s-656 and~~) 658 lying in the eastern ((two-thirds)) half of Whatcom, Skagit, and Snohomish counties and the northeast portion of King County protected by the Department of Natural Resources Northwest Area;

2) Shutdown zone 652 lying in western Mason County and zone 659 lying in the eastern half of King and Pierce counties protected by the Department of Natural Resources South Puget Sound Area;

3) Shutdown zone(s) 659 ((and 660)) lying in the eastern half of Lewis County protected by the Department of Natural Resources Central Area;

~~((4) Shutdown zone 660 in Skamania County and the eastern portions of Cowlitz and Clark counties, and zone 621 east lying in the southern portion of Skamania County protected by the Department of Natural Resources Southwest Area;))~~

~~((5)) 4) Shutdown zone 652 lying in the interior of Clallam and Jefferson counties(;-) and the northeast portion of Grays Harbor County((- the northwest portion of Mason County)) protected by the Department of Natural Resources Olympic ((and South Puget Sound Areas.)) Area.~~

During the shutdown period all persons are excluded from logging operating areas and areas of logging slash except those present in the interest of fire protection.

Burning permits and burning privileges are cancelled in the affected areas.

**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.

rule restricting logging, land clearing, and other industrial operations which may cause a fire to start on lands under the protection of the Department of Natural Resources in Eastern Washington. Restrict burning permits and burning privileges in Eastern Washington.

I, Brian J. Boyle, find that an emergency exists and that this 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 the emergency is due to existing and forecasted weather conditions, forest lands in Eastern Washington are exposed to increasing fire danger. Logging restrictions are imposed in all shutdown zones in Eastern Washington.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 76.04.190 and 76.04.150 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 26, 1985.

By Brian J. Boyle  
Commissioner of Public Lands

**NEW SECTION**

**WAC 332-26-085 CLOSURE OF FOREST OPERATIONS ON LANDS PROTECTED BY THE DEPARTMENT OF NATURAL RESOURCES IN EASTERN WASHINGTON** *Effective midnight, Friday, July 26, 1985, through midnight, Monday, July 29, 1985, all logging, land clearing, and other industrial operations which may cause a fire to start shall cease operations.*

Areas affected by these restrictions are all private and state lands protected by the Department of Natural Resources Southeast Area in Klickitat, Yakima, Kittitas, and Chelan counties.

All persons are excluded from logging operating areas and areas of logging slash during the closure period and those present in the interest of fire protection.

All burning permits are cancelled in the affected counties.

All woodcutting permits on private and state forest lands are cancelled due to fire danger in the affected counties.

**NEW SECTION**

**WAC 332-26-086 MODIFIED LOGGING OPERATIONS ON LANDS PROTECTED BY THE DEPARTMENT OF NATURAL RESOURCES IN EASTERN WASHINGTON** *Effective midnight, Friday, July 26, 1985, through midnight, Monday, July 29, 1985, all logging, land clearing, and other industrial operations which may cause a fire to start are to cease operation during the following time and under the following conditions: 1) All power saws, except those*

**WSR 85-16-006**  
**EMERGENCY RULES**  
**DEPARTMENT OF NATURAL RESOURCES**  
[Order 455—Filed July 26, 1985]

I, Brian J. Boyle, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the adoption of an emergency

used on landings, to shutdown from 11:00 a.m. to 8:00 p.m. during the shutdown period. Power saws may continue to operate on landings; 2) Yarding and skidding to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period. Loading and hauling may continue to operate during this time period; 3) All other operations not specifically listed here will shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period.

All persons are excluded from areas of logging slash, except those involved in the actual commercial operations of loading and hauling and those present in the interest of fire protection, from 1:00 p.m. to 8:00 p.m. during the shutdown period.

Areas affected by these restrictions are all private and state lands protected by the Department of Natural Resources Northeast Area in Pend Oreille, Spokane, Lincoln, Stevens, Ferry, and Okanogan counties.

All burning permits and burning privileges, including burning barrels and fires in organized campgrounds, are suspended on lands protected by the Department of Natural Resources Northeast Area in the affected counties.

**WSR 85-16-007**  
**EMERGENCY RULES**  
**PERSONNEL APPEALS BOARD**  
[Order 85-1—Filed July 26, 1985]

Be it resolved by the Personnel Appeals Board, acting at Olympia, Washington, that it does adopt the annexed rules relating to chapter 358-30 WAC.

We, the Personnel Appeals Board, find that an emergency exists and that this 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 the emergency is the legislature enacted chapter 461, Laws of 1985. There was insufficient time for the preparation and drafting of the WAC rules and it is necessary that they take effect on July 28, 1985, in order to provide affected state employees with legislatively mandated rights.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 41.64.060 which directs that the Personnel Appeals Board has authority to implement the provisions of chapter 461, Laws of 1985.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 17, 1985.

By K. W. Elfbrandt  
Executive Secretary

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

WAC 358-30-030 HEARINGS. (1) Hearings on all appeals shall be open to the public unless the personnel appeals board or hearings examiner determines there is substantial reason for not having an open hearing, or the employee so requests.

(2) The hearing shall be informal. Technical rules of evidence shall not apply to the proceedings, except for the rules of privilege recognized by law.

(3) All parties may select representatives of their choosing, present and cross-examine witnesses, and give evidence before the personnel appeals board or hearings examiner.

(4) All testimony shall be on oath administered by a member of the personnel appeals board or hearings examiner.

(5) One member of the personnel appeals board may hold a hearing and take testimony to be reported for action by the board. Any such hearing shall be done only at the direction of the chairperson of the board or as provided in these rules.

(6) The personnel appeals board or hearings examiner shall prepare an official record of the hearing, including all testimony recorded manually or by mechanical device, and exhibits.

(7) The personnel appeals board or hearings examiner shall not be required to transcribe such record unless requested by the ~~((employee or agency who shall be furnished with a complete transcript upon payment of a reasonable charge therefor))~~ parties. A transcript can be obtained:

(a) If the proceedings before the hearings examiner or board were recorded by a court reporter, a transcript can be ordered from the court reporter.

(b) If the proceedings were recorded mechanically, a copy of transcript can be ordered from the board for \$2.50 a page. Copies of cassettes may be obtained for \$5.00 for the first tape and \$3.00 for each additional tape.

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 81-4, filed 12/16/81)

WAC 358-30-210 APPEALS TO SUPERIOR COURT. Within 30 calendar days after the recording and mailing of a personnel appeals board order in appeal cases provided for in RCW 41.06.170(2), the employee may appeal to the Thurston county superior court as provided in RCW 41.64.130. The grounds for the appeal shall be stated in a written notice of appeal filed with the court, with copies thereof served on a member of the board or the executive secretary and on the employing agency, all within the appeal period.

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 82-1, filed 6/25/82)

~~WAC 358-30-220 ((APPEALS TO SUPERIOR COURT: (1) Within 30 calendar days after the mailing of a personnel appeals board order in appeal cases provided for in RCW 41.06.170(2), the employee may appeal to the Thurston county superior court as provided in RCW 41.64.130:~~

~~(2) The grounds for the appeal shall be stated in a written notice of appeal filed with the court, with copies thereof served on a member of the board or the executive secretary and on the employing agency, all within the appeal period:)) Record for the court. Transcripts on appeal.~~

~~((3)) (1) By stipulation the parties may agree to shorten the record to be filed with the court. The appellant shall contact counsel for the respondent to discuss stipulating to a shortened record. Either party unreasonably refusing to stipulate to such a limitation may be ordered by the court to pay the additional costs involved.~~

~~((4)) (2) Within ((+5)) 10 days after ((service of)) filing the notice of appeal, the appellant will notify the board in writing of the portion of the record to be filed.~~

~~(3) The transcript certified to the court will be paid for by the Board.~~

~~(4) The parties may obtain a copy of a transcript to be used on appeal:~~

~~(a) If the proceedings before the hearings examiner or board were recorded by a court reporter, ((order a transcript of proceedings)) a copy of the transcript can be ordered from the court reporter. ((and direct that the original be transmitted to the principal office of the personnel appeals board for inclusion in the certified record, and))~~

~~(b) If the proceedings were recorded mechanically, ((post a deposit with the personnel appeals board in an amount sufficient to cover the reasonable cost of transcription as determined by the personnel appeals board. Prior to transmitting the transcript to court, final adjustment reflecting the actual cost of preparation of the transcript will be made:)) a copy can be ordered from the board for 35 cents a page.~~

~~((5)) (4) The board shall transmit to the court a certified ((record)) transcript of the hearing with exhibits.~~

~~((6) If the employee prevails before the court, he/she shall be reimbursed by the employing agency for the cost of a transcript:))~~

**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.

## WSR 85-16-008

## PROPOSED RULES

UTILITIES AND TRANSPORTATION  
COMMISSION

[Filed July 26, 1985]

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 relating to the filing of banded rates for telecommunications companies, WAC 480-80-010, 480-80-030, 480-80-120, 480-80-125, 480-80-220, 480-80-240 and 480-80-045. The proposed rules are shown below as Appendix A, Cause No. U-85-44. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed adoption on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17).

This is notice of intention to adopt on a permanent basis rules adopted on an emergency basis on July 24, 1985, General Order No. R-232, and filed with the code reviser's office on July 26, 1985;

that the agency will at 9:00 a.m., Wednesday, September 18, 1985, in the Commission's Hearing Room, Sixth Floor, Highways-Licenses Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 80.01.040 and section 6, chapter 450, Laws of 1985.

The specific statute these rules are intended to implement is section 6, chapter 450, Laws of 1985.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 13, 1985.

Dated: July 26, 1985

By: Paul Curl

Acting Secretary

## STATEMENT OF PURPOSE

In the matter of amending WAC 480-80-010, 480-80-030, 480-80-120, 480-80-125, 480-80-220, 480-80-240 and adopting WAC 480-80-045.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040 and section 6, chapter 450, Laws of 1985, which direct that the commission has authority to implement the provisions of chapter 450, Laws of 1985.

The rules proposed by the Washington Utilities and Transportation Commission are designed to provide for the treatment of banded rates as defined in the act.

Paul Curl, Acting 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 and section 6, chapter 450, Laws of 1985.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule change 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 Joint Administrative Rules Review Committee.

#### APPENDIX "A"

##### AMENDATORY SECTION (Amending Order R-5, filed 6/6/69, effective 10/9/69)

WAC 480-80-010 APPLICATION OF RULES. (1) These rules shall apply to any public service company, defined as such by the laws of the state of Washington, as amended, operating a gas, electric, ~~((telephone, telegraph))~~ telecommunications, water or irrigation plant which is subject to the jurisdiction of the Washington utilities and transportation commission as to rates and service.

(2) Upon acceptable showing by any utility, the commission may waive or modify, as to that utility, the provisions of any rule herein contained, except when such provisions are fixed by statute.

(3) In no case shall any utility deviate from these rules unless authorized in writing by the commission.

##### AMENDATORY SECTION (Amending Order R-5, filed 6/6/69, effective 10/9/69)

WAC 480-80-030 DEFINITIONS. (1) "Utility," when used in these rules, means any person, partnership, firm or corporation operating a gas, electric, ~~((telephone, telegraph))~~ telecommunications, water or irrigation plant which is subject to the jurisdiction of the commission as to rates and service.

(2) "Commission," when used in these rules, means the Washington utilities and transportation commission.

(3) "Tariff," as used in these rules, shall mean the complete tariff or any portion thereof containing those rate schedules and rules and regulations relating to charges and service which is regularly established under and in accordance with these rules and regulations relating to charges and service which is regularly established under and in accordance with these rules and regulations and the applicable statutes and which is applied to specific groups of customers within any particular territory but shall exclude special contracts for special rates, service and facilities.

(4) "Banded tariff," as used in these rules means a tariff filed by a telecommunications company in which at least one element of the rate schedule (WAC 480-80-230) is a band consisting of a maximum and minimum rate within which the rate may vary.

(5) "Number," "numbers," "numbered" and "numbering," when used in these rules, means either a letter of the alphabet or a numeral unless otherwise specifically indicated.

##### NEW SECTION

WAC 480-80-045 FILING OF BANDED TARIFFS. Telecommunications companies may file banded tariffs. Such banded tariff filings must, at a minimum, be accompanied with the following:

(1) A statement detailing how the public interest will be better served by a banded tariff rather than a tariff with fixed rates;

(2) A verifiable cost of service study supporting the contention that the minimum rate in the banded tariff covers the cost of the service;

(3) Information detailing the revenue impact of the banded tariff.

##### AMENDATORY SECTION (Amending Order R-5, filed 6/6/69, effective 10/9/69)

WAC 480-80-120 NOTICE TO THE PUBLIC OF TARIFF CHANGES. (1) Except as to variations between the prescribed maximum and minimum rates in banded tariffs previously authorized by

the commission, every utility desiring to change, modify, cancel or annul any rate, must place on file the tariff containing such modification or change at its listed business offices in the territory affected thereby for a period of at least thirty days prior to the expiration of statutory notice in connection therewith. A notice, coincident with or immediately prior to the date of such filing, that such tariff is on file at said offices shall be posted at the cashier's windows or other places where the customers pay their bills at the aforesaid offices. Said posted notice shall give anyone viewing same a brief summary as to the content of the tariff; state that the tariff is being submitted to the Washington utilities and transportation commission at Olympia; indicate the inserted effective date thereof; and relate that a copy of the tariff is available for inspection.

(2) If there is no listed business office in the territory to be affected by a tariff proposal subject to this notification but there is a payment agency therein, posted notice with the same content and timing as set forth above shall be employed at each such agency which notice, in addition thereto, shall give the name, address and telephone number of the nearest listed business office responsible for that service area at which such tariff may be examined in person without assigning any reason therefor.

(3) In lieu of the above posted notice, insofar as payment agencies are concerned, the utility may stamp or print on each bill or envelope in which such bill is mailed, enclose therewith or separately mail, with the same content as set forth above with respect to the posted notice in payment agencies and at the earliest practicable date subsequent to filing, a notice to each subscriber to be affected by the tariff proposal. Commencing ninety days or earlier from July 31, 1959, the latter procedure must be followed in those instances where a utility does not have a listed business office or a payment agency in the service area where notice, as set forth above, could otherwise be employed in a service area subject to a tariff proposal falling within this notification procedure.

(4) Whenever the alternative provision is chosen or must be used, the utility shall use such other adequate and appropriate means of notification, on or by the filing date, that will reasonably insure notice to the public of tariff revisions proposed and the effect on the public in the service area or areas involved. Such other notification may include personal contacts, letters or mailing pieces, newspaper articles or advertisements and radio and television announcements.

(5) The commission may require such other notification to the public as may be necessary in any particular case of tariff filing: Provided, That where a tariff or a part of a tariff is filed involving no increase in charges to its patrons; where the users to be affected by a tariff change are so few in number the utility chooses to advise each by direct mail or contact; or where there is no one to be affected by the tariff proposal, the utility may forego posting of notice relative thereto and will not be required to have a copy of the proposed tariff available for inspection.

(6) The inserted effective date, unless otherwise directed, shall be a date not less than thirty days after the date the commission receives the tariff. Also, if the commission permits the tariff to become effective without statutory notice, the period of notice to the public shall be for at least thirty days after the date the commission receives the tariff.

**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 R-184, Cause No. U-82-03, filed 6/23/82)

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 or a banded tariff which proposes an increase in the maximum rate receive reasonable notice of the nature and the magnitude of the proposed increase, so that the customer is able reasonably to make an informed decision about whether to participate in the hearing process.

(1) Whenever any utility proposes to increase any rate or charge for the service or commodities furnished by it or proposes a banded tariff which includes an increased maximum rate, 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 amount of the proposed increase expressed in (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 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 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:

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<br>Increases<br>or Increases<br>in Unit Price | Typical<br>Increase in<br>Average Bill<br>(Dollars) |
|-----------------|--|---|
|-----------------|--|---|

(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 fifth 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.

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 R-5, filed 6/6/69, effective 10/9/69)

WAC 480-80-220 RULES AND REGULATIONS PAGE. (1) Each utility filing a tariff or tariffs with the commission shall include, as a part of that tariff, a complete set of rules and regulations governing service under that tariff. These rules and regulations shall cover at least the following when applicable:

- (a) Application for service
- (b) Definition of service
- (c) Reconnection charge
- (d) Service connection
- (e) Installation of meters
- (f) Distribution main extension and line extension (except where filed as a rate schedule)
- (g) Responsibility for, and maintenance of, service
- (h) Access to premises
- (i) Interruptions to service
- (j) Bills
- (k) Deposits
- (l) Delinquent accounts
- (m) Discontinuance of service

(n) As to each service to which banded rates are applicable, the manner by which the utility will give notice to its customers of changes within the limits of the band.

(2) Such additional rules and regulations as are necessary shall also be filed. Rules and regulations shall be published on consecutively numbered standard tariff sheets in accordance with these rules and revisions thereof shall be as outlined in these rules.

AMENDATORY SECTION (Amending Order R-5, filed 6/6/69, effective 10/9/69)

WAC 480-80-240 WITHOUT STATUTORY NOTICE. (1) On every tariff that is to become effective on less than thirty days' notice by permission, or regulation or order of the commission, if it is not otherwise excluded from that requirement, notation must be made on the tariff that it is issued under special permission or by order of the commission as follows:

- (a) By authority of W.U.T.C. W.S.N. Order No. \_\_\_\_\_
  - (b) By authority of order of the Washington utilities and transportation commission, Cause No. U- \_\_\_\_\_
- (2) Tariffs providing (a) rates for classes of service, etc. not heretofore rendered and covered by the utility's tariff, (b) tariff revisions which reflect no basic change affecting the public, (c) changes in banded rates as to which notice to customers has been or will be given in accordance with tariff rules applicable to such service, or (d) initial tariffs not affecting regulated service, may become effective on a minimum of one day's notice.

(3) Requests for permission to change tariffs without statutory notice will be granted by the commission only in instances where it deems that circumstances or conditions fully justify it. A complete explanation giving the reasons for such request will be required in connection with the tariff revision, which revision will bear an effective date not less than thirty days after the commission receives same and all notices relative thereto will contain, in addition to the minimum requirements herinbefore set forth, a statement to the effect that the utility is seeking an earlier effective date than the inserted effective date by means of a W.S.N. Order, which date is \_\_\_\_\_ (date sought) \_\_\_\_\_. If such permission is granted by the commission, it will alter the inserted effective date in keeping therewith subsequent to which the utility affected thereby, after receiving advice to that effect, shall alter, to the same extent, the effective date on the tariff revision which is on file at its listed business offices in the territory affected thereby and on all posted notices relative thereto, with all such alterations bearing appropriate reference to the applicable W.S.N. Order. Said altered posted notice shall remain posted in that manner until the date originally inserted as the effective date thereof.

**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.

## WSR 85-16-009

## PROPOSED RULES

UTILITIES AND TRANSPORTATION  
COMMISSION

[Filed July 26, 1985]

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 relating to registration of telecommunications companies, chapter 480-121 WAC. The proposed chapter is shown below as Appendix A, Cause No. U-85-43. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed adoption on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17).

This is notice of intention to adopt on a permanent basis rules adopted on an emergency basis on July 24, 1985, General Order No. R-231, and filed with the code reviser's office on July 26, 1985;

that the agency will at 9:00 a.m., Wednesday, September 18, 1985, in the Commission's Hearing Room, Sixth Floor, Highways-Licenses Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 80.01.040 and section 7, chapter 450, Laws of 1985.

The specific statute these rules are intended to implement is section 7, chapter 450, Laws of 1985.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 13, 1985.

Dated: July 26, 1985

By: Paul Curl  
Acting Secretary

## STATEMENT OF PURPOSE

In the matter of registration of telecommunications companies.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040 and section 7, chapter 450, Laws of 1985, which direct that the commission has authority to implement the provisions of chapter 450, Laws of 1985.

The rules proposed by the Washington Utilities and Transportation Commission are designed to provide for registration of telecommunications companies as defined in the act.

Paul Curl, Acting 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 and section 7, chapter 450, Laws of 1985.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule change 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 Joint Administrative Rules Review Committee.

APPENDIX "A"

CHAPTER 480-121

REGISTRATION OF TELECOMMUNICATIONS COMPANIES

NEW SECTION

WAC 480-121-010 FILING OF REGISTRATION APPLICATION. Applications shall be filed at the office of the Commission in Olympia, Washington, by mail or in person, and shall be signed by the applicant or its attorney, dated, and verified. Applications will be assigned a number, and all additional exhibits and data thereafter filed, and correspondence in connection with the application, should bear that number.

Applications shall be in the form prescribed by WAC 480-121-050, and shall in all respects adhere to the rules set out herein. Applications not in substantial compliance with these rules may be rejected by the Commission and returned to the applicant.

NEW SECTION

WAC 480-121-020 NUMBER OF COPIES. Applicant shall file with the Commission an original application and such additional copies as the Commission may require.

NEW SECTION

WAC 480-121-030 ADDITIONAL INFORMATION. The Commission may at its discretion require the production of data and information to supplement that contained in the application. Unless a different time is specified, such information shall be provided within ten days of the request.

NEW SECTION

WAC 480-121-040 GRANT OR DENIAL OF REGISTRATION. As a condition to registration, with or without hearing, applicant must clearly show that:

(1) Applicant possesses adequate financial resources to provide the proposed service;

(2) Applicant possesses adequate technical competence to provide the proposed service; and

(3) Applicant has procured and will maintain:

(a) A performance bond satisfactory to the Commission sufficient to cover any customer advances or deposits; or

(b) Provision has been made for deposit of customer advances or deposits in a federally insured interest bearing trust account maintained by applicant solely for customer advances or deposits, in a bank, savings and loan association, mutual savings bank, or licensed escrow agent located in Washington, with access to such funds only for the purpose of applying an amount to a delinquent bill in accordance with Commission deposit rules, or for the purpose of refunding advances or deposits to customers. In any order granting certification, the Commission may require either bond or trust account or escrow as a condition.

Such application may be granted without hearing upon a determination by the Commission that the application is consistent with the public interest, and that applicant meets financial and technical requirements, and has provided adequately for the protection of customer advances or deposits, or the application may be set for hearing in accordance with notice issued by the Commission. If, upon hearing, the

Commission finds that registration is not consistent with the public interest, or that the applicant is not financially or technically able to provide the contemplated service or that customer advances or deposits cannot be adequately protected, it will deny the application.

NEW SECTION

WAC 480-121-050 FORM. Applications for registration as a telecommunications company pursuant to the provisions of chapter 450, laws of 1985, shall be submitted in the following form.

APPLICATION FOR REGISTRATION  
OF TELECOMMUNICATIONS COMPANY  
FILED WITH THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
HIGHWAYS-LICENSES BUILDING, OLYMPIA, WA 98504

|                             |   |              |
|-----------------------------|---|--------------|
| IN THE MATTER OF THE        | ) | NO. _____    |
| APPLICATION OF (here insert | ) |              |
| name of applicant) FOR AN   | ) | (Number to   |
| ORDER authorizing the       | ) | be inserted  |
| registration of applicant   | ) | by secretary |
| as a telecommunications     | ) | of the       |
| company                     | ) | Commission)  |

Application is hereby made to the Washington Utilities and Transportation Commission for an order authorizing (here insert name of applicant) to register as a telecommunications company pursuant to the provisions of chapter 450, Laws of 1985. The following general information and specific exhibits are furnished in support thereof:

GENERAL INFORMATION

1. Name of applicant.
2. Address of principal office of applicant.
3. Name and address of registered agent of applicant if any.
4. State or states under which applicant is organized and form of organization (corporation, partnership, association, firm, individual, et cetera). Date of organization and term or duration thereof.
5. A general description of the property owned by applicant and the field of its operations.
6. If a corporation, the names and addresses of the ten common stockholders of applicant owning the greatest number of shares of common stock and the number of such shares owned by each, as follows:

| <u>Name and Address</u> | <u>Shares Owned</u> | <u>Percentage of all Shares Issued &amp; Outstanding</u> | <u>Percentage of Voting Control</u> |
|-------------------------|---------------------|--|-------------------------------------|
|-------------------------|---------------------|--|-------------------------------------|

7. Names and addresses of the officers and directors of applicant.
8. Name and address of any corporation, association, or similar organization holding a 5% or greater ownership or a management interest in the applicant. As to ownership, the amount and character of the interest must be indicated. A copy of any management agreement must be attached.
9. Names and addresses of subsidiaries owned or controlled by applicant.

EXHIBIT A

Detailed description of the telecommunications services applicant intends to offer, designating geographic areas of operations, and the location of other areas in which applicant is providing or has provided service, either independently or in conjunction with any other telecommunications company.

EXHIBIT B

Current detailed balance sheet.

EXHIBIT C

Detailed income and profit and loss statement of applicant reflecting current and prior year balances for the twelve months ended as of the date of the balance sheet submitted as Exhibit B, or, if more readily available, for the period since the close of the preceding calendar year. If balance sheet and income statement are not available, applicant must submit financial data sufficient to establish it possesses adequate financial resources to provide the proposed service.

EXHIBIT D

Latest annual report, if any.

EXHIBIT E

Detail of the type and quantity of equipment to be used in the operation, capacity and expected use of such equipment, the method of transmission (i.e. copper cable, microwave, fiber optic, etc.), and a map depicting the physical route of transmission.

EXHIBIT F

A commitment for issuance of a performance bond by a company authorized to do business in Washington to cover any advances or deposits, or a detailed description of the account to be maintained for customer deposits including the name of the depository and a copy of the deposit arrangement.

EXHIBIT G

Proposed initial tariff setting forth rates, rules and regulations applicable to the contemplated service.

EXHIBIT H

Such other facts, not set forth in preceding exhibits, as in the opinion of the applicant may be pertinent in support of the application.

WHEREFORE, the undersigned applicant requests that the Washington Utilities and Transportation Commission, enter an order granting the application, in accordance with the provisions of chapter 450, Laws of 1985.

DATED at ..... this ..... day of ....., 19..

..... (Applicant)

By ..... Title .....

STATE OF WASHINGTON

County of ..... } ss.

....., being first duly sworn, deposes and says that ..... is (Title) of (Name of applicant), the applicant in the proceeding entitled above, that ..... has read the foregoing application and knows the contents thereof; that the same are true of ..... knowledge, except as to matters which are therein stated on information or belief, and as to those matters ..... believes them to be true.

Subscribed and sworn to before this ..... day of ....., 19...

..... Notary Public in and for the State of Washington, residing at .....

WSR 85-16-010 EMERGENCY RULES UTILITIES AND TRANSPORTATION COMMISSION

[Order R-232, Cause No. U-85-44—Filed July 26, 1985]

In the matter of amending WAC 480-80-010, 480-80-030, 480-80-120, 480-80-125, 480-80-220, 480-80-240 and adopting WAC 480-80-045.

The Washington Utilities and Transportation Commission finds that an emergency exists and that this 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 the public interest. A statement of the facts constituting such emergency is chapter 450, Laws of 1985, becomes effective July 28, 1985, and by section 6 permits the filing of

banded rates for telecommunications companies. The commission has no existing procedure for dealing with banded rate tariffs.

This rule amendment is being promulgated pursuant to RCW 80.01.040 and section 6, chapter 450, Laws of 1985.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

This amendment to WAC 480-80-010, 480-80-030, 480-80-120, 480-80-125, 480-80-220, 480-80-240 and adoption of WAC 480-80-045 affects no economic values.

In reviewing the entire record herein, it has been determined that these sections should be amended and adopted to read as set forth in Appendix A shown below and made a part hereof by this reference. These sections will provide for the treatment of banded rates for telecommunications companies.

ORDER

WHEREFORE, IT IS ORDERED That WAC 480-80-010, 480-80-030, 480-80-120, 480-80-125, 480-80-220, 480-80-240 and 480-80-045, as set forth in Appendix A, be amended and adopted as emergency rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.030 and 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rules, after being first recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 24th day of July, 1985.

Washington Utilities and Transportation Commission Sharon L. Nelson, Chairman Robert W. Bratton, Commissioner Richard D. Casad, Commissioner

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-5, filed 6/6/69, effective 10/9/69)

WAC 480-80-010 APPLICATION OF RULES. (1) These rules shall apply to any public service company, defined as such by the laws of the state of Washington, as amended, operating a gas, electric, ((telephone, telegraph)) telecommunications, water or irrigation plant which is subject to the jurisdiction of the Washington utilities and transportation commission as to rates and service.

(2) Upon acceptable showing by any utility, the commission may waive or modify, as to that utility, the provisions of any rule herein contained, except when such provisions are fixed by statute.

(3) In no case shall any utility deviate from these rules unless authorized in writing by the commission.

**AMENDATORY SECTION** (Amending Order R-5, filed 6/6/69, effective 10/9/69)

**WAC 480-80-030 DEFINITIONS.** (1) "Utility," when used in these rules, means any person, partnership, firm or corporation operating a gas, electric, (~~telephone, telegraph~~) telecommunications, water or irrigation plant which is subject to the jurisdiction of the commission as to rates and service.

(2) "Commission," when used in these rules, means the Washington utilities and transportation commission.

(3) "Tariff," as used in these rules, shall mean the complete tariff or any portion thereof containing those rate schedules and rules and regulations relating to charges and service which is regularly established under and in accordance with these rules and regulations relating to charges and service which is regularly established under and in accordance with these rules and regulations and the applicable statutes and which is applied to specific groups of customers within any particular territory but shall exclude special contracts for special rates, service and facilities.

(4) "Banded tariff," as used in these rules means a tariff filed by a telecommunications company in which at least one element of the rate schedule (WAC 480-80-230) is a band consisting of a maximum and minimum rate within which the rate may vary.

(5) "Number," "numbers," "numbered" and "numbering," when used in these rules, means either a letter of the alphabet or a numeral unless otherwise specifically indicated.

**NEW SECTION**

**WAC 480-80-045 FILING OF BANDED TARIFFS.** Telecommunications companies may file banded tariffs. Such banded tariff filings must, at a minimum, be accompanied with the following:

(1) A statement detailing how the public interest will be better served by a banded tariff rather than a tariff with fixed rates;

(2) A verifiable cost of service study supporting the contention that the minimum rate in the banded tariff covers the cost of the service;

(3) Information detailing the revenue impact of the banded tariff.

**AMENDATORY SECTION** (Amending Order R-5, filed 6/6/69, effective 10/9/69)

**WAC 480-80-120 NOTICE TO THE PUBLIC OF TARIFF CHANGES.** (1) Except as to variations between the prescribed maximum and minimum rates in banded tariffs previously authorized by the commission, every utility desiring to change, modify, cancel or annul any rate, must place on file the tariff containing such modification or change at its listed business offices in the territory affected thereby for a period of at least thirty days prior to the expiration of statutory notice in connection therewith. A notice, coincident with or immediately prior to the date of such filing, that such tariff is on

file at said offices shall be posted at the cashier's windows or other places where the customers pay their bills at the aforesaid offices. Said posted notice shall give anyone viewing same a brief summary as to the content of the tariff; state that the tariff is being submitted to the Washington utilities and transportation commission at Olympia; indicate the inserted effective date thereof; and relate that a copy of the tariff is available for inspection.

(2) If there is no listed business office in the territory to be affected by a tariff proposal subject to this notification but there is a payment agency therein, posted notice with the same content and timing as set forth above shall be employed at each such agency which notice, in addition thereto, shall give the name, address and telephone number of the nearest listed business office responsible for that service area at which such tariff may be examined in person without assigning any reason therefor.

(3) In lieu of the above posted notice, insofar as payment agencies are concerned, the utility may stamp or print on each bill or envelope in which such bill is mailed, enclose therewith or separately mail, with the same content as set forth above with respect to the posted notice in payment agencies and at the earliest practicable date subsequent to filing, a notice to each subscriber to be affected by the tariff proposal. Commencing ninety days or earlier from July 31, 1959, the latter procedure must be followed in those instances where a utility does not have a listed business office or a payment agency in the service area where notice, as set forth above, could otherwise be employed in a service area subject to a tariff proposal falling within this notification procedure.

(4) Whenever the alternative provision is chosen or must be used, the utility shall use such other adequate and appropriate means of notification, on or by the filing date, that will reasonably insure notice to the public of tariff revisions proposed and the effect on the public in the service area or areas involved. Such other notification may include personal contacts, letters or mailing pieces, newspaper articles or advertisements and radio and television announcements.

(5) The commission may require such other notification to the public as may be necessary in any particular case of tariff filing: Provided, That where a tariff or a part of a tariff is filed involving no increase in charges to its patrons; where the users to be affected by a tariff change are so few in number the utility chooses to advise each by direct mail or contact; or where there is no one to be affected by the tariff proposal, the utility may forego posting of notice relative thereto and will not be required to have a copy of the proposed tariff available for inspection.

(6) The inserted effective date, unless otherwise directed, shall be a date not less than thirty days after the date the commission receives the tariff. Also, if the commission permits the tariff to become effective without statutory notice, the period of notice to the public shall be for at least thirty days after the date the commission receives the tariff.

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 R-184, Cause No. U-82-03, filed 6/23/82)

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 or a banded tariff which proposes an increase in the maximum rate receive reasonable notice of the nature and the magnitude of the proposed increase, so that the customer is able reasonably to make an informed decision about whether to participate in the hearing process.

(1) Whenever any utility proposes to increase any rate or charge for the service or commodities furnished by it or proposes a banded tariff which includes an increased maximum rate, 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 amount of the proposed increase expressed in (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 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 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:

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<br>Increases<br>or Increases<br>in Unit Price | Typical<br>Increase in<br>Average Bill<br>(Dollars) |
|-----------------|--|---|
|-----------------|--|---|

(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 fifth 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.

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 R-5, filed 6/6/69, effective 10/9/69)

WAC 480-80-220 RULES AND REGULATIONS PAGE. (1) Each utility filing a tariff or tariffs with the commission shall include, as a part of that tariff, a complete set of rules and regulations governing service under that tariff. These rules and regulations shall cover at least the following when applicable:

- (a) Application for service
- (b) Definition of service
- (c) Reconnection charge
- (d) Service connection
- (e) Installation of meters
- (f) Distribution main extension and line extension (except where filed as a rate schedule)
- (g) Responsibility for, and maintenance of, service
- (h) Access to premises
- (i) Interruptions to service
- (j) Bills
- (k) Deposits
- (l) Delinquent accounts
- (m) Discontinuance of service
- (n) As to each service to which banded rates are applicable, the manner by which the utility will give notice to its customers of changes within the limits of the band.

(2) Such additional rules and regulations as are necessary shall also be filed. Rules and regulations shall be published on consecutively numbered standard tariff sheets in accordance with these rules and revisions thereof shall be as outlined in these rules.

AMENDATORY SECTION (Amending Order R-5, filed 6/6/69, effective 10/9/69)

WAC 480-80-240 WITHOUT STATUTORY NOTICE. (1) On every tariff that is to become effective on less than thirty days' notice by permission, or regulation or order of the commission, if it is not otherwise excluded from that requirement, notation must be made on the tariff that it is issued under special permission or by order of the commission as follows:

- (a) By authority of W.U.T.C. W.S.N. Order No. \_\_\_\_

(b) *By authority of order of the Washington utilities and transportation commission, Cause No. U-\_\_\_\_\_*

(2) *Tariffs providing (a) rates for classes of service, etc. not heretofore rendered and covered by the utility's tariff, (b) tariff revisions which reflect no basic change affecting the public, (c) changes in banded rates as to which notice to customers has been or will be given in accordance with tariff rules applicable to such service, or (d) initial tariffs not affecting regulated service, may be come effective on a minimum of one day's notice.*

(3) *Requests for permission to change tariffs without statutory notice will be granted by the commission only in instances where it deems that circumstances or conditions fully justify it. A complete explanation giving the reasons for such request will be required in connection with the tariff revision, which revision will bear an effective date not less than thirty days after the commission receives same and all notices relative thereto will contain, in addition to the minimum requirements hereinbefore set forth, a statement to the effect that the utility is seeking an earlier effective date than the inserted effective date by means of a W.S.N. Order, which date is \_\_\_\_\_ (date sought) \_\_\_\_\_. If such permission is granted by the commission, it will alter the inserted effective date in keeping therewith subsequent to which the utility affected thereby, after receiving advice to that effect, shall alter, to the same extent, the effective date on the tariff revision which is on file at its listed business offices in the territory affected thereby and on all posted notices relative thereto, with all such alterations bearing appropriate reference to the applicable W.S.N. Order. Said altered posted notice shall remain posted in that manner until the date originally inserted as the effective date thereof.*

**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.

**WSR 85-16-011**  
**EMERGENCY RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Order R-231, Cause No. U-85-43—Filed July 26, 1985]

In the matter of registration of telecommunications companies.

The Washington Utilities and Transportation Commission finds that an emergency exists and that this 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 the public interest. A statement of the facts constituting such emergency is chapter 450, Laws of 1985, becomes effective July 28, 1985, and by section 7 requires that the commission provide for the registration of telecommunications companies which had not been providing service under tariff prior to January 1, 1985.

This rule amendment is being promulgated pursuant to RCW 80.01.040 and section 7, chapter 450, Laws of 1985.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

This adoption of chapter 480-121 WAC affects no economic values.

In reviewing the entire record herein, it has been determined that chapter 480-121 WAC should be adopted, to read as set forth in Appendix A shown below and made a part hereof by this reference. Chapter 480-121 WAC as adopted, will provide a procedure for the registration of telecommunications companies.

**ORDER**

WHEREFORE, IT IS ORDERED That chapter 480-121 WAC as set forth in Appendix A, be adopted as emergency rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.030 and 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rules, after being first recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 24th day of July, 1985.

Washington Utilities and Transportation Commission  
Sharon L. Nelson, Chairman  
Robert W. Bratton, Commissioner  
Richard D. Casad, Commissioner

**APPENDIX "A"**

**CHAPTER 480-121**

**REGISTRATION OF TELECOMMUNICATIONS COMPANIES**

**NEW SECTION**

**WAC 480-121-010 FILING OF REGISTRATION APPLICATION.** *Applications shall be filed at the office of the Commission in Olympia, Washington, by mail or in person, and shall be signed by the applicant or its attorney, dated, and verified. Applications will be assigned a number, and all additional exhibits and data thereafter filed, and correspondence in connection with the application, should bear that number.*

*Applications shall be in the form prescribed by WAC 480-121-050, and shall in all respects adhere to the rules set out herein. Applications not in substantial compliance with these rules may be rejected by the Commission and returned to the applicant.*

**NEW SECTION**

WAC 480-121-020 NUMBER OF COPIES. Applicant shall file with the Commission an original application and such additional copies as the Commission may require.

**NEW SECTION**

WAC 480-121-030 ADDITIONAL INFORMATION. The Commission may at its discretion require the production of data and information to supplement that contained in the application. Unless a different time is specified, such information shall be provided within ten days of the request.

**NEW SECTION**

WAC 480-121-040 GRANT OR DENIAL OF REGISTRATION. As a condition to registration, with or without hearing, applicant must clearly show that:

- (1) Applicant possesses adequate financial resources to provide the proposed service;
- (2) Applicant possesses adequate technical competence to provide the proposed service; and
- (3) Applicant has procured and will maintain:
  - (a) A performance bond satisfactory to the Commission sufficient to cover any customer advances or deposits; or
  - (b) Provision has been made for deposit of customer advances or deposits in a federally insured interest bearing trust account maintained by applicant solely for customer advances or deposits, in a bank, savings and loan association, mutual savings bank, or licensed escrow agent located in Washington, with access to such funds only for the purpose of applying an amount to a delinquent bill in accordance with Commission deposit rules, or for the purpose of refunding advances or deposits to customers. In any order granting certification, the Commission may require either bond or trust account or escrow as a condition.

Such application may be granted without hearing upon a determination by the Commission that the application is consistent with the public interest, and that applicant meets financial and technical requirements, and has provided adequately for the protection of customer advances or deposits, or the application may be set for hearing in accordance with notice issued by the Commission. If, upon hearing, the Commission finds that registration is not consistent with the public interest, or that the applicant is not financially or technically able to provide the contemplated service or that customer advances or deposits cannot be adequately protected, it will deny the application.

**NEW SECTION**

WAC 480-121-050 FORM. Applications for registration as a telecommunications company pursuant to the provisions of chapter 450, laws of 1985, shall be submitted in the following form.

APPLICATION FOR REGISTRATION  
OF TELECOMMUNICATIONS COMPANY  
FILED WITH THE  
WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION  
HIGHWAYS-LICENSES BUILDING, OLYMPIA, WA 98504

|                             |   |              |
|-----------------------------|---|--------------|
| IN THE MATTER OF THE        | ) | NO. _____    |
| APPLICATION OF (here insert | ) |              |
| name of applicant) FOR AN   | ) | (Number to   |
| ORDER authorizing the       | ) | be inserted  |
| registration of applicant   | ) | by secretary |
| as a telecommunications     | ) | of the       |
| company                     | ) | Commission)  |

Application is hereby made to the Washington Utilities and Transportation Commission for an order authorizing (here insert name of applicant) to register as a telecommunications company pursuant to the provisions of chapter 450, Laws of 1985. The following general information and specific exhibits are furnished in support thereof:

GENERAL INFORMATION

1. Name of applicant.
2. Address of principal office of applicant.
3. Name and address of registered agent of applicant if any.
4. State or states under which applicant is organized and form of organization (corporation, partnership, association, firm, individual, et cetera). Date of organization and term or duration thereof.
5. A general description of the property owned by applicant and the field of its operations.
6. If a corporation, the names and addresses of the ten common stockholders of applicant owning the greatest number of shares of common stock and the number of such shares owned by each, as follows:

| <u>Name and Address</u> | <u>Shares Owned</u> | <u>Percentage of all Shares Issued &amp; Outstanding</u> | <u>Percentage of Voting Control</u> |
|-------------------------|---------------------|--|-------------------------------------|
|-------------------------|---------------------|--|-------------------------------------|

7. Names and addresses of the officers and directors of applicant.
8. Name and address of any corporation, association, or similar organization holding a 5% or greater ownership or a management interest in the applicant. As to ownership, the amount and character of the interest must be indicated. A copy of any management agreement must be attached.
9. Names and addresses of subsidiaries owned or controlled by applicant.

EXHIBIT A

Detailed description of the telecommunications services applicant intends to offer, designating geographic areas of operations, and the location of other areas in

which applicant is providing or has provided service, either independently or in conjunction with any other telecommunications company.

EXHIBIT B

Current detailed balance sheet.

EXHIBIT C

Detailed income and profit and loss statement of applicant reflecting current and prior year balances for the twelve months ended as of the date of the balance sheet submitted as Exhibit B, or, if more readily available, for the period since the close of the preceding calendar year. If balance sheet and income statement are not available, applicant must submit financial data sufficient to establish it possesses adequate financial resources to provide the proposed service.

EXHIBIT D

Latest annual report, if any.

EXHIBIT E

Detail of the type and quantity of equipment to be used in the operation, capacity and expected use of such equipment, the method of transmission (i.e. copper cable, microwave, fiber optic, etc.), and a map depicting the physical route of transmission.

EXHIBIT F

A commitment for issuance of a performance bond by a company authorized to do business in Washington to cover any advances or deposits, or a detailed description of the account to be maintained for customer deposits including the name of the depository and a copy of the deposit arrangement.

EXHIBIT G

Proposed initial tariff setting forth rates, rules and regulations applicable to the contemplated service.

EXHIBIT H

Such other facts, not set forth in preceding exhibits, as in the opinion of the applicant may be pertinent in support of the application.

WHEREFORE, the undersigned applicant requests that the Washington Utilities and Transportation Commission, enter an order granting the application, in accordance with the provisions of chapter 450, Laws of 1985.

DATED at ..... this ..... day of ..... 19..

.....  
(Applicant)

By .....  
Title .....

STATE OF WASHINGTON }  
County of ..... } ss.

....., being first duly sworn, deposes and says that ..... is (Title) of (Name of applicant), the applicant in the proceeding entitled

above, that ..... has read the foregoing application and knows the contents thereof; that the same are true of ..... knowledge, except as to matters which are therein stated on information or belief, and as to those matters ..... believes them to be true.

Subscribed and sworn to before this ..... day of ..... 19..

.....  
Notary Public in and for the State of Washington, residing at .....

**WSR 85-16-012**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
[Order 85-87—Filed July 26, 1985]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, William R. Wilkerson, find that an emergency exists and that this 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 the emergency is net restrictions in Areas 4B, 5, 6, 6A, 6C, 7 and 7A provide protection for Canadian and Puget Sound chinook during sockeye fisheries under the direction of IPSFC. Troll fishery in Areas 5 and 6C provided for in chapter 220-47 WAC. Openings in Areas 7B and 7C provide opportunity to harvest non-Indian chinook and pink allocation. Opening in Area 12C provide opportunity to harvest non-Indian chinook and coho allocations. All other areas closed to prevent overharvest.

These 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 the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 26, 1985.

By Gary C. Alexander  
for William R. Wilkerson  
Director

NEW SECTION

WAC 220-47-601 PUGET SOUND ALL-CITIZEN COMMERCIAL SALMON FISHERY. Notwithstanding the provisions of Chapter 220-47 WAC, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon for commercial purposes taken from the following Puget Sound Salmon

*Management and Catch Reporting Areas except in accordance with the following restrictions:*

*\*Area 4B – Under control of International Pacific Salmon Fisheries Commission. Drift gill net gear restricted to 5-7/8-inch maximum mesh when open.*

*\*Areas 5, 6C – Under control of International Pacific Salmon Fisheries Commission. Drift gill net gear restricted to 5-7/8-inch maximum mesh when open. Open to trolling except in the Strait of Juan de Fuca Preserve from 5:00 AM to 9:30 PM, July 30.*

*\*Area 6, 6A, 7, 7A – Under control of International Pacific Salmon Fisheries Commission. Gill net gear restricted to 5-7/8-inch maximum mesh when open.*

*\*Areas 7B, 7C – Closed except gill nets using 5-inch minimum mesh may fish from 7:00 PM and 9:30 AM nightly, July 29 through the morning of July 31. Fishery exclusion zones applicable to Areas 7B and 7C commercial fisheries are described in WAC 220-47-307.*

*\*Area 12C (excluding that portion south of a line projected from Lake Cushman powerhouse to the public boat ramp at Union) – Closed except gill nets using 5-inch minimum mesh may fish from 7:00 PM to 9:30 AM the night of July 30 through the morning of July 31, and purse seines using the 5-inch strip may fish from 5:00 AM to 9:00 PM July 31. Additional fishery exclusion zones applicable to Area 12C commercial fisheries are described in WAC 220-47-307.*

*\*Areas 6B, 6D, 7D, 7E, 8, 8A, 8D, 9, 9A, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12, 12A, 12B, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K and all freshwater areas – Closed.*

**WSR 85-16-013**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 85-88—Filed July 26, 1985]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to aquaculture registration rules.

I, William R. Wilkerson, find that an emergency exists and that this 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 the emergency is these interim regulations are needed until permanent regulations can be promulgated and adopted.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to chapter 457, Laws of 1985, and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 26, 1985.

By Gary C. Alexander  
for William R. Wilkerson  
Director

**NEW SECTION**

**WAC 220-76-01000A AQUATIC FARMER REGISTRATION.** Notwithstanding the provisions of WAC 220-76-010, effective July 28, 1985, until further notice:

(1) *The requirement for aquatic farmers to register with the department will have been met by any person having obtained an aquaculture license under RCW 75.28.265, a clam or oyster farm license under RCW 75.28.280, or a game farm license under RCW 77.32.010, issued prior to July 28, 1985.*

(2) *It is unlawful for any aquatic farmer to fail to register with the department prior to commercially farming and managing the cultivation of private sector cultured aquatic products. The department will supply registration forms at no cost to aquatic farmers. Registration must be made through the department licensing section.*

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 220-76-001 AQUACULTURE. (980)
- WAC 220-76-015 SEED STOCK IMPORATION. (980)
- WAC 220-76-016 SALMON EGGS—RESALE. (980)
- WAC 220-76-020 INSPECTION—FACILITIES AND RECORDS. (980)
- WAC 220-76-025 SALE OF PRODUCTS—INVOICES. (980)
- WAC 220-76-030 DISEASE—CONTROL. (980)

**Reviser's note:** The spelling error in the above repealer occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

**WSR 85-16-014**  
**ADOPTED RULES**  
**OFFICE OF**  
**FINANCIAL MANAGEMENT**  
 [Order 85-62—Filed July 26, 1985]

I, Orin C. Smith, director of the Office of Financial Management, do promulgate and adopt at Room 300A, Insurance Building, Olympia, Washington 98504, the annexed rules relating to official lagged, semimonthly

paydates established, amending WAC 82-50-021. The amendment deletes from the section the official semi-monthly paydates used in calendar year 1984 and adds to the section the official semimonthly paydates for use in calendar year 1986. Amended WAC 82-50-021 now displays the official lagged semimonthly paydates for calendar years 1985 and 1986.

This action is taken pursuant to Notice No. WSR 85-13-068 filed with the code reviser on June 19, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 42.16.010(1) and 42.16.017 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 26, 1985.

By Orin C. Smith  
Director

AMENDATORY SECTION (Amending Order 84-61, filed 6/29/84)

WAC 82-50-021 OFFICIAL LAGGED, SEMI-MONTHLY PAY DATES ESTABLISHED. Unless exempted otherwise under the provisions of WAC 82-50-031, the salaries of all state officers and employees (~~shall be~~) are paid on a lagged, semimonthly basis for the official twice-a-month pay periods established in RCW 42.16.010(1) that (~~begin~~) began on January 1, 1984. The following are the official lagged, semimonthly pay dates for calendar years (~~1984 and 1985~~) 1985 and 1986:

~~((CALENDAR YEAR 1984~~ CALENDAR YEAR 1985

|  |                               |
|--|-------------------------------|
| <del>Wednesday, January 25, 1984</del> | Thursday, January 10, 1985    |
| <del>Friday, February 10, 1984</del>   | Friday, January 25, 1985      |
| <del>Friday, February 24, 1984</del>   | Monday, February 11, 1985     |
| <del>Friday, March 9, 1984</del>       | Monday, February 25, 1985     |
| <del>Monday, March 26, 1984</del>      | Monday, March 11, 1985        |
| <del>Tuesday, April 10, 1984</del>     | Monday, March 25, 1985        |
| <del>Wednesday, April 25, 1984</del>   | Wednesday, April 10, 1985     |
| <del>Thursday, May 10, 1984</del>      | Thursday, April 25, 1985      |
| <del>Friday, May 25, 1984</del>        | Friday, May 10, 1985          |
| <del>Monday, June 11, 1984</del>       | Friday, May 24, 1985          |
| <del>Monday, June 25, 1984</del>       | Monday, June 10, 1985         |
| <del>Tuesday, July 10, 1984</del>      | Tuesday, June 25, 1985        |
| <del>Wednesday, July 25, 1984</del>    | Wednesday, July 10, 1985      |
| <del>Friday, August 10, 1984</del>     | Thursday, July 25, 1985       |
| <del>Friday, August 24, 1984</del>     | Friday, August 9, 1985        |
| <del>Monday, September 10, 1984</del>  | Monday, August 26, 1985       |
| <del>Tuesday, September 25, 1984</del> | Tuesday, September 10, 1985   |
| <del>Wednesday, October 10, 1984</del> | Wednesday, September 25, 1985 |
| <del>Thursday, October 25, 1984</del>  | Thursday, October 10, 1985    |
| <del>Friday, November 9, 1984</del>    | Friday, October 25, 1985      |
| <del>Monday, November 26, 1984</del>   | Friday, November 8, 1985      |
| <del>Monday, December 10, 1984</del>   | Monday, November 25, 1985     |
| <del>Monday, December 24, 1984</del>   | Tuesday, December 10, 1985    |
|  | Tuesday, December 24, 1985))  |

CALENDAR YEAR 1985 CALENDAR YEAR 1986

|                            |                          |
|----------------------------|--------------------------|
| Thursday, January 10, 1985 | Friday, January 10, 1986 |
| Friday, January 25, 1985   | Friday, January 24, 1986 |

CALENDAR YEAR 1985 CALENDAR YEAR 1986

|                               |                               |
|-------------------------------|-------------------------------|
| Monday, February 11, 1985     | Monday, February 10, 1986     |
| Monday, February 25, 1985     | Tuesday, February 25, 1986    |
| Monday, March 11, 1985        | Monday, March 10, 1986        |
| Monday, March 25, 1985        | Tuesday, March 25, 1986       |
| Wednesday, April 10, 1985     | Thursday, April 10, 1986      |
| Thursday, April 25, 1985      | Friday, April 25, 1986        |
| Friday, May 10, 1985          | Friday, May 9, 1986           |
| Friday, May 24, 1985          | Friday, May 23, 1986          |
| Monday, June 10, 1985         | Tuesday, June 10, 1986        |
| Tuesday, June 25, 1985        | Wednesday, June 25, 1986      |
| Wednesday, July 10, 1985      | Thursday, July 10, 1986       |
| Thursday, July 25, 1985       | Friday, July 25, 1986         |
| Friday, August 9, 1985        | Monday, August 11, 1986       |
| Monday, August 26, 1985       | Monday, August 25, 1986       |
| Tuesday, September 10, 1985   | Wednesday, September 10, 1986 |
| Wednesday, September 25, 1985 | Thursday, September 25, 1986  |
| Thursday, October 10, 1985    | Friday, October 10, 1986      |
| Friday, October 25, 1985      | Friday, October 24, 1986      |
| Friday, November 8, 1985      | Monday, November 10, 1986     |
| Monday, November 25, 1985     | Tuesday, November 25, 1986    |
| Tuesday, December 10, 1985    | Wednesday, December 10, 1986  |
| Tuesday, December 24, 1985    | Wednesday, December 24, 1986  |

WSR 85-16-015

EMERGENCY RULES

BOARD OF

INDUSTRIAL INSURANCE APPEALS

[Order 18—Filed July 29, 1985]

Be it resolved by the Board of Industrial Insurance Appeals, acting at Olympia, Washington, that it does adopt the annexed rules relating to rules of practice and procedure before the Board of Industrial Insurance Appeals, WAC 263-12-145 and 263-12-150.

We, the Board of Industrial Insurance Appeals, find that an emergency exists and that this 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 the emergency is on July 28, 1985, ESB 3426 became effective. Agency procedural rules require amendment to conform to new law.

These 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 Board of Industrial Insurance Appeals as authorized in RCW 51.52.020.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 29, 1985.

By Michael L. Hall  
Chairman

AMENDATORY SECTION (Amending Order 12, filed 12/2/82)

WAC 263-12-145 PETITION FOR REVIEW. (1) Time for filing. Within twenty days, or such further period as the board may allow on written application of a

party, filed within twenty days from the date of communication of the proposed decision and order to the parties or their representatives of record, any party aggrieved thereby may file with the secretary of the board at Olympia, Washington, a written petition for review with copies thereof served on all other parties. The date such petition for review is ~~((received at))~~ placed in the mail or personally delivered to the board's offices in Olympia shall be the date upon which filing is perfected. In the event such petition for review is filed, the failure of any party not aggrieved by the proposed decision and order to file a petition for review shall not be deemed a waiver by such party of any objections or irregularities disclosed by the record.

(2) Contents. Such petition for review shall set forth in detail the grounds therefor and the party or parties filing the same shall be deemed to have waived all objections or irregularities not specifically set forth therein. A general objection to findings of fact on the ground that the weight of evidence is to the contrary shall not be considered sufficient compliance, unless the objection shall refer to the evidence relied upon in support thereof. If legal issues are involved, the petition for review shall set forth the legal theory relied upon and citation of authority and/or argument in support thereof. In order to facilitate preparation of such petition for review in sufficient detail, the board shall, on request of any party, serve upon said party a copy of the transcript of testimony and other proceedings at the hearing, provided that such party sign an acknowledgement that receipt thereof shall constitute compliance by the board, in the event of an appeal to superior court, with that portion of RCW 51.52.110 requiring service on said party of a certified copy of the testimony in industrial insurance cases.

With respect to rulings concerning admission or exclusion of evidence, a general objection to all such rulings adverse to the party shall be considered adequate compliance with this rule.

(3) Action by board on petition for review. Within twenty days after receipt of a petition for review, the board shall enter an order either denying the petition for review, in which case the proposed decision and order shall become the final order of the board, or granting the petition for review, in which case the board shall within one hundred and eighty days from the date a petition for review is filed issue a final decision and order based upon its review of the record or any part thereof deemed necessary: **PROVIDED,** That if a petition for review is not acted upon by the board within twenty days from the date it is filed, it shall be deemed to have been granted.

Any party may, within ten days of receipt of the board's order granting review, submit a reply to the petition for review, a written brief, or a statement of position regarding the matters to which objections were made, or the board may, on its own motion, require the parties to submit written briefs or statements of position or to appear and present oral argument regarding the matters to which objections were made, within such time and on such terms as may be prescribed. In such instances, copies of the transcript of testimony and other proceedings at the hearing shall be furnished to any party

requesting same, and this shall be deemed compliance with RCW 51.52.110 in industrial insurance cases.

After review of the record, the board may set aside the proposed decision and order and remand the appeal to the hearing process, with instructions to the industrial appeals judge to whom the appeal is assigned on remand, to schedule a further hearing for the purpose of presenting such evidence in addition to that contained in the record as the board deems necessary to decide the appeal fairly and equitably. In the exercise of this power, a physical or mental examination of a worker or victim of crime by medical experts or evaluation by an expert vocational consultant may be ordered to be conducted at the board's expense. Any evidence presented by the industrial appeals judge shall be presented in an impartial manner, and shall be received subject to full opportunity for cross-examination by all parties. If a party desires to present rebuttal evidence to any evidence so presented, he must make application therefor immediately following the conclusion of such evidence. Such application will be granted by recessing the hearing to a time and place for taking such rebuttal evidence. Following the completion of the further hearing ordered by the board, the industrial appeals judge shall enter a proposed decision and order based upon the entire record.

If an objection is made to a ruling or rulings of an industrial appeals judge sustaining an objection to admissibility of evidence, or denying a recess for the presentation of further evidence, or denying a motion for a physical or mental examination or vocational evaluation of a worker or victim of crime, and the board determines that said ruling or rulings were erroneous, the board may return the case to the industrial appeals judge with appropriate instructions, and a further proposed decision and order shall be issued by the industrial appeals judge after the additional evidence shall have been received.

#### AMENDATORY SECTION (Amending Order 12, filed 12/2/82)

WAC 263-12-150 FINALITY OF PROPOSED DECISIONS AND ORDERS. (1) Where no petition for review is filed. In the event no petition for review is filed as provided herein by any party, the proposed decision and order of the industrial appeals judge shall be adopted by the board and become the decision and order of the board, and no appeal may be taken therefrom to the courts.

(2) Proposed decision and order deemed adopted without formal action. If an order adopting the proposed decision and order is not formally signed by the board on the day following the ~~((expiration of the time period for filing a))~~ date the petition for review of the proposed decision and order is due, said proposed decision and order shall be deemed adopted by the board and become the decision and order of the board, and no appeal may be taken therefrom to the courts.

(3) Order adopting proposed decision and order—delay in mailing to parties. To permit adequate time for postal delivery of petitions for review or requests for extension of time to file petitions for review which have been filed by mail pursuant to RCW 51.52.104, the

board will delay the mailing of its order adopting the proposed decision and order to all parties until three days after the date the petition is due. Notwithstanding the date of mailing of the order adopting the proposed decision and order, such order shall be effective immediately following the last day permitted for filing a petition for review.

(4) Setting aside final order due to delayed postal delivery. If, after entry or mailing of the order adopting proposed decision and order, a petition for review or a request for extension of time to file a petition for review is received which bears evidence of mailing within the time permitted for filing such petition, the board will set aside the order adopting the proposed decision and order and consider the petition or request for extension as one timely filed.

**WSR 85-16-016**  
**EMERGENCY RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**  
 [Order 229—Filed July 29, 1985]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 600 South Franklin, Olympia, WA 98504, that it does adopt the annexed rules relating to:

- Rep WAC 356-05-213 Management employee.
- Rep WAC 356-05-222 Nonmanagement employee.
- Amd WAC 356-05-240 Periodic increment date.
- Amd WAC 356-06-020 Exemptions—Exceptions.
- Amd WAC 356-14-110 Salary(~~(=Nonmanagement employ-~~  
ees))—Periodic increment dates—  
Original—Subsequent.
- Amd WAC 356-14-120 Salary(~~(=Nonmanagement employ-~~  
ee))—Periodic increment date—  
Promotion.
- Rep WAC 356-14-125 Salary reviews—Management  
employees.
- Amd WAC 356-14-130 Salary—Concurrence of probation, trial  
service, and periodic increment date (~~(or  
salary review date)~~).
- Amd WAC 356-18-100 Accrued vacation leave disposition—  
Computation—How made.
- Amd WAC 356-26-040 Registers—Name removal for cause—  
Grounds enumerated—Requirements.
- Amd WAC 356-26-060 Certification—General methods.
- Amd WAC 356-30-300 Performance evaluation(~~(=Nonman-~~  
agement employees))—Requirements—  
Monitoring.
- Rep WAC 356-30-302 Performance evaluation—Management  
employees—Requirements—Monitoring.
- Amd WAC 356-30-330 Reduction in force—Reasons, regula-  
tions—Procedure.
- Amd WAC 356-34-010 Disciplinary actions—Causes for dem-  
otion—Suspension—Reduction in sala-  
ry—Dismissal.

We, the State Personnel Board, find that an emergency exists and that this 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 the emergency is that these changes

are implementing changes in the law, i.e., EHB 116 and SSB 3179, which become effective on July 28, 1985.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 41.06.150 which directs that the State Personnel Board has authority to implement the provisions of EHB 116 and SSB 3179.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 11, 1985.

By Leonard Nord  
Secretary

AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

**WAC 356-05-240 PERIODIC INCREMENT DATE.** The date established in accordance with the merit system rule on which (~~(a nonmanagement)~~) an employee is entitled to a salary increase within a salary range as prescribed in the merit system rules.

REPEALER

The following sections of the Washington Administrative Code are repealed:

**WAC 356-05-213 MANAGEMENT EMPLOYEE.**

**WAC 356-05-222 NONMANAGEMENT EMPLOYEE.**

AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

**WAC 356-06-020 EXEMPTIONS—EXCEPTIONS.** With the exceptions noted in subsection (20) of this section the provisions of these rules do not apply to:

(1) Members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers and employees of the legislative council, legislative budget committee, statute law committee, and any interim committee of the legislature.

(2) Judges of the supreme court, of the superior courts or of the inferior courts or to any employee of, or position in the judicial branch of, state government.

(3) Officers, academic personnel and employees of state institutions of higher education, the state board for community college education, and the higher education personnel board.

(4) Employees of the state printing office.

(5) The officers of the Washington state patrol.

(6) Elective officers of the state.

(7) The chief executive officer of each agency.

(8) In the departments of employment security and fisheries, the director and the director's confidential secretary.

(9) In the department of social and health services, the secretary, the secretary's executive assistant, if any; not to exceed six assistant secretaries, thirteen division directors, six regional directors and one confidential secretary for each of the above named officers; not to exceed six bureau directors and all superintendents of institutions of which the average daily population equals or exceeds one hundred residents: **PROVIDED**, That each such confidential secretary must meet the minimum qualifications for the class of secretary 2 as determined by the state personnel board.

(10) In all departments except those mentioned in subsection (8) above, the executive head of which is appointed by the governor, the director, the director's confidential secretary, and the statutory assistant directors.

(11) In the case of a multimember board, commission or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or otherwise chosen.

(a) All members of such boards, commissions or committees.

(b) If the members of the board, commission or committee serve on a part-time basis and there is a statutory executive officer:

(i) The secretary of the board, commission or committee.

(ii) The chief executive officer of the board, commission or committee.

(iii) The confidential secretary of the chief executive officer of the board, commission or committee.

(c) If the members of the board, commission or committee serve on a full-time basis:

(i) The chief executive officer or administrative officer as designated by the board, commission or committee.

(ii) The confidential secretary to the chairman of the board, commission or committee.

(d) If all members of the board, commission or committee serve ex officio:

(i) The chief executive officer.

(ii) The confidential secretary of such chief executive officer.

(12) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state.

(13) Assistant attorneys general.

(14) Commissioned and enlisted personnel in the military service of the state.

(15) Resident, student, part-time or temporary employees, and part-time professional consultants as defined by the state personnel board to include:

(a) State and local officials serving ex officio and performing incidental administrative duties in the programs of the agency.

(b) Part-time local health officers.

(c) Persons employed on a part-time, or temporary basis for medical, nursing or other professional service and who are not engaged in the performance of administrative duties.

(d) Part-time or temporary employees who are enrolled as full-time students in recognized educational institutions and whose employment is largely to provide

training opportunity, and all temporary employees not in federal grant-in-aid programs.

(e) Patient and resident help in the covered institutions.

(f) Skilled and unskilled labor employed temporarily on force account; construction and maintenance projects; or employed on temporary seasonal single phases of agricultural production or harvesting; or as determined by the director of personnel to be equivalent.

(g) Washington state patrol trooper cadets in training for commissioning as troopers in the Washington state patrol.

(16) All officers and employees in those commissions made exempt by legislative action, namely:

(a) Washington state fruit commission.

(b) Washington state apple commission.

(c) Washington state dairy products commission.

(d) Washington state wheat commission.

(e) Officers and employees of any commission formed under the provisions of chapter 15.66 RCW.

(f) Agricultural commissions formed under the provisions of chapter 15.65 RCW.

(17) Liquor vendors appointed by the Washington state liquor control board pursuant to RCW 66.08.050: **PROVIDED, HOWEVER**, That rules and regulations adopted by the state personnel board pursuant to RCW 41.06.150 regarding the basis for, and procedures to be followed for, the dismissal, suspension or demotion of an employee, and appeals therefrom shall be fully applicable to liquor vendors except those part-time agency vendors employed by the liquor control board, when, in addition to the sale of liquor for the state, they sell goods, wares, merchandise or services as a self-sustaining private retail business.

(18) Executive assistants, for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law.

(19) In addition to the exemptions specifically provided by this chapter, the state personnel board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the personnel board stating the reasons for requesting such exemptions. The personnel board shall hold a public hearing after proper notice, on requests submitted pursuant to this subsection. If the personnel board determines that the position for which exempting is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the personnel board shall grant the request and such determination shall be final. The total number of additional exemptions permitted under this subsection shall not exceed one hundred seventy-five for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of

twenty-five for all agencies under the authority of elected public officials other than the governor. The state personnel board shall report to each regular session of the legislature all exemptions granted pursuant to the provisions of this subsection, together with the reasons for such exemptions.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights:

If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

(20) While other provisions of these rules do not apply, the personnel board shall determine salaries and fringe benefits of incumbents in all exempt positions in agencies with positions under the jurisdiction of the personnel board, other than positions listed under subsections (5) through (8), (11)(a) and (b), and (12) through (17) of this section. ~~((In addition, the provisions of WAC 356-14-125 and 356-30-302 shall apply to exempt management employees whose salaries and fringe benefits are determined by the personnel board.))~~

AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

WAC 356-14-110 SALARY(~~NONMANAGEMENT EMPLOYEES~~)—PERIODIC INCREMENT DATES—ORIGINAL—SUBSEQUENT. (1) The periodic increment date (PID) is the date on which ~~((a nonmanagement))~~ an employee automatically advances to a higher dollar amount in the range to which ~~((such))~~ the employee's position is classified; provided

(a) The employee's basic salary is not already at or above the maximum step of the assigned range, or

(b) The employee's standards of performance are such as to permit ~~((his/her))~~ retention in a job status.

(2) The dollar amount of the ~~((nonmanagement employee's))~~ increase will be two salary schedule increments; except

(a) The amount shall be one salary schedule increment if a two-increment increase would place the employee's basic salary above the maximum of the range of the employee's classification, or

(b) A fractional part of an increment amount shall be regarded as a full increment advance, if the employee's basic salary was between salary schedule steps immediately prior to the increase, or

(c) The dollar amount increase is stated otherwise in the compensation plan appendix or chapter 15.

(3) The original periodic increment date for ~~((a nonmanagement))~~ an employee is:

(a) Six continuous months from the date ~~((such))~~ the employee began work at the first step of a salary range, or

(b) One calendar year from the date on which ~~((such))~~ the employee began work at an intervening salary step; provided that in either (a) or (b):

(i) Any work period starting before the 16th of the month will count as a full month.

(ii) Any work period starting after the 15th of the month will not be counted.

(iii) An employee at or above the maximum step of a salary range does not have a periodic increment date.

(4) ~~((A nonmanagement employee's))~~ The periodic increment date shall be recomputed following leaves of absence without pay, in accordance with WAC 356-18-220, breaks in service due to reduction in force or reversion action. In such adjustments, calendar months of pay status already spent at a step will be credited toward the time required to advance to the next available increase in that range.

(5) ~~((A nonmanagement))~~ An employee's periodic increment date shall be set and remain the same unless subsequently changed in accordance with the provisions of the merit system rules.

AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

WAC 356-14-120 SALARY(~~NONMANAGEMENT EMPLOYEE~~)—PERIODIC INCREMENT DATE—PROMOTION. ~~((A nonmanagement employee))~~ Employees who receive ~~((s))~~ a salary increase through promotion shall retain ~~((his/her))~~ their present periodic increment date except:

(1) When ~~((such))~~ the employee is placed at the first step, the employee either retains ~~((his/her present))~~ the same periodic increment date or assumes a new one six calendar months from the promotion, whichever date occurs first.

(2) ~~((A nonmanagement))~~ An employee with no periodic increment date ~~((;))~~ because ~~((he/she is))~~ of being promoted from a maximum step or a Y rated amount above the maximum step of a range, will assume a new periodic increment date if ~~((such))~~ the employee is moving to a minimum or intervening salary step as provided in WAC 356-14-110.

AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

WAC 356-14-130 SALARY—CONCURRENCE OF PROBATION, TRIAL SERVICE, AND PERIODIC INCREMENT DATE(~~OR SALARY REVIEW DATE~~). When the date of promotion and ~~((either))~~ the periodic increment date ~~((of a nonmanagement employee or the salary review date of a management employee))~~ coincide, the periodic increment ~~((or the salary review increases))~~ shall be paid prior to the promotional increase. Periodic increment ~~((dates, salary review))~~ dates and completion dates for probationary and trial service periods shall be computed separately.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 356-14-125 SALARY REVIEWS—MANAGEMENT EMPLOYEES.

AMENDATORY SECTION (Amending Order 207, filed 6/22/84)

WAC 356-18-100 ACCRUED VACATION LEAVE DISPOSITION—COMPUTATION—HOW MADE. (1) When an employee (~~who is a member of the public employees retirement system Plan 1~~) separates from service by reason of resignation with adequate notice, layoff, dismissal, retirement or death, he or she is entitled to a lump sum payment of unused vacation leave (~~except vacation leave accumulated in excess of 240 hours as provided in WAC 356-18-095(2)~~). The compensation shall be computed by using the formula published by the office of financial management. (~~Excess vacation leave accumulated as provided in WAC 356-18-095(2) must be taken as vacation leave or lost.~~

~~(2) When an employee who is not a member of the public employees retirement system Plan 1 separates from service by reason of resignation with adequate notice, layoff, dismissal, retirement, or death he or she shall be paid a lump sum payment for accumulated vacation leave, except for vacation leave accumulated in excess of 240 hours as provided in WAC 356-18-095(2). The compensation shall be computed by using the formula published by the office of financial management. Excess vacation leave accumulated as provided in WAC 356-18-095(2) must be taken as vacation leave or lost.~~

~~(3))~~ (2) 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), 41.06.100, or WAC 356-06-055.

~~((4))~~ (3) If employees are paid for the accumulated vacation leave and are reemployed 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. Employees will be credited with the number of vacation days represented by the returned payments at the rate of their last salary.

~~((5))~~ (4) The separation cited in subsection ~~((3))~~ (2) of this section 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.

AMENDATORY SECTION (Amending Order 175, filed 9/22/82)

WAC 356-26-040 REGISTERS—NAME REMOVAL FOR CAUSE—GROUNDS ENUMERATED—REQUIREMENTS. (1) Upon notifying the personnel board of the intended action, the director of personnel or designee may remove the name of an eligible from a register for any of the following reasons:

(a) For any of the causes stipulated in the chapter on appeals (WAC 356-34-010).

(b) On evidence that the eligible cannot be located by the postal authorities.

(c) On receipt of a statement from the eligible declining an appointment and/or future interest in positions in that class.

(d) If a candidate from a reduction in force register(;) or a dual agency reversion register(~~or a promotional register~~) has ~~((twice))~~ waived the first offer of employment, or a candidate from a promotional register has twice waived consideration for a position in the class for which the register was established.

(e) If an eligible fails to reply to a written inquiry as to availability after five days in addition to the time required to receive and return the inquiry.

(f) If an eligible accepts an appointment and fails to report for duty at the time and place specified without giving satisfactory reasons for the delay to the appointing authority.

(g) If an eligible was certified and reported "not satisfactory" on three occasions or if the eligible was certified and the appointing authority reported the eligible "considered but not appointed" on four separate occasions, or if the appointing authority reports either "not satisfactory" or "considered but not appointed" for a total of four times.

(h) If an open competitive eligible indicates availability in a specific geographic area and subsequently refuses referral or appointment to a position in that area.

(2) The director of personnel or designee shall notify the eligible of this action and the reasons therefore by mail to the last known address, except in those cases in (1)(b) or (c) above. The director of personnel should advise the eligible of the right to appeal.

(3) An eligible's name shall be reinstated on the register upon showing of cause satisfactory to the director of personnel or in accordance with the decision of the personnel board upon appeal.

AMENDATORY SECTION (Amending Order 175, filed 9/22/82)

WAC 356-26-060 CERTIFICATION—GENERAL METHODS. Upon receipt of a request for certification, the director of personnel shall normally certify to the appointing authority a list of names equal in number to four more than there are vacancies to be filled from the ranked registers except:

(1) ~~((When there are names to be certified from the agency reduction in force register and/or the service-wide reduction in force register and when the number of names is less than equal to four more names than there are vacancies to be filled, the director of personnel shall initially certify only the reduction in force register's names. The appointing authority may request additional names in ranked register order to satisfy the statutory maximum allowed provided the appointing authority has first indicated, in writing, to the director of personnel and the certified candidates why additional names are being requested.))~~ One name will constitute a complete certification when referrals are made from the agency reduction in force register, the service-wide reduction in force register, or the dual agency reversion register.

(2) Where all names are certified exclusively from an open competitive register, the director of personnel may certify in ranked order up to all of the names from the

open competitive register: PROVIDED, That the appointing authority shall select from those eligibles available from the highest ranking names which constitute five names per vacancy to be filled.

(3) When more than one candidate has the same examination rating and when necessary to limit the number of names to four more than the number of vacancies, ties shall be broken by lot upon each instance of certification.

(4) An unranked register may be used to complete a certification. In such cases, all names appearing on that register shall be certified. Subsequent unranked registers shall not be used until the certification is again incomplete.

(5) The director of personnel, upon request and after consultation with the employing department and employee representatives, may declare positions, groups of positions or classes of positions as training positions. Such positions may be filled from the next lower level register in the class series as designated by the director of personnel with employees being automatically advanced after completion of one year's service in the lower level class.

(6) When the vacancy to be filled is identified as part of an agency's affirmative action goals as established by their approved affirmative action plan, the director of personnel may, except where there are employees on the reduction in force register, refer up to three additional names per vacancy of individuals who are on existing registers and who are members of the protected groups under Title VII of the 1964 Civil Rights Act and chapter 49.60 RCW, state law against discrimination, or for federal contract compliance purposes, veterans and disabled veterans as defined in the Vietnam Era Veteran's Readjustment Act of 1974, Title 41, CFR, Chapter 60, Part 60-250, "Affirmative Action Obligations of Contractors and Subcontractors for Disabled Veterans and Veterans of the Vietnam Era." This action may be taken when necessary to comply with the best standards of personnel administration as contemplated by chapter 41.06 RCW.

Agencies shall request from the department of personnel a determination prior to the utilization of this rule as to whether there are members of the protected groups on existing registers. If there are no such members on the registers, active recruitment will be initiated.

(7) The director of personnel or designee may refer, for the following classes, a sufficient number of names to assure that requesting agencies have not less than five names available to fill the position:

Messenger clerk  
 Receptionist  
 Clerk 1  
 Clerk 2  
 Clerk-Steno 1 visually handicapped  
 Clerk-Steno 2 visually handicapped  
 Clerk-Typist 1  
 Clerk-Typist 2  
 Dictating machine transcriber  
 Word processing operator 1  
 Word processing operator 2

Clerk-Steno 1  
 Clerk-Steno 2  
 PBX operator  
 Data entry operator 1  
 Data entry operator 2

If such certification contains five or more available promotional candidates, agencies shall appoint from the promotional candidates.

(8) Permanent employees certified from a ranked register for consideration of appointment shall be notified by the agency at the time of the referral. Upon appointment the agency shall advise those employees certified but not appointed of the action taken.

#### AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

WAC 356-30-300 PERFORMANCE EVALUATION(~~NONMANAGEMENT EMPLOYEES~~)—REQUIREMENTS—MONITORING. (1) Agencies shall evaluate the performance of their (~~nonmanagement~~) employees during their probationary or trial service periods and at least once a year thereafter.

(2) The evaluation will be conducted during the two-month period preceding the (~~nonmanagement~~) employee's anniversary date, except an agency can establish, on a consistent basis, a date which better accommodates a specific work cycle.

(3) Agencies will utilize the (~~procedures and~~) standardized employee performance evaluation procedures and forms prescribed by the director of personnel, supplement shall include provisions whereby individual agencies may, with the approval of the director of personnel, supplement the process with special performance factors peculiar to the specific organizational needs.

(4) The procedures and forms shall:

(a) Be designed to aid in communications between supervisors and subordinates and clarify duties and expectations.

(b) Be designed to inform employees of their performance strengths and weaknesses.

(c) Be based on performance toward the goals and objectives of the agency and its subunits.

(d) Include provisions for the counseling and the development of employees.

(5) (~~The department of personnel shall monitor the evaluation of nonmanagement employees for timeliness, effectiveness and standardization.~~) Each employee whose work is judged unsatisfactory shall be notified in writing of the areas in which the work is considered deficient. Unless the deficiency is extreme, the employee shall be given an opportunity to demonstrate improvement.

(6) Allowing ((a)) probationary (~~nonmanagement~~) employees to gain permanent status or ((a)) trial service (~~nonmanagement~~) employees to gain permanent status in the class to which (~~he/she has~~) they have been promoted without completion of an evaluation may be regarded as neglect of duty, incompetence or insubordination on the part of the supervisor and may be cause for disciplinary action.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

**WAC 356-30-302 PERFORMANCE EVALUATION—MANAGEMENT EMPLOYEES—REQUIREMENTS—MONITORING.**

**AMENDATORY SECTION** (Amending Order 221, filed 4/12/85)

**WAC 356-30-330 REDUCTION IN FORCE—REASONS, REGULATIONS—PROCEDURE.** (1) The reasons for reduction in force actions and the minimum period of notice are:

(a) Employees may be separated in accordance with the statutes and the agencies' approved reduction in force procedures after at least fifteen calendar days' notice in writing, without prejudice, because of lack of funds or curtailment of work, or good faith reorganization for efficiency purposes, ineligibility to continue in a position which has been reallocated, or when there are fewer positions than there are employees entitled to such positions either by statute or within other provisions of merit system rules.

(b) When employees have statutory and merit system rule rights to return to the classified service and the total number of employees exceeds the number of positions to be filled in the classification, those employees in excess will have the reduction in force rights prescribed in this section.

(2) The agencies shall develop a reduction in force procedure that is consistent with the following:

(a) For purposes of reduction in force (WAC 356-30-330), seniority shall be determined by the definition in WAC 356-05-390(, and, if necessary, by measuring the employees' last continuous time within their current classification, and, if still necessary, by measuring the employees' last continuous time in their current agency. When the above seniority determination process results in a tie, the tie will be broken by comparing the employees' last regular annual performance evaluation)). Ties in seniority will be broken by first measuring the employees' last continuous time within their current classification; if the tie still exists, by measuring the employees' last continuous time in their current agency; and if the tie still exists, by lot.

(b) Clearly defined layoff units, either geographically or by administrative units or both, so as to limit the disruption of an agency's total operation; but not to unduly restrict the options available to employees with greater seniority. The definition of layoff units may be a series of progressively larger units within an agency when a valid option in lieu of separation cannot be offered to respective employees within a lesser-sized unit. Employment projects, established under the provisions of WAC 356-30-145, Project employment, are distinct layoff units, separate and exclusive of any other defined layoff unit or employment project. Seasonal career layoff units, established under the provisions of WAC 356-30-130, Seasonal career employment, are distinct layoff units, separate and exclusive of any other defined layoff unit.

(c) Options in lieu of separation by reduction in force shall be offered by an agency only when such options are in accordance with the agency's reduction in force procedure which has been approved by the director of personnel.

(d) Agency reduction in force procedures shall specify the rights and obligations for employees to accept or reject options offered in lieu of separation due to reduction in force.

(e) "Bumping" by employees with greater seniority will be limited to:

- (i) The same layoff unit; and
- (ii) Classification in which the "bumping" employee previously held permanent status; and
- (iii) Position at the current salary range of the employee doing the bumping, or lower; and
- (iv) Employee with the least seniority within the same category of full-time or part-time employment; and
- (v) Competition at one progressively lower classification at a time.

(f) An employee may not exercise a bumping option in lieu of separation due to a reduction in force if there is within the agency a vacant position which satisfies all of the criteria set forth below.

The position is one which:

- (i) The agency intends to fill;
- (ii) Is in the current classification of the employee being offered the option, or in a classification within which the employee being offered the option previously held permanent status;
- (iii) Is at a salary range no lower than the range that would have otherwise been a bumping option;
- (iv) Is located within a reasonable commuting distance of the employee's permanent work location; and
- (v) Is on the same or similar workshift as the one which the employee currently holds.

(g) When an employee has previously held permanent status in more than one classification at the same salary range and is eligible to bump, then the employee shall be offered the option to bump into the position occupied by the employee with the least seniority.

(h) The right to actually "bump" shall be exercised only after the employee to be "bumped" has received at least fifteen calendar days' notice of the scheduled action.

(i) Options of full-time positions will be offered first to full-time employees before part-time positions are offered. For the purpose of these offers, employees who previously accepted part-time positions due to a reduction in force action or to lessen the impact of a reduction in force shall be considered full-time employees.

(j) Seniority for part-time employees will be computed on a basic payroll hour basis within the same provision and restrictions of the general definition of seniority. When part-time employees become full-time employees, their payroll hours will be integrated on a comparable time basis as full-time employees.

(k) Permanent employees who have been scheduled for reduction in force shall have the right to take a transfer or a voluntary demotion to a vacancy that is to be filled in their own layoff unit for which they qualify, as determined by the director of personnel. This right is

to be exercised according to the seniority of those desiring the same vacancy.

(l) Options of other than permanent positions as named in ~~((subsection (2)))~~ (m) of this ~~((section))~~ subsection are to be made if no permanent position to be filled is available within a reasonable commuting distance.

(m) The reduction in force procedure shall contain the statement that, "No permanent employee shall be separated from state service through reduction in force without being offered within fifteen calendar days prior to what would be the permanent employee's effective separation those positions at the same or lesser salary range within the layoff unit for which he/she qualifies, currently being held by emergency, temporary, provisional, probationary, or intermittent employees."

(n) The salary of an employee who has accepted a lower position will be reduced to the top of the range of the lower class unless the previous salary is within the range of the new class, in which case it will remain unchanged.

(3) The agency shall submit the procedure to the director of personnel for approval.

(4) Vacancies will not be filled either by local list procedures or on a provisional, temporary, intermittent, or seasonal basis without contacting the department of personnel in an effort to fill the positions by qualified employees who have been or are scheduled for separation due to reduction in force.

(5) When a majority of the positions in a layoff unit other than in project employment is to be eliminated because of a lack of funds and/or work, permanent employees in such positions shall be offered, according to their seniority, those positions in classes in which they have held permanent status which are currently being held by emergency, temporary, provisional, or probationary employees, provided they have not rejected offers of vacant positions made by certifications from the registers. Such options shall be offered in accordance with the following requirements:

(a) Positions in the employee's own agency and within a reasonable commuting distance shall be offered first; second, in the classified service within a reasonable commuting distance; third, anywhere within the employee's own agency; and fourth, throughout the classified service.

(b) A permanent employee's right to fill a position may be exercised only within fifteen calendar days prior to the effective date of separation.

(c) Offers will be made in accordance with a procedure established by the director of personnel.

(6) In order to exercise an option to a position which may require selective criteria, the following applies. The option may be exercised only by an employee who possesses the required specialized qualifications when:

(a) The criteria were approved when the position was established, reallocated or last filled; or

(b) The specialized qualifications were previously required for a classification that was later merged with other classifications that did not require them; or

(c) When, at a subsequent time, it was determined that the position requires the performance of specialized duties that would warrant future selective certification.

(d) In the case of (c) ~~((above))~~ of this subsection, the selective criteria shall not be applied for the purposes of determining reduction in force options until six months after the notification of the new duties has been made to the department of personnel.

(e) In the case of (a), (b) and (c) of this subsection, the director of personnel or designee must have determined that the specialized qualifications are still essential for the successful job performance and the qualifications could not be learned within a reasonable length of time.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71, effective 8/1/71)

WAC 356-34-010 DISCIPLINARY ACTIONS—CAUSES FOR DEMOTION—SUSPENSION—REDUCTION IN SALARY—DISMISSAL. (1) Appointing authorities may demote, suspend, reduce in salary, or dismiss a permanent employee under their jurisdiction for any of the following causes:

~~((1))~~ (a) Neglect of duty.  
~~((2))~~ (b) Inefficiency.  
~~((3))~~ (c) Incompetence.  
~~((4))~~ (d) Insubordination.  
~~((5))~~ (e) Indolence.  
~~((6))~~ (f) Conviction of a crime involving moral turpitude.

~~((7))~~ (g) Malfeasance.  
~~((8))~~ (h) Gross misconduct.  
~~((9))~~ (i) Willful violation of the published employing agency or department of personnel rules or regulations.

(2) Appointing authorities shall dismiss any employee under their jurisdiction whose performance is so inadequate as to warrant dismissal.

(3) Appointing authorities shall remove from supervisory positions those supervisors who, in violation of subsection (2) of this section, have tolerated the continued employment of employees under their supervision whose performance has warranted termination from state employment.

## WSR 85-16-017

### ADOPTED RULES

### HOSPITAL COMMISSION

[Order 85-03, Resolution No. 85-03—Filed July 29, 1985]

Be it resolved by the Washington State Hospital Commission, acting at the Vance Airport Inn, Seattle, Washington, that it does adopt the annexed rules relating to adding new section WAC 261-40-170 to Title 261 WAC: Washington State Hospital Commission, regarding negotiated rates. The rules implement RCW 70.39.140(1) and set forth disclosure requirements and procedures for the commission to review and disapprove a negotiated rate.

This action is taken pursuant to Notice No. WSR 85-13-040 filed with the code reviser on June 14, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 70.39.140(1) and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 25, 1985.

By Maurice A. Click  
Executive Director

### NEW SECTION

**WAC 261-40-170 NEGOTIATED RATES (1)**  
After July 1, 1985, any hospital may negotiate with and charge any particular payer or purchaser rates that are less than those approved by the Commission, if:

- (a) the rates are cost justified; and
- (b) the rates do not result in any shifting of costs to other payers or purchasers in the current or any subsequent year; and
- (c) the rates do not result in any policies which limit access to individuals who are unable to pay or for whom the hospital receives less than anticipated charges for or costs of necessary health care services; and
- (d) all the terms of such negotiated rates are filed with the Commission within ten (10) working days and made available for public inspection.

(2) Within ten (10) working days after the contract is signed, the hospital must submit full disclosure of each negotiated rate, including:

- (a) the names of the parties to the negotiation;
- (b) the period of time covered by the agreement;
- (c) the negotiated rate or the amount of the reduction from the rate approved by the Commission; and
- (d) any other terms or conditions related to the negotiated rates.

(3) Following publication of a negotiated rate as required by WAC 261-40-170(8), each hospital shall make the information reported in WAC 261-40-170(2) for that negotiated rate available to the public upon request.

(4) The differential between billed charges, based on the hospital's full established rates, and the payment received, based on the negotiated rate, must be separately identified for each negotiated contract and reported on Lines 26-31, Form RE-8 Deductions from Revenue. These amounts are "Memo" only and may not be allocated to other payers or purchasers in the current or any subsequent year.

(5) The Commission shall review a negotiated rate upon the request of any concerned party. Such a request shall include the following:

- (a) identification of the party requesting the review;
- (b) identification of the particular negotiated rate involved;

(c) a clear statement of the violation alleged, e.g., it is not cost justified; it results in a cost shift to other payers or purchasers; or it does not otherwise conform with the provisions of RCW 70.39.140;

(d) a statement of how the party is affected by the negotiated rate;

(e) evidence supporting the party's claim; and

(f) the action requested of the Commission.

(6) If upon review the negotiated rate is found to contravene any provision of RCW 70.39.140, the Commission may disapprove such rate. Such disapproval shall be effective as of the date of the Commission's order disapproving the negotiated rate. Once a negotiated rate is disapproved by the Commission, the hospital may no longer charge such rate.

(7) The Commission will publish on meeting agendas a list of all negotiated rates filed by hospitals, including the names of the parties to the negotiation, within thirty days after filing.

(8) The provisions of WAC 261-40-170 apply to all negotiated rates in effect on or after July 1, 1985.

### **WSR 85-16-018**

#### **ADOPTED RULES**

#### **HOSPITAL COMMISSION**

[Order 85-04, Resolution No. 85-04—Filed July 29, 1985]

Be it resolved by the Washington State Hospital Commission, acting at the Vance Airport Inn, Seattle, Washington, that it does adopt the annexed rules relating to amending the text of the commission's *Accounting and Reporting Manual for Hospitals*, second edition, filed with the code reviser on June 8, 1984, as Order Number 84-01, but not published as part of the Washington Administrative Code. System of accounts, chapters 2000, 8000 and 10000, are amended to provide instructions for submitting charity care data as required by chapter 261-14 WAC and to add an account for reporting any contractual adjustments related to negotiated rates. The quarterly report and SS-8 forms contained within chapter 10000 of the commission's *Accounting and Reporting Manual for Hospitals* are also amended to provide for reporting of charity care data as required by chapter 261-14 WAC.

This action is taken pursuant to Notice No. WSR 85-13-045 filed with the code reviser on June 17, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 70.39.180(1) and 34.04.020 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 25, 1985.

By Maurice A. Click  
Executive Director

**Reviser's note:** The text of the adopted amendments to the Washington State Hospital Commission's *Accounting and Reporting Manual for Hospitals*, second edition, has been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the adopted Washington State Hospital Commission's *Accounting and Reporting Manual for Hospitals*, second edition, can be obtained by writing to the Washington State Hospital Commission, Mailstop FJ-21, Olympia, WA 98504.

**WSR 85-16-019**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Order 85-17—Filed July 29, 1985]

I, R. A. Davis, director of the Department of Labor and Industries, do promulgate and adopt at Room 334, General Administration Building, Olympia, WA 98504, the annexed rules relating to this administrative order adopts a new Washington Administrative Code relating to the regulation of persons removing or encapsulating asbestos; to provide specifications for the certification of training programs for the removal or encapsulation of asbestos; to provide specifications for the certification of qualified asbestos workers; and to establish certain fees and penalties for improper asbestos removal.

I, R. A. Davis, find that an emergency exists and that this 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 the emergency is this code is promulgated to minimize the significant impact Substitute Senate Bill 4209 will have on persons working to remove or encapsulate asbestos. Substitute Senate Bill 4209 requires workers to have a minimum of thirty hours of training before working with asbestos.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to Substitute Senate Bill 4209, chapter 387, Laws of 1985, and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 29, 1985.

By R. A. Davis  
Director

*Chapter 296-65 WAC*  
*Asbestos Removal and Encapsulation.*

NEW SECTION

*WAC 296-65-001 PURPOSE AND SCOPE. This standard regulates asbestos removal and encapsulation,*

*requires minimum training for asbestos workers and establishes a training certification and notification program for asbestos projects.*

NEW SECTION

*WAC 296-65-003 DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.*

*(1) "Approved" means approved by the department unless the context clearly requires otherwise.*

*(2) "Asbestos" includes different forms of chrysotile, amosite, crocidolite, tremolite, anthophyllite and actinolite.*

*(3) "Asbestos fibers" means asbestos fibers longer than 5 micrometers.*

*(4) "Asbestos project" includes the construction, demolition, repair, maintenance or renovation of any public or private building, mechanical piping equipment or system involving the demolition, removal, encapsulation, salvage, or disposal of material releasing or likely to release asbestos fibers into the air.*

*(5) "Auxiliary project" means a work activity which does not directly involve an asbestos project but which may disturb or expose asbestos or asbestos-containing materials.*

*(6) "Certificate" means the certificate issued by the department.*

*(7) "Contractor" includes any partnership, firm, association, corporation or sole proprietorship that contracts to perform the removal or encapsulation of asbestos.*

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

*(9) "Demolition" includes the wrecking or removal of any load-supporting structural member of a facility including any related handling operations.*

*(10) "Encapsulation" means the application of an encapsulant to asbestos containing materials to control the release of asbestos fibers into the air. The encapsulant creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).*

*(11) "HEPA filtration" means high efficiency particulate air filtration found in respirators and vacuum systems capable of filtering 0.3 micron particles with 99.97% efficiency.*

*(12) "NESHAP" means the National Emission Standards for Hazardous Air Pollutants.*

*(13) "Person" means any partnership, firm, association, corporation, sole proprietorship or the state of Washington or its political subdivisions.*

*(14) "Qualified asbestos worker" means an individual who is certified by the department to undertake an asbestos project.*

*(15) "Removal" includes the stripping of any asbestos containing materials from the surface or components of a facility.*

*(16) "Renovation" includes altering in any way one or more facility components. Operations in which load-supporting structural members are wrecked or removed are excluded.*

(17) "Repair" includes the restoration of asbestos containing insulation that has been damaged, usually located on pipes, boilers, tanks, turbines, ducts or other facility components. Repair usually consists of the application of duct tape, rewettable glass cloth, canvas, cement or other suitable material to seal exposed areas where asbestos fibers may be released. Repair of previously encapsulated asbestos containing materials may involve filling damaged areas with non-asbestos substitutes and reencapsulating. Repair of enclosures around asbestos containing materials is contemplated by this term.

(18) "Structural component" includes any pipe, duct, boiler, tank, reactor, turbine or furnace at or in a facility or any structural member of a facility.

(19) "Structural member" means any load-supporting or non-load-supporting member of a facility such as beams, walls, and ceilings.

(20) "Structure" means an entire facility, building or major portion thereof, such as a building wing.

#### NEW SECTION

**WAC 296-65-005 TRAINING COURSE CONTENT.** An approved basic asbestos course shall consist of at least 30 hours of training. The initial training course shall provide, at a minimum, information on the following topics:

(1) The physical characteristics of asbestos including types, fiber size, aerodynamic characteristics and physical appearance.

(2) Examples of different types of asbestos and asbestos containing materials. Real asbestos may be used only for observation by trainees and must be enclosed in glass or plastic.

(3) The health hazards of asbestos including the nature of asbestos related diseases, routes of exposure, dose-response relationships, synergism between cigarette smoking and asbestos exposure, latency period of diseases, hazards to immediate family, and the health basis for asbestos standards.

(4) Employee personal protective equipment including the classes and characteristics of respirator types, limitations of respirators, proper selection, inspection, donning, use, maintenance and storage procedure, methods for field checking of the facepiece-to-face seal (positive and negative pressure checks), qualitative and quantitative fit testing procedures, variability between field and laboratory protection factors, factors that alter respirator fit (e.g. eye glasses and facial hair), the components of a proper respiratory protection program, respirator program administrator, and selection and use of personal protective clothing.

(5) Use, storage and handling of launderable clothing, non-slip footwear, gloves, eye protection and hard hats.

(6) Medical monitoring procedures and requirements, including the provisions of WAC 296-62-071 through 296-62-07121 and 296-62-07517, any additional recommended procedures and tests, benefits of medical monitoring and employee access to records.

(7) Air monitoring procedures and requirements, including the requirements of WAC 296-62-07517, including a description of equipment, sampling methods

and strategies, reasons for air monitoring, types of samples, current standards with proposed changes if any, employee observation and notification, recordkeeping and employee access to records.

(8) State-of-the-art work practices for asbestos removal and encapsulation activities including purpose, proper construction and maintenance of barriers and decontamination enclosure systems, posting of warning signs, electrical and ventilation system lock-out, proper working techniques for minimizing fiber release, use of wet methods and surfactants, use of negative pressure ventilation equipment, scoring and breaking techniques for rigid asbestos products, glove bag techniques, use of HEPA vacuums and proper clean-up and disposal procedures. Work practice requirements for removal, encapsulation, enclosure and repair shall be discussed individually.

(9) Personal hygiene including entry and exit procedures for the work area, use of showers and prohibition of eating, drinking, smoking and chewing (gum or tobacco) in the work area.

(10) Additional safety hazards that may be encountered during asbestos removal and encapsulation activities and hazard abatement; including electrical hazards, scaffold and ladder hazards, slips, trips and falls, confined spaces and noise.

(11) The requirements, procedures and standards established by:

(a) The Environmental Protection Agency, 40 CFR Part 61, Subparts A and M.

(b) Washington State Department of Ecology.

(c) Local air pollution control agencies.

(d) Washington State Department of Labor and Industries, Division of Industrial Safety and Health, chapter 49.17 RCW (Washington Industrial Safety and Health Act) and ensuing regulations.

#### NEW SECTION

**WAC 296-65-010 QUALIFIED ASBESTOS WORKER CERTIFICATION.** (1) For the purposes of this section "individual" means any natural person.

(2) Individuals shall pass, in a manner approved by the department, a written examination demonstrating familiarity with issues relevant to the safe performance of asbestos related activities. Upon successful completion of the examination the department will issue a certificate establishing the worker as a qualified asbestos worker.

(3) No individual shall perform any asbestos project work prior to issuance of the certificate. The certificate is valid for two years from the date of issuance.

(4) Qualified asbestos workers shall attend a 7-hour refresher course prior to certificate renewal.

(a) The course shall, at a minimum, adequately review the subjects required by WAC-296-65-005, update information on state-of-the-art procedures and equipment, and review regulatory changes and interpretations. Specific subjects may be required by the department.

(b) An application for renewal of the certificate must be accompanied by proof of attendance in an approved refresher training course.

(c) To be considered timely, the certificate renewal application must be received by the department no later than 60 days after the certificate expiration date.

(5) The certificate shall be available for inspection at all times during an asbestos project.

(6) The department may suspend or revoke a certificate for failure of the holder to comply with any applicable health or safety standards.

**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.

### NEW SECTION

**WAC 296-65-015 TRAINING COURSE CERTIFICATION.** Basic and refresher asbestos training courses may be provided by any person, environmental health consulting firm, union, trade association, educational institution, public health organization, individual, governmental agency, or other entity.

(1) Each course shall be evaluated by the department for the breadth of knowledge and experience required to properly train asbestos workers. Course content shall be carefully scrutinized for adequacy and accuracy. Training techniques will be evaluated by the department.

(2) Sponsors of basic and refresher training courses proposed for approval must submit:

(a) Background information about course sponsors;

(b) Course locations and fees;

(c) Copies of course handouts;

(d) A detailed description of course content and the amount of time allotted to each major topic;

(e) A description of teaching methods to be utilized and a list of all audio-visual materials; the department may, in its discretion, request that copies of the materials be provided for review. Any audio-visual materials provided to the department will be returned to the applicant;

(f) A list of all personnel involved in course preparation and presentation and a description of the background, special training and qualifications of each;

(g) A description of student evaluation methods and a copy of the required written examination including the scoring methodology to be used in grading the examination;

(h) A description of course evaluation methods; and

(i) Any restrictions on attendance (language, class size, affiliation, etc.).

(3) Application for training course approval and course materials shall be submitted to the department at least 45 days prior to the requested approval date. Materials may be mailed to:

Asbestos Certification Program  
Department of Labor and  
Industries, AX-31hy  
814 E. 4th Avenue  
P.O. Box 207  
Olympia, Washington 98504

(4) Upon approval of a basic or refresher asbestos training course, the department will issue the course sponsor a certificate. The certificate is valid for one year from the date of issuance. Application for renewal must

follow the procedures described in subsections (2) and (3) of this section.

(5) To be considered timely, the training course certificate renewal must be received by the department no later than 60 days after the certificate expiration date.

(6) Any changes to a training course must be approved by the department in advance.

(7) The course sponsor shall provide the department with a list of all persons who have completed a basic or refresher training course. The list must be provided no later than ten days after a course is completed and must include the name and address of each trainee.

(8) The course sponsor must notify the department at least one week before a training course is scheduled to begin. The notification must include the date, time and address where the training will be conducted.

(9) A representative of the department may, at the department's discretion, attend a training course as an observer to verify that the training course is conducted in accordance with the program approved by the department.

(10) The department may suspend or revoke the certification of a training course if its sponsor fails to maintain the course content and quality as initially approved.

### NEW SECTION

**WAC 296-65-020 NOTIFICATION REQUIREMENTS.** A copy of any notice of intention to demolish or renovate a facility required to be filed with an air pollution control agency in accordance with NESHAP (40 CFR Part 61) shall be sent directly to the department by each person whose employees, if any, are renovating or demolishing any structure. Notices must be received within the same time periods required under NESHAP and may be mailed to: Asbestos Certification Program, Department of Labor and Industries, AX-31hy, 814 E. 4th Avenue, P.O. Box 207, Olympia, Washington 98504.

### NEW SECTION

**WAC 296-65-025 CERTIFICATE FEE.** (1) A non-refundable administrative fee of twenty-five dollars (\$25.00) shall be assessed for each initial or renewal certificate application. The fee (check or money order) must accompany the certificate application and be made payable to the department. An application form may be obtained from any approved training course instructor or directly from the department.

(2) A non-refundable administrative fee of one hundred fifty dollars (\$150.00) shall be assessed for each initial or renewal application for an approved training course certificate. A check or money order shall accompany any application made under the provisions of WAC 296-65-015 and be made payable to the department.

### NEW SECTION

**WAC 296-65-030 METHODS OF COMPLIANCE.** (1) No contractor, employee, or other individual is eligible to work on an asbestos project unless properly issued a certificate by the department, except, in the case

of an asbestos project undertaken by any partnership, firm, corporation or sole proprietorship in its own facility and by its own employees under the direct on-site supervision of a qualified asbestos worker.

(2) No person may assign any employee, contract with or permit any individual or person to remove or encapsulate asbestos in any facility unless performed by a qualified asbestos worker except in the case of an asbestos project undertaken by any partnership, firm, corporation or sole proprietorship in its own facility and by its own employees under the direct on-site supervision of a qualified asbestos worker.

(3) In cases excepted under subsections (1) and (2) of this section, the partnership, firm, corporation or sole proprietorship shall annually submit a written description to the department which includes at least the following information:

(a) The kinds of asbestos projects expected to be undertaken during a period of time not to exceed one year from the date of submission;

(b) The procedures to be used in undertaking asbestos projects;

(c) Methods of compliance with the requirements of chapter 49.26 RCW;

(d) Methods of compliance with chapter 296-65 WAC and chapter 296-62 WAC;

(e) Methods of compliance with any additional procedures required by law for the safe demolition, removal, encapsulation, salvage, and disposal of asbestos; and

(f) The name, address and certification number of the supervising qualified asbestos worker.

(4) A further written description must be submitted to the department prior to commencing a project, if during the one year period covered by the written description submitted to the department in accordance with WAC 296-65-030(3), previously unidentified or new asbestos projects are proposed.

(5) Written descriptions, shall be mailed to: Asbestos Certification Program, Department of Labor and Industries, AX-31hy, 814 E. 4th Avenue, P.O. Box 207, Olympia, Washington 98504.

(6) Whenever compelling public safety concerns demonstrate a potential asbestos exposure clearly more extensive than the potential exposure to any employees of an asbestos removal or encapsulation contractor, the contractor or property owner may petition the Asbestos Certification Program for temporary relief from these emergency rules. Relief may be granted, in the sole discretion of the Assistant Director of the Division of Safety and Health, Department of Labor and Industries only if:

(a) The relief is requested prior to commencement of work or continuation of work after July 29, 1985;

(b) All provisions of Chapter 296-62 WAC pertinent to asbestos work and respiratory protection have been and will continue to be met. The application for relief shall include evidence of these requirements having been met; and,

(c) Written notification of asbestos exposure has been communicated to all workers at the site. This notice shall include a description of the work being performed,

the hazards attendant to asbestos exposure, and the requirements of Engrossed Substitute Senate Bill No. 4209, Chapter 387, Laws of 1985, 49th Regular Legislative Session and Chapter 296-65 WAC.

#### NEW SECTION

WAC 296-65-040 APPEALS - NOTICE AND FILING. (1) Any final Correction Order issued by the department citing a violation of the provisions of Chapter 387, Laws of 1985 or this chapter shall only be appealed to the department. Any appeal from such an order shall be communicated in writing to the department within 30 calendar days of receipt of such order by the appealing party.

(2) The written notice of appeal shall indicate:

(a) The specific Correction Order being appealed;

(b) The name and address of the appealing party;

(c) The grounds upon which the appealing party considers the Correction Order to be unjust or unlawful;

(d) A statement of the facts asserted in support of each of the grounds for the appeal;

(e) The specific relief sought; and

(f) A statement that the person signing the notice of appeal has read it and to the best of his or her knowledge, information and belief there are good grounds to support the appeal.

(3) The written notice of appeal shall be delivered to:

Asbestos Certification Program  
Department of Labor and  
Industries, AX-31hy  
814 E. 4th Avenue  
P.O. Box 207  
Olympia, Washington 98504

#### NEW SECTION

WAC 296-65-045 APPEALS - PROCEDURE. Any appeal of a final Correction Order of the department shall be heard and ruled upon in accordance with the provisions of the Washington Administrative Procedure Act, chapter 34.04 RCW, and chapter 296-08 WAC.

#### **WSR 85-16-020**

#### **ADOPTED RULES**

#### **STATE BOARD OF EDUCATION**

[Order 15-85—Filed July 29, 1985]

Be it resolved by the State Board of Education, acting at Haguewood's Restaurant, Port Angeles, Washington, that it does adopt the annexed rules relating to fee for certification, WAC 180-75-065.

This action is taken pursuant to Notice No. WSR 85-12-044 filed with the code reviser on June 5, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 28A.04-.120 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 26, 1985.

By Monica Schmidt  
Secretary

AMENDATORY SECTION (Amending Order 16-84, filed 12/10/84)

WAC 180-75-065 FEE FOR CERTIFICATION.  
(1) In accordance with provisions of RCW 28A.70.110 and 28A.71.100, the fee for certificates which are valid for more than one year, issued by authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be as follows:

(a) ~~((The initial certificate, valid for four years is twenty dollars;~~

(b) ~~A renewal, reinstatement, or additional endorsement on the initial certificate, valid for three years, is fifteen dollars;~~

(c) ~~The provisional certificate, valid for three years is fifteen dollars;~~

(d) ~~A renewal or reinstatement of the provisional certificate for three years, is fifteen dollars;~~

(e) ~~A substitute certificate, valid for three years, is fifteen dollars;~~

(f)) The continuing certificate is seventy dollars;

~~((g)) (b) The reinstatement ((or))<sub>2</sub> additional endorsement on the ((continuing)) certificate, duplicate certificates, and certificates issued for the purpose of showing a name change is fifteen dollars; and~~

~~((h) Emergency and consultant special certificates, valid for one year, are five dollars)) (c) Any other certificate or credential or any renewal thereof shall be five dollars for each year of validity:~~

~~((i)) (d) PROVIDED, That the fee for all vocational certificates shall be one dollar.~~

(2) The fee for any other certificate/credential, or for any renewal thereof, issued by the authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be ~~((one))~~ five dollars.

(3) Officials authorized to collect certification fees are educational service district superintendents, local school district superintendents, deans and directors of education at colleges and universities, and designees of program units. The fee must accompany the application for a certificate and shall be transmitted by the receiving district, college or university, or program unit designee at least quarterly to the educational service district within which the application is filed for disposition in accordance with provisions of RCW 28A.70.110. The fee shall not be refunded unless the application is withdrawn before it is finally considered (i.e., the issuance of a certificate or a written communication denying such issuance) by the superintendent of public instruction or his or her designee. Moneys accrued from certification fees within the boundaries of an educational service district shall be divided in the following manner:

(a) Local school districts employing more than one hundred teachers and other professional staff and collecting certification fees may retain one dollar of each fee in order to hold a professional training institute. If such district does not hold an institute all such moneys shall be placed to the credit of the educational service district.

(b) No less than fifty percent of the funds accruing within the boundaries of an educational service district shall be used to support program activities related to state-wide precertification professional preparation and evaluation.

(c) The remaining funds shall be used to support professional inservice training programs and evaluations thereof.

**WSR 85-16-021**

**EMERGENCY RULES**

**STATE BOARD OF EDUCATION**

[Order 16-85—Filed July 29, 1985]

Be it resolved by the State Board of Education, acting at Haguewood's Restaurant, Port Angeles, Washington, that it does adopt the annexed rules relating to Pupils—Immunization requirement, chapter 180-38 WAC.

We, the State Board of Education, find that an emergency exists and that this 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 the emergency is the 1985 legislature substantially altered the timelines regarding immunization or exemption thereto as a condition for school attendance. These rules need to be in place at the commencement of the 1985-86 school year and school districts need advance notice of new requirements in order to plan efficiently for the commencement of the 1985-86 school year.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 28A.31-.118 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 25, 1985.

By Monica Schmidt  
Secretary

*Chapter 180-38 WAC*

**PUPILS—IMMUNIZATION REQUIREMENT**

**WAC**

180-38-005

*Authority.*

180-38-010

*Purpose.*

180-38-020

*Definition—Student.*

- 180-38-025 *Definition—Chief administrator.*  
 180-38-030 *Definition—Full immunization.*  
 180-38-035 *Definition—Schedule of immunization.*  
 180-38-040 *Definition—Certificate of exemption.*  
 180-38-045 *Attendance condition upon compliance.*  
 180-38-050 *Notice prior to exclusions from school.*  
 180-38-055 *Public schools—Content of written notice.*  
 180-38-060 *Private schools—Content of written notice.*  
 180-38-065 *Exclusion of students for failure to comply.*  
 180-38-070 *Supplementing rules of SPI.*

NEW SECTION

WAC 180-38-005 *AUTHORITY.* The authority for this chapter is RCW 28A.31.118 which authorizes the state board of education to adopt rules which establish the procedural and substantive due process requirements governing the exclusion of students from public and private schools for failure to comply with the immunization requirement of the state of Washington.

NEW SECTION

WAC 180-38-010 *PURPOSE.* The purpose of this chapter is to establish the procedural and substantive due process requirements governing the exclusion of students from public and private schools for failure to comply with the immunization requirement of the state of Washington.

NEW SECTION

WAC 180-38-020 *DEFINITION—STUDENT.* As used in this chapter, the term "student" shall mean the same as defined for "child" in WAC 248-100-163 (1)(f) by the state board of health.

NEW SECTION

WAC 180-38-025 *DEFINITION—CHIEF ADMINISTRATOR.* As used in this chapter, the term "chief administrator" shall mean the same as defined in RCW 28A.31.102(1), to wit: "'Chief administrator' shall mean the person with the authority and responsibility for the immediate supervision of the operation of a school . . . or, in the alternative, such other person as may hereafter be designated in writing for the purposes of . . . [this chapter] by the statutory or corporate board of directors of the school district, school . . . or, if none, such other persons or person with the authority and responsibility for the general supervision of the operation of the school district, [or] school . . . ." This definition of chief administrator is unique to this chapter and in application may or may not include the principal or headmaster of a school depending on the degree of authority delegated to such principal or headmaster and whether the responsibility has been delegated to another school official.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 180-38-030 *DEFINITION—FULL IMMUNIZATION.* As used in this chapter, the term "full immunization" shall mean the same as defined in RCW 28A.31.102(2), to wit: "'Full immunization' shall mean immunization against certain vaccine-preventable diseases in accordance with schedules and with immunizing agents approved by the state board of health." This definition of full immunization is unique to this chapter and includes immunization only against diseases as required by rules of the state board of health.

NEW SECTION

WAC 180-38-035 *DEFINITION—SCHEDULE OF IMMUNIZATION.* For the purpose of this chapter, the term "schedule of immunization" shall mean the beginning or continuing of a course of immunization prescribed by the state board of health.

NEW SECTION

WAC 180-38-040 *DEFINITION—CERTIFICATE OF EXEMPTION.* As used in this chapter, the term "certificate of exemption" shall mean the filing with the chief administrator of the school, on a form prescribed by the department of social and health services, which complies with RCW 28A.31.106, to wit:

"(1) A written certification signed by any physician licensed to practice medicine pursuant to chapter 18.71 or 18.57 RCW that a particular vaccine required by rule of the state board of health is, in his or her judgment, not advisable for the . . . [student]; **PROVIDED,** That when it is determined that this particular vaccine is no longer contraindicated, the . . . [student] will be required to have the vaccine;

(2) A written certification signed by any parent or legal guardian of the . . . [student] or any adult in loco parentis to the . . . [student] that the religious beliefs of the signator are contrary to the required immunization measures; and

(3) A written certification signed by any parent or legal guardian of the . . . [student] or any adult in loco parentis to the . . . [student] that the signator has either a philosophical or personal objection to the immunization of the . . . [student]."

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 180-38-045 *ATTENDANCE CONDITION UPON COMPLIANCE.* It is the public policy of this state, as codified in RCW 28A.31.104, that "[t]he attendance of every . . . [student] in the state . . . shall be conditioned upon the presentation before or on each . . . [student's] first day of attendance at a particular school . . . , of proof of . . . [:] (1) full immunization, (2) the initiation of and compliance with a schedule

of immunization, as required by rules of the state board of health, or (3) a certificate of exemption as provided for in RCW 28A.31.106. [See WAC 180-38-040]"

The statutory scheme requires exclusion from school prior to a termination hearing on the implied basis that such students are an immediate and continuing danger to themselves or others—i.e., the constitutional basis for an emergency expulsion from public schools and the exemption from providing a pretermination due process hearing.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 180-38-050 NOTICE PRIOR TO EXCLUSIONS FROM SCHOOL.** It is the public policy of this state, as codified in RCW 28A.31.114, that "each school . . . shall provide written notice to the parent(s) or legal guardian(s) of each . . . [student] or to the adult(s) in loco parentis to each . . . [student] who is not in compliance with . . . [the public policy stated in WAC 180-38-045]", prior to the exclusion of such student.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 180-38-055 PUBLIC SCHOOLS—CONTENT OF WRITTEN NOTICE.** The written notice for public school students shall:

(1) Comply with the emergency expulsion notice requirements of WAC 180-40-300 except that the notice must be received prior to the emergency expulsion of the student.

(2) Advise the appropriate party of the applicable law and provide copies of such laws and implementing rules, including procedural due process rules prescribed by the state board of education for emergency expulsion.

(3) Advise regarding immunization services that are available from or through the local health department and other public agencies.

(4) Order an emergency expulsion of the student from school and state that such order is effective immediately upon receipt of the notice.

#### NEW SECTION

**WAC 180-38-060 PRIVATE SCHOOLS—CONTENT OF WRITTEN NOTICE.** The written notice for private school students shall:

(1) Advise the appropriate party of the applicable law and provide copies of such law and implementing rules.

(2) Advise regarding immunization services that are available from or through the local health department or other public agencies.

(3) Order the exclusion of the student from school and state that such order is effective upon receipt of the notice.

#### NEW SECTION

**WAC 180-38-065 EXCLUSION OF STUDENTS FOR FAILURE TO COMPLY.** The chief administrator of each public or private school shall exclude from such school all students who fail to comply with the public policy stated within WAC 180-38-045; PROVIDED, That if the chief administrator did not provide written notice as required in WAC 180-38-050 prior to the student's first day of attendance at such school, the emergency expulsion or exclusion shall be stayed until the notice is received.

#### NEW SECTION

**WAC 180-38-070 SUPPLEMENTING RULES OF SPI.** Chapter 392-183 WAC contains rules of the superintendent of public instruction which supplement this chapter.

**WSR 85-16-022**

**EMERGENCY RULES**

**STATE BOARD OF EDUCATION**

[Order 17-85—Filed July 29, 1985]

Be it resolved by the State Board of Education, acting at Haguewood's Restaurant, Port Angeles, Washington, that it does adopt the annexed rules relating to temporary moratorium on study and survey actions, WAC 180-25-990.

We, the State Board of Education, find that an emergency exists and that this 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 the emergency is the State Board of Education finds that the existing shortfall in common school construction funds necessitates a reexamination of existing State Board of Education rules in order to assure that the needs of the common school system and existing resources are properly balanced.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 28A.47-.830 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 26, 1985.

By Monica Schmidt  
Secretary

#### NEW SECTION

**WAC 180-25-990 TEMPORARY MORATORIUM ON STUDY AND SURVEY ACTIONS.** Notwithstanding WAC 180-25-040, 180-29-025, or any

other rule of the state board of education to the contrary, subsequent to May 31, 1985 the state board of education shall not take action on any further study and survey projects, except those projects within a study and survey which qualify as either a priority one or two pursuant to WAC 180-27-058, until such time as the state board of education hereafter votes to modify or affirm WAC 180-27-058 (the priority system rule).

**WSR 85-16-023**

**EMERGENCY RULES**

**DEPARTMENT OF NATURAL RESOURCES**

[Order 456—Filed July 29, 1985]

I, Brian J. Boyle, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the adoption of an emergency rule restricting logging, land clearing, and other industrial operations which may cause a fire to start on lands under the protection of the Department of Natural Resources in Western and Eastern Washington. Restrict burning permits and burning privileges in Western and Eastern Washington.

I, Brian J. Boyle, find that an emergency exists and that this 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 the emergency is due to existing and forecasted weather conditions, forest lands in Western and Eastern Washington are exposed to increasing fire danger. Logging restrictions are imposed in all shutdown zones in Western Washington and some counties in Eastern Washington.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 76.04.190 and 76.04.150 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 29, 1985.

By Brian J. Boyle  
Commissioner of Public Lands

**AMENDATORY SECTION** (Amending Emergency Order 454, filed 7/25/85)

**WAC 332-26-083 HOOT OWL LOGGING RESTRICTIONS ON LANDS PROTECTED BY THE DEPARTMENT OF NATURAL RESOURCES IN WESTERN WASHINGTON** Effective midnight, (~~Thursday, July 25, 1985, through midnight, Monday, July 29, 1985,~~) Monday, July 29, 1985, through midnight, Monday, August 5, 1985, all logging, land clearing, and other industrial operations which may cause a

fire to start are to cease operation during the following times and under the following conditions: 1) All power saws, except those used on landings, to shutdown from 11:00 a.m. to 8:00 p.m. during the shutdown period. Landing saws to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 2) All yarding, skidding, loading, and hauling to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 3) All other operations not specifically listed here will shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 4) Watchperson required for a minimum of one hour following operation of spark emitting equipment.

Effected Areas: Olympic Area – shutdown zones 649, 650, 651L, 653, 654; Central Area – shutdown zones 651L, 651H, 655, 657; Southwest Area – shutdown zones 649, 651L, 651H, 655, 621 West(~~(621 East, 660));~~ South Puget Sound Area – shutdown zones 654, 657; Northwest Area – shutdown zones 653, 656.

All persons are excluded from logging operating areas and areas of logging slash, except those present in the interest of fire protection, from 1:00 p.m. to 8:00 p.m. during the shutdown period.

All burning permits and burning privileges are cancelled in the affected shutdown zones.

**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 Emergency Order 454, filed 7/29/85 [7/25/85])

**WAC 332-26-084 LOGGING RESTRICTIONS ON LANDS PROTECTED BY THE DEPARTMENT OF NATURAL RESOURCES IN WESTERN WASHINGTON.** Effective midnight, (~~Thursday, July 25, 1985, through midnight, Monday, July 29, 1985,~~) Monday, July 29, 1985, through midnight, Monday, August 5, 1985, all logging, land clearing, and other industrial operations which may cause a fire to start shall cease operations.

Areas effected by these restrictions are:

1) Shutdown zone 658 lying in the eastern half of Whatcom, Skagit, and Snohomish counties and the northeast portion of King County protected by the Department of Natural Resources Northwest Area;

2) Shutdown zone 652 lying in western Mason County and zone 659 lying in the eastern half of King and Pierce counties protected by the Department of Natural Resources South Puget Sound Area;

3) Shutdown zone 659 lying in the eastern half of Lewis County protected by the Department of Natural Resources Central Area;

4) Shutdown zone 660 in Skamania County and the eastern portions of Cowlitz and Clark counties, and zone 621 east lying in the southern portion of Skamania County protected by the Department of Natural Resources Southwest Area;

(~~(4)~~) 5) Shutdown zone 652 lying in the interior of Clallam and Jefferson counties and the northeast portion of Grays Harbor County protected by the Department of Natural Resources Olympic Area.

During the shutdown period all persons are excluded from logging operating areas and areas of logging slash except those present in the interest of fire protection.

Burning permits and burning privileges are cancelled in the affected area.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**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 Emergency Order 455, filed 7/26/85)

WAC 332-26-086 MODIFIED LOGGING OPERATIONS ON LANDS PROTECTED BY THE DEPARTMENT OF NATURAL RESOURCES NORTHEAST AREA. Effective midnight, (~~Friday, July 26, 1985, through midnight, Monday, July 29, 1985;~~) Monday, July 29, 1985, through midnight, Monday, August 5, 1985, all logging, land clearing, and other industrial operations which may cause a fire to start are to cease operations during the following times and under the following conditions: 1) All power saws, except those used on landings, to shutdown from 11:00 a.m. to 8:00 p.m. during the shutdown period. Landing saws to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 2) Yarding, skidding, loading, and hauling to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 3) All other operations not specifically listed here will shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period. 4) Watchperson required for a minimum of one hour following operation of spark emitting equipment.

All persons are excluded from areas of logging slash, except those involved in the actual commercial operations of loading and hauling and those present in the interest of fire protection, from 1:00 p.m. to 8:00 p.m. during the shutdown period.

Areas affected by these restrictions are all private and state lands protected by the Department of Natural Resources Northeast Area in Pend Oreille, Spokane, Lincoln, Stevens, Ferry, and Okanogan counties.

All burning permits and burning privileges, including burning barrels and fires in organized campgrounds, are suspended on lands protected by the Department of Natural Resources Northeast Area in the affected counties.

Firewood cutting privileges on forest lands are suspended due to fire danger in the affected counties.

**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.

**NEW SECTION**

WAC 332-26-087 MODIFIED LOGGING OPERATIONS ON LANDS PROTECTED BY THE DEPARTMENT OF NATURAL RESOURCES SOUTHEAST AREA. Effective midnight, Monday, July 29, 1985, through midnight, Monday, August 5,

1985, all logging, land clearing, and other industrial operations which may cause a fire to start are to cease operations during the following times and under the following conditions: 1) All power saws, except those used on landings, to shutdown from 11:00 a.m. to 8:00 p.m. during the shutdown period. Landing saws to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 2) All yarding, skidding, loading, and hauling to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 3) All other operations not specifically listed here will shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 4) Watchperson required for a minimum of one hour following operation of spark emitting equipment.

Areas affected by these restrictions are all private and state lands protected by the Department of Natural Resources Southeast Area in Klickitat, Yakima, Kittitas, and Chelan counties.

All persons are excluded from logging operating areas and areas of logging slash, except those present in the interest of fire protection, from 1:00 p.m. to 8:00 p.m. during the shutdown period.

All burning permits and burning privileges, including burning barrels and fires in organized campgrounds, are suspended on lands protected by the Department of Natural Resources in the affected counties.

Firewood cutting privileges on forest lands are suspended due to fire danger in the affected counties.

**WSR 85-16-024**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Order 85-18—Filed July 30, 1985]

I, Richard Davis, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to administrative actions following discharge or other discriminatory action against an employee because such employee has filed or communicated to the employer an intent to file a claim for compensation or exercises any rights provided under Title 51 RCW.

I, Richard Davis, find that an emergency exists and that this 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 the emergency is the enactment of Substitute House Bill 1089 necessitates the immediate institution of rules sufficient to enable the department to administer section 8 of that bill and properly respond to complaints of workers brought thereunder.

These 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 Labor and Industries as authorized in RCW 51.04.020.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 30, 1985.

By Richard A. Davis  
Director

#### NEW SECTION

**WAC 296-15A-010 DEFINITIONS.** For the purposes of this chapter, the following words shall have these meanings: (1) "Director" shall mean the director of the department of labor and industries of the state of Washington.

(2) "Employee" shall have the same meaning as that defined in RCW 57.08.185 and 51.08.185.

(3) "Employer" shall have the same meaning as defined in RCW 51.08.070.

**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.

#### NEW SECTION

**WAC 296-15A-020 INTRODUCTION.** (1) Title 51 RCW, the worker's compensation act, is designed to ensure sure and certain relief for workers injured in their work, and their families and dependants, regardless of questions of fault and to the exclusion of every other remedy, proceeding or compensation, except as specifically provided in Title 51 RCW. To the end that all civil actions and civil cause of action for such personal injuries and all jurisdiction of the courts of the state over such causes are abolished, except as otherwise provided in Title 51. The structure of the workers compensation act is predicated upon the assumption that all employees covered thereunder shall have ready and unfettered access to both the procedural and substantive benefits of the act.

(2) An employee's access to the procedural and substantive benefits of the worker's compensation act must not be impaired or in any way hindered by fear of discriminatory or retaliatory treatment by his or her employer. The effective implementation of the worker's compensation act and the achievement of its goals is dependent in large part upon the accessibility of its procedural and substantive benefits.

(3) This chapter deals essentially with the rights of employees afforded under section 8, chapter 347 of the laws of 1985. Section 8, prohibits discriminatory treatment practiced upon any employee by his or her employer because such employee has filed or communicated an intent to file a claim for compensation, or exercises any right provided, under Title 51 RCW.

**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 296-15A-030 GENERAL REQUIREMENTS OF SECTION 8, CHAPTER 347, LAWS OF**

1985. Section 8 provides: (1) No employer may discharge or in any manner discriminate against any employee because such employee has filed or communicated to the employer an intent to file a claim for compensation or exercises any rights provided under this title. However, nothing in this section prevents an employer from taking any action against a worker for other reasons including, but not limited to, the worker's failure to observe health or safety standards adopted by the employer, or the frequency or nature of the worker's job-related accidents.

(2) Any employee who believes that he or she has been discharged or otherwise discriminated against by an employer in violation of this section may file a complaint with the director alleging discrimination within ninety days of the date of the alleged violation. Upon receipt of such complaint, the director shall cause an investigation to be made as the director deems appropriate. Within ninety days of the receipt of the complaint filed under this section, the director shall notify the complainant of his or her determination. If upon investigation, it is determined that this section has been violated, the director shall bring an action in the superior court of the county in which the violation is alleged to have occurred.

#### NEW SECTION

**WAC 296-15A-040 FILING A COMPLAINT OF DISCRIMINATION.** (1) Who may file. A complaint of discrimination may be filed by the employee him or herself, or by a representative authorized to do so on his or her behalf.

(2) Nature of filing. No particular form of complaint is required.

(3) Place of filing. The complaint should be filed with the director of the department of labor and industries. The complaint should be sent to the Director of the Department of Labor and Industries, General Administration Building, Olympia, Washington 98504.

(4) Time for filing. Section 8, chapter 347, laws of 1985 provides that any employee who believes that he or she has been discharged or otherwise discriminated against by an employer in violation of this section may file a complaint with the director alleging discrimination within ninety days of the date of the alleged violation. A major purpose of the ninety-day period is to allow the director to decline to entertain complaints that have become stale. Accordingly, the director will presume that complaints not filed within ninety days of an alleged violation are untimely. There may be circumstances, however, that justify tolling the ninety day period on recognized equitable principles or because strongly extenuating circumstances exist, e.g., where the employer has concealed or misled the employee regarding the grounds for discharge or other adverse action. In the absence of circumstances justifying a tolling of the ninety day period, the director shall not accept untimely complaints.

NEW SECTION

**WAC 296-15A-050 NOTIFICATION OF DIRECTOR'S DETERMINATION.** Section 8, chapter 347, laws of 1985 provides that the director is to notify a complainant within ninety days of receipt of the complaint of his or her determination. This ninety day provision is directory, not mandatory. Although every effort will be made to notify complainants of the director's determination within ninety days, there may be instances where it is not possible to do so.

NEW SECTION

**WAC 296-15A-060 WITHDRAWAL OF COMPLAINT.** Enforcing the provisions of section 8, chapter 347, laws of 1985 is not only a matter of protecting rights of individual employees, but also of protecting the public interest. Attempts by an employee to withdraw a filed complaint will not necessarily result in termination of the director's investigation. The director's jurisdiction cannot be foreclosed as a matter of law by unilateral action of the employee. However, a voluntary and uncoerced request from a complainant to withdraw his or her complaint shall generally be accepted.

NEW SECTION

**WAC 296-15A-070 ARBITRATION OR OTHER AGENCY PROCEEDINGS.** (1) *General.* (a) An employee who files a complaint under section 8, chapter 347, laws of 1985 may pursue remedies under grievance arbitration proceedings and collective bargaining agreements, and may also resort to other agencies, such as the national labor relations board, for relief. The director's jurisdiction to entertain complaints of discrimination to investigate and to determine whether discrimination has occurred, is independent of the jurisdiction of other agencies or bodies. The director may file an action in superior court regardless of the pendency of other proceedings.

(b) Where it is possible, however, the department favors voluntary resolution of disputes under procedures in collective bargaining agreements. Also, the director should defer to the jurisdiction of other forums established to resolve disputes that may also be related to section 8 complaints. Thus, where a complainant is pursuing remedies other than those provided in section 8, it may be possible to postpone the director's determination whether discrimination has occurred, and defer to the results of such proceedings.

(2) Postponement of determination. Postponement of determination is justified where the rights asserted in other proceedings are substantially the same as rights under section 8, chapter 347, laws of 1985, and those proceedings are not likely to violate the rights guaranteed by section 8. The factual issues in such proceedings must be substantially the same as those raised by the section 8 complaint and the forum hearing the matter must have the power to determine the ultimate issue of discrimination.

(3) Deferral to outcome of other proceedings. Determinations to defer to the outcome of another proceeding

begun by a complaint must be made after careful scrutiny. It must be clear that the proceeding dealt adequately with all factual issues, that it was fair, regular, free of procedural infirmities, and that its outcome did not violate the purpose and policy of the worker's compensation act in general and section 8, chapter 347, laws of 1985 in specific. If another action begun by a complaint is dismissed without an adjudicatory hearing on the merits, the director will not necessarily regard the dismissal as determinative of the merits of the section 8 complaint.

NEW SECTION

**WAC 296-15A-080 UNPROTECTED ACTIVITIES DISTINGUISHED.** (1) An employer or others may base actions that adversely effect an employee on non-discriminatory grounds. Section 8, chapter 347, laws of 1985 does not immunize an employee from discharge of discipline for legitimate reasons or for adverse action dictated by non-prohibited considerations. Section 8 specifically provides that: ". . . [N]othing in this section prevents an employer from taking any action against a worker for other reasons, including but not limited to, the worker's failure to observe health or safety standards adopted by the employer, or the frequency or nature of the worker's job related accidents.

(2) To establish a violation of section 8, chapter 347, laws of 1985, the fact that the employee filed or communicated to the employer an intent to file an intent for compensation or exercise any rights under Title 51, need not be the sole consideration behind the discharge or other discriminatory action. If the fact that the employee has filed or communicated an intent to file a claim for compensation or exercised any other rights provided under Title 51, was a substantial reason for the action, or if the discharge or other adverse action would not have taken place "but for" the employee's engagement in that action, section 8 has been violated.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

**WAC 296-15A-090 PROTECTED ACTIVITIES.** Section 8, chapter 347, laws of 1985 prohibits discharge or other discriminatory action against any employee because such employee has filed or communicated to the employer an intent to file a claim for compensation or exercise any rights provided under Title 51 RCW. (1) Activity protected by this section is not limited to the filing of a claim for compensation with the department of labor and industries. This section protects an employee's right to access all applicable substantive and procedural benefits afforded under Title 51 RCW.

(2) For purposes of this section, the word "communicated" shall mean any form of transmitting an employee's intent to file a claim, whether verbal or in writing, direct or indirect. The communication need not be made directly by the employee to the employer.

(3) An employee need not file a claim for benefits under Title 51 RCW in order to be protected by this section. It is sufficient if he or she communicates an intent

to file a claim for compensation or exercise any rights provided under this title.

#### NEW SECTION

**WAC 296-15A-100 DISCRIMINATION BECAUSE OF EXERCISE OF ANY RIGHT AFFORDED BY THE WORKER'S COMPENSATION ACT — IN GENERAL.** In addition to protecting employees who file claims for benefits under Title 51 RCW, section 8, chapter 347, laws of 1985 also protects employees from discharge or discrimination occurring because of the exercise of "any rights provided under this title [Title 51 RCW]." Certain rights are explicitly stated in Title 51 RCW. Other rights exist by necessary implication.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

**WSR 85-16-025**  
**NOTICE OF PUBLIC MEETINGS**  
**WASHINGTON STATE LIBRARY**  
**(Library Commission)**  
[Memorandum—July 18, 1985]

The Washington State Library Commission will meet on September 12, 1985, in the Public Meeting Room of the Goldendale Free Public Library, Goldendale, Washington, with a public hearing beginning at 10:00 a.m. and the business meeting immediately following.

This is a change from the Spokane location as previously planned.

**WSR 85-16-026**  
**ADOPTED RULES**  
**DEPARTMENT OF GAME**  
**(Game Commission)**  
[Order 261—Filed July 30, 1985]

Be it resolved by the State Game Commission, acting at the Holiday Inn, 714 Lakeway Drive, Bellingham, WA 98226, that it does adopt the annexed rules relating to:

|     |                |  |
|-----|----------------|--|
| New | WAC 232-28-108 | 1985 Upland migratory game bird seasons. |
| Rep | WAC 232-28-107 | 1984 Upland migratory game bird seasons. |

This action is taken pursuant to Notice No. WSR 85-12-034 filed with the code reviser on June 3, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 77.12.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State

Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 10, 1985.

By Jack S. Wayland  
for Archie U. Mills  
Chairman, Game Commission

#### NEW SECTION

**WAC 232-28-108 1985 UPLAND MIGRATORY GAME BIRD SEASONS**

—Statewide—

#### MOURNING DOVE:

September 1 – September 15, inclusive  
Daily bag limit: 10  
Possession limit: 20

#### BAND-TAILED PIGEON:

September 1 – September 30, inclusive  
Daily bag limit: 5  
Possession limit: 5

#### SELECTED REGULATIONS AND LAWS PERTAINING TO DOVE AND PIGEON HUNTING :

##### Trespass Unlawful.

It is unlawful to trespass upon private property without permission of the landowner.

RCW 77.16.070 Hunting while intoxicated. It is unlawful to hunt while under the influence of intoxicating liquor or drugs.

RCW 77.16.090 Waste of wildlife. It is unlawful for a person who kills or possesses game animals, game birds or game fish to allow them to needlessly go to waste.

RCW 77.16.095 Mutilation of wildlife, hampering identification. It is unlawful to mutilate wildlife so that the size, species, or sex cannot be determined visually in the field or while being transported. The Commission may prescribe specific criteria for field identification to satisfy this section.

RCW 77.16.100 Use of dogs—Public nuisance, when. It is unlawful for the owner or a person harboring a dog to directly or negligently permit the dog to pursue or injure deer or elk or to accompany a person who is hunting deer or elk. During the closed season for a species of game animal or game bird, a dog found pursuing that species, molesting its young, or destroying the nest of a game bird may be declared a public nuisance.

RCW 77.16.250 Loaded firearms in vehicles. It is unlawful to carry, transport, convey, possess, or control in or on a motor vehicle a shotgun or rifle containing shells or cartridge in the magazine or chamber, or a muzzle-loading firearm loaded and capped or primed.

RCW 77.16.260 Shooting firearm from public highway. It is unlawful to shoot a firearm from, across, or along the maintained portion of a public highway.

WAC 232-12-077 WILDLIFE TAKEN BY ANOTHER. It is unlawful to possess wildlife taken during the open season by another unless it is accompanied by a statement which shows the name, address, hunting, fishing or

other license or permit number and signature of the taker, the date, county and game management unit where taken.

WAC 232-12-081 CHECKING STATIONS—INSPECTION OF GAME AND LICENSES. Hunters and fishermen occupying a motor vehicle approaching or entering a check station established by a Wildlife Agent must stop and produce for inspection:

- (1) Wildlife in their possession;
- (2) Licenses, permits, tags, stamps or punchcards required under Title 77 RCW or rules adopted thereunder.

WAC 232-12-247 TRANSMISSION LINES—UNLAWFUL HUNTING. It is unlawful to shoot at wild animals or wild birds while they are on a telephone or electrical transmission line, or the pole, crossarm or insulator thereof.

WAC 232-12-254 DISCHARGE OF LITTER ON DEPARTMENT LANDS—UNLAWFUL. It is unlawful for any person to throw, to drop, or to leave any discarded object, garbage, debris, or waste upon any of the properties owned, leased or controlled by the department except into a litter or garbage receptacle or container installed for that purpose on such property.

FOR SAFETY, HUNTERS ARE ENCOURAGED TO WEAR HUNTER ORANGE WHILE HUNTING UPLAND BIRDS AS WELL AS OTHER SPECIES.

SHOOTING HOURS as follows: (Daylight Saving Time)

| Dates Inclusive               | Western Washington from |      | Eastern Washington from |      |
|-------------------------------|-------------------------|------|-------------------------|------|
|                               | A.M.                    | P.M. | A.M.                    | P.M. |
| Sun. Sept. 1 - Sun. Sept. 8   | 6:00                    | 7:45 | 5:45                    | 7:30 |
| Mon. Sept. 9 - Sun. Sept. 15  | 6:10                    | 7:30 | 6:00                    | 7:15 |
| Mon. Sept. 16 - Sun. Sept. 22 | 6:20                    | 7:15 | 6:10                    | 7:00 |
| Mon. Sept. 23 - Sun. Sept. 29 | 6:30                    | 7:00 | 6:20                    | 6:45 |
| Mon. Sept. 30 -               | 6:40                    | 6:45 | 6:30                    | 6:35 |

REPEALER

The following section of the Washington Administrative Code is hereby repealed:

WAC 232-28-107 1984 UPLAND MIGRATORY GAME BIRD SEASONS

**WSR 85-16-027**  
**EMERGENCY RULES**  
**DEPARTMENT OF NATURAL RESOURCES**  
 [Order 457—Filed July 30, 1985]

I, Brian J. Boyle, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the adoption of an emergency rule restricting logging, land clearing, and other industrial operations which may cause a fire to start on lands under the protection of the Department of Natural Resources in Western and Eastern Washington. Restrict burning permits and burning privileges in Western and Eastern Washington.

I, Brian J. Boyle, find that an emergency exists and that this 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 the emergency is due to existing and forecasted weather conditions, forest lands in Western and Eastern Washington are exposed to increasing fire danger. Logging restrictions are imposed in all shutdown zones in Western Washington and some counties in Eastern Washington.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 76.04.190 and 76.04.150 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 30, 1985.  
By Brian J. Boyle  
Commissioner of Public Lands

AMENDATORY SECTION (Amending Emergency Order 456, filed 7/29/85)

WAC 332-26-087 MODIFIED LOGGING OPERATIONS ON LANDS PROTECTED BY THE DEPARTMENT OF NATURAL RESOURCES SOUTHEAST AREA Effective midnight, Monday, July 29, 1985, through midnight, Monday, August 5, 1985, all logging, land clearing, and other industrial operations which may cause a fire to start are to cease operations during the following times and under the following conditions: 1) All power saws, except those used on landings, to shutdown from 11:00 a.m. to 8:00 p.m. during the shutdown period. Landing saws to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 2) All yarding, skidding, loading, and hauling to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 3) All other operations not specifically listed here will shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 4) Watchperson required for a minimum of one hour following operation of spark emitting equipment.

Areas affected by these restrictions are all private and state lands protected by the Department of Natural Resources Southeast Area in Klickitat, Yakima, Kittitas, ((and)) Chelan ((counties,)), Walla Walla, Columbia, Garfield, and Asotin counties.

All persons are excluded from logging operating areas and areas of logging slash, except those present in the interest of fire protection, from 1:00 p.m. to 8:00 p.m. during the shutdown period.

All burning permits and burning privileges, including burning barrels and fires in organized campgrounds, are suspended on lands protected by the Department of Natural Resources in the affected counties.

Firewood cutting privileges on forest lands are suspended due to fire danger in the affected counties.

**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 85-16-028**  
**NOTICE OF PUBLIC MEETINGS**  
**HIGHLINE COMMUNITY COLLEGE**  
 [Memorandum—July 29, 1985]

The following are the dates for the regular monthly meetings during the 1985-86 academic year of the board of trustees of Highline Community College:

September 12, 1985  
 October 10, 1985  
 November 14, 1985  
 December 12, 1985  
 January 9, 1986  
 February 13, 1986  
 March 13, 1986  
 April 10, 1986  
 May 8, 1986  
 June 12, 1986

**WSR 85-16-029**  
**ATTORNEY GENERAL OPINION**  
**Cite as: AGO 1985 No. 11**  
 [July 29, 1985]

**COUNTIES—CITIES AND TOWNS—BUILDINGS—VALIDITY  
 OF AMENDMENTS TO STATE BUILDING CODE**

The amendment to RCW 19.27.060 in § 10(1), chapter 360, Laws of 1985 applies prospectively to county or city amendments to the State Building Code involving single or multi-family residential housing and does not, therefore invalidate prior county or city amendments to the state code until and unless approved by the building code council.

Requested by:

Honorable David F. Thiele  
 Island County Prosecuting Attorney  
 Courthouse  
 Coupeville, Washington 98239

**WSR 85-16-030**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**  
**(Division of Banking)**  
 [Order 61—Filed July 30, 1985]

I, L. O. Malmberg, acting supervisor of the Division of Banking, do promulgate and adopt at Olympia, Washington, the annexed rules relating to banks and trust companies, amending WAC 50-12-050 relating to

limitations on loans made by banks and trust companies to their officers.

I, L. O. Malmberg, find that an emergency exists and that this 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 the emergency is RCW 30.12.060 as amended by section 6, chapter 305, Laws of 1985, became effective on July 28, 1985. These regulations implement the amendments of chapter 305 by prescribing limits for loans made to any one officer and by interpreting the scope of the statute as amended. These emergency regulations are necessary to implement the amended statute in effect.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 30.12.060 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 20, 1985.

By L. O. Malmberg  
 Acting Supervisor

**AMENDATORY SECTION** (Amending Order 58, filed 1/13/84)

**WAC 50-12-050 LIMITING LOANS TO OFFICERS.** (~~With the specific prior approval by resolution of its board of directors as required by law, a bank may make the following loans to any of its officers:~~

~~(1) A loan, to any of its officers if, at the time the loan is made:~~

~~(a) It is secured by a first lien on a dwelling which is expected, after the making of the loan, to be owned by the officer and used by him as his residence, and~~

~~(b) No other loan made by the bank to the officer under authority of this subparagraph is outstanding,~~

~~(2) In addition to (1) above, a bank may make extensions of credit to any officer of a bank to finance the education of the children of the officer, and~~

~~(3) A bank, in addition to loans made pursuant to subparagraphs (1) and (2) above, may make extensions of credit to its officers not exceeding the greater of \$25,000.00 or three percent of the bank's capital, surplus, and undivided profits. In no case shall the extension of credit to an officer under this paragraph exceed the aggregate amount of \$100,000.00, or the total liability to the bank by the officer exceed the limit prescribed by RCW 30.04.110, whichever is less.) (1) A bank or trust company may make the following loans to any of its officers:~~

~~(a) A loan secured by a first lien on a dwelling if at the time the loan is made:~~

~~(i) The dwelling secured is expected to be both owned by the officer and used by him as his residence after the loan is made, and~~

(j) No other such loan made by the bank or trust company to the officer under the authority of (a) of this subsection is outstanding;

(b) A loan to finance the education of an officers' children; and

(c) Any other secured or unsecured loan including a line of credit which, at the time the loan is made, is not in excess of the greater of \$25,000 or 2.5% of capital and unimpaired surplus as defined in RCW 30.12.060(2), but in no event for an amount greater than \$100,000.

(2) A bank or trust company shall not make a loan under subsection (1) of this section to an officer which, at the time the loan is made, exceeds the greater of \$25,000 or 5% of capital and unimpaired surplus as defined in RCW 30.12.060(2) unless a resolution authorizing a loan for a greater amount is adopted by a vote of a majority of the board of directors of the bank or trust company prior to the making of such loan, and the vote and resolution is entered in the corporate minutes.

(3) In no case shall the total liability of an officer to a bank or trust company under subsection (1) of this section exceed either \$500,000, unless approved in advance for a greater amount by a majority of the board of directors prior to the making of any loan in excess of this amount, or the limit prescribed by RCW 30.04.110, whichever is less. When computing the total outstanding liability of an officer of a bank or trust company belonging to an affiliated group of two or more corporations, all loans to the officer from the affiliated corporations shall be aggregated, including but not limited to loans from:

(a) The bank or trust company's parent bank holding company; or

(b) Any other corporation held by the bank or trust company's parent bank holding company; or

(c) A subsidiary of the bank or trust company; or

(d) A subsidiary of any other corporation if such corporation is held by the bank or trust company's parent bank holding company.

(4) Any loan to an officer of a bank that does not require specific prior approval by a majority of the board of directors by resolution or otherwise pursuant to subsections (2) and (3) of this section shall be promptly reported to the board of directors and duly reflected in the minutes of the next regular board meeting.

(5) For purposes of this section, the words "loan" and "loans" shall mean all extensions of credit by the bank or trust company including but not limited to the purchase, discount, or acquisition, as security or otherwise, of any debt or obligation of any officer owed to any other person.

|     |                |   |
|-----|----------------|---|
| Rep | WAC 315-04-100 | License renewals.                               |
| Amd | WAC 315-04-200 | Denial, suspension, or revocation of a license. |
| Amd | WAC 315-06-120 | Payment of prizes—General provisions.           |
| Amd | WAC 315-10-030 | Instant games criteria.                         |
| Amd | WAC 315-10-070 | Ticket validation requirements.                 |
| Amd | WAC 315-30-030 | On-line games criteria.                         |

This action is taken pursuant to Notice No. WSR 85-13-077 filed with the code reviser on June 19, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 67.70.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 26, 1985.

By Duane Kovacevich  
Deputy Director

AMENDATORY SECTION (Amending Order 72, filed 4/5/85)

WAC 315-04-200 DENIAL, SUSPENSION OR REVOCATION OF A LICENSE. The director may deny an application for or suspend or revoke any license issued pursuant to these rules for one or more of the following reasons:

(1) Failure to meet or maintain the eligibility criteria for license application and issuance established by chapter 7, Laws of 1982 2nd ex. sess., or these rules;

(2) Failure to account for lottery tickets received or the proceeds of the sale of tickets or to post a bond if required by the director or to comply with the instructions of the director concerning the licensed activity;

(3) Failure to pay to the lottery any obligation when due;

(4) Violating any of the provisions of chapter 7, Laws of 1982 2nd ex. sess., or these rules;

(5) Failure to file any return or report or to keep records required by the director or by these rules;

(6) Failure to pay any federal, state or local tax or indebtedness;

(7) Fraud, deceit, misrepresentation or conduct prejudicial to public confidence in the lottery;

(8) If public convenience is adequately served by other licensees;

(9) Failure to sell a sufficient number of tickets to meet administrative costs;

(10) If there is a history of thefts or other forms of losses of tickets or revenue therefrom;

(11) If there is a delay in accounting or depositing in the designated depository the revenues from the ticket sales;

(12) Has violated, failed or refused to comply with any of the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW (Gambling Act), or chapter 7, Laws of 1982 2nd ex. sess., or

**WSR 85-16-031**

**ADOPTED RULES**

**LOTTERY COMMISSION**

[Order 77—Filed July 30, 1985]

Be it resolved by the Washington State Lottery Commission, acting at Vancouver, Washington, that it does adopt the annexed rules relating to:

when a violation of any provisions of chapter 7, Laws of 1982 2nd ex. sess., has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;

(13) Knowingly causes, aids, abets or conspires with another to cause any person to violate any of the laws of this state;

(14) Has obtained a license by fraud, misrepresentation, concealment or through inadvertence or mistake;

(15) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, wilful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor, involving any gambling activity or physical harm to individuals or involving moral turpitude;

(16) Makes a misrepresentation of, or fails to disclose, a material fact to the commission or director on any report, record, application form or questionnaire required to be submitted to the commission or director. Misrepresentation of, or failure to disclose criminal history shall be considered a material fact for purposes of this section;

(17) Denies the commission or director or their authorized representatives, including authorized local law enforcement agencies, access to any place where a licensed activity is conducted, or fails to promptly produce for inspection or audit any book, record, document or item required by law or these rules;

(18) Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses indicated under subsection (15) of this section: **PROVIDED**, That at the request of an applicant for an original license, the director may defer decision upon the application during the pendency of such prosecution or appeal;

(19) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in lottery or gambling or related activities would be inimical to the proper operation of an authorized lottery or gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain;

(20) Is a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates probable cause to believe that the association is of such a nature as to be inimical to the policy of this state or to the proper operation of the authorized lottery or gambling or related activities in this state. For the purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain utilizing such methods as are deemed criminal violations of

the public policy of this state. A career offender cartel shall be defined as any group of persons who operate together as career offenders;

(21) Failure to follow the instructions of the director for the conduct of any particular game or special event;

(22) Failure to follow security procedures of the director for the handling of tickets or for the conduct of any particular game or special event; or

(23) Makes a misrepresentation of fact to the purchaser, or prospective purchaser, of a ticket, or to the general public with respect to the conduct of a particular game or special event.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 315-04-100 LICENSE RENEWALS.

AMENDATORY SECTION (Amending Order 64, filed 9/17/84)

WAC 315-06-120 PAYMENT OF PRIZES—GENERAL PROVISIONS. (1) The director may designate claim centers for the filing of prize claims, and the location of such centers shall be publicized from time to time by the director.

(2) A claim shall be entered in the name of a single legal entity as claimant, either one individual or one organization. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses a federal employer's identification number (FEIN) as issued by the internal revenue service and such number is shown on the claim form. Groups, family units, organizations, clubs, or other organizations which are not a legal entity, or do not possess a federal employer's identification number, shall designate one individual in whose name the claim is to be entered.

(3) Unless otherwise provided in the rules for a specific type of game, a claimant shall sign the back of the ticket and/or complete and sign a claim form approved by the director. The claimant shall submit the claim form and/or claimant's ticket to the lottery in accordance with the director's instructions as stated in the players' manual and/or on the back of the ticket or submit a request for reconstruction of an alleged winning ticket and sufficient evidence to enable reconstruction and that the claimant had submitted a claim for the prize, if any, for that ticket. The claimant, by submitting the claim or request for reconstruction, agrees to the following provisions:

(a) The discharge of the state, its officials, officers, and employees of all further liability upon payment of the prize; and

(b) The authorization to use the claimant's name for publicity purposes upon award of the prize.

(4) A prize must be claimed within the time limits prescribed by the director in the instructions for the conduct of a specific game, but in no case shall a prize be claimed later than 180 days after the official end of that instant game or the on-line game drawing for which that on-line ticket was purchased.

(5) The director may deny awarding a prize to a claimant if:

(a) The ticket was not legally issued initially;

(b) The ticket was stolen from the commission, director, its employees or agents, or from a licensed agent; or

(c) The ticket has been altered or forged, or has otherwise been mutilated such that the authenticity of the ticket cannot be reasonably assured by the director.

(6) No person entitled to a prize may assign his or her right to claim it except:

(a) That payment of a prize may be made to any court appointed legal representative, including, but not limited to, guardians, executors, administrators, receivers, or other court appointed assignees; or

(b) For the purposes of paying federal, state or local tax.

(7) In the event that there is a dispute or it appears that a dispute may occur relative to any prize, the director may refrain from making payment of the prize pending a final determination by the director or by a court of competent jurisdiction relative to the same.

(8) A ticket that has been legally issued by a licensed agent is a bearer instrument until signed. The person who signs the ticket is considered the bearer of the ticket. Payment of any prize may be made to the bearer, and all liability of the state, its officials, officers, and employees and of the commission, director and employees of the commission terminates upon payment.

(9) All prizes shall be paid within a reasonable time after the claims are (~~verified~~) validated by the director and a winner is determined. Provided, prizes paid for claims validated pursuant to WAC 315-10-070(2) shall not be paid prior to one hundred eighty-one days after the official end of that instant game. The date of the first installment payment of each prize to be paid in installment payments shall be the date the claim is validated. Subsequent installment payments shall be made as follows:

(a) If the prize was awarded as the result of a drawing conducted by the lottery, installment payments shall be made weekly, monthly, or annually from the date of the drawing in accordance with the type of prize awarded; or

(b) If the prize was awarded in a manner other than a drawing conducted by the lottery, installment payments shall be made weekly, monthly, or annually from the date the claim is validated in accordance with the type of prize awarded.

(10) The director may, at any time, delay any payment in order to review a change of circumstances relative to the prize awarded, the payee, the claim or any other matter that may have come to his or her attention. All delayed payments shall be brought up to date immediately upon the director's confirmation and continue to be paid on each originally scheduled payment date thereafter.

(11) If any prize is payable for the life of the claimant, only a natural person may claim such a prize and, if claiming on behalf of a group, corporation or the like, the life of such natural person claiming the prize shall be the measuring life.

(12) The director's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from the payment or awarding of prizes shall be final and binding upon all participants in the lottery.

(13) Each licensed agent shall pay all prizes authorized to be paid by the licensed agent by these rules during its normal business hours at the location designated on its license.

(14) In the event a dispute between the director and the claimant occurs as to whether the ticket is a winning ticket, and if the ticket prize is not paid, the director may, solely at his or her option, replace the disputed ticket with an unplayed ticket (or tickets of equivalent sales price from any game). This shall be the sole and exclusive remedy of the claimant.

#### AMENDATORY SECTION (Amending Order 72, filed 4/5/85)

WAC 315-10-030 INSTANT GAMES CRITERIA. (1) The price of an instant game ticket shall not be less than \$1.00 and not more than \$5.00.

(2) Winners of an instant game are determined by the matching or specified alignment of the play numbers on the tickets. The ticket bearer must notify the lottery of the win and submit the winning ticket to the lottery as specified by the director. The winning ticket must be validated by the lottery through use of the validation number and/or any other means as specified by the director.

(3) The total of all prizes available to be won in an instant game shall not be less than forty-five percent of the instant game's projected revenue.

(4) The instant game shall pay out both lower tier prizes and higher tier prizes. Lower tier prizes are of less than \$25.00. Higher tier prizes are of \$25.00 or more. The director shall determine the number of lower and higher tier prizes.

(5) The length of operation of an instant game shall not exceed fifteen weeks. The start date and closing date of the instant game shall be publicly announced. Licensed agents shall not sell any tickets prior to the start date of a game unless expressly authorized by the director. Licensed agents may continue to sell tickets for each instant game for up to fourteen days after the official end of game as authorized by WAC 315-10-060.

(6) There is no required frequency of drawing or method of selection of a winner in an instant game.

(7) At the director's discretion, an instant game may include a grand prize drawing(s). The criteria for the grand prize drawing shall be as follows:

(a) Finalists for a grand prize drawing shall be selected in an elimination drawing(s) from redeemed tickets meeting the criteria stated in specific game rules as determined by the director. Participation in the elimination drawing(s) shall be limited to such tickets which are actually received and validated by the director on or before a date to be announced by the director. The director may reserve the right to place any semi-finalist whose entry was not entered in the elimination drawing(s) and who is subsequently determined to have been entitled to such entry into an elimination drawing of a subsequent

instant game, and the determination of the director shall be final.

(b) The number of prizes and the amount of each prize in the grand prize drawing(s) shall be determined by the director to correspond with the size and length of the instant game and to comply with subsection (3) of this section.

(c) The dates and times as well as the procedures for conducting the elimination drawing and grand prize drawing shall be determined by the director.

(8) Procedures for claiming instant game prizes are as follows:

(a) To claim an instant game prize of less than \$25.00, the claimant shall present the apparent winning ticket to the licensed agent from whom the ticket was purchased. The licensed agent shall verify the claim and, if acceptable, make payment of the amount due the claimant. In the event the licensed agent cannot verify the claim, the claimant shall fill out a claim form, as provided in WAC 315-06-120, which shall be obtained from the licensed agent and present the completed form, together with the disputed ticket to the director. If the claim is validated by the director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(b) To claim an instant prize of \$25.00 or more, the claimant shall complete a claim form, as provided in WAC 315-06-120, which is obtained from the licensed agent or the director and mail the completed form together with the winning ticket to the director. Upon validation by the director, a check shall be forwarded to the claimant in payment of the amount due, less any applicable federal income tax withholding. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(c) To claim an instant prize pursuant to WAC 315-10-070(2), the claimant shall notify the lottery of the claim and request reconstruction of the ticket not later than one hundred eighty days after the official end of that instant game. If the director authorizes reconstruction, the ticket shall not be validated nor the prize paid prior to the one hundred eighty-first day following the official end of that instant game. A ticket(s) validated pursuant to WAC 315-10-070(2) shall not entitle the claimant entry into the grand prize drawing, if any, for that or any subsequent instant game.

(d) Any ticket not passing all the validation checks specified by the director is invalid and ineligible for any prize and shall not be paid. However, the director may, solely at his or her option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price from any other current game). In the event a defective ticket is purchased, the only responsibility or liability of the director shall be the replacement of the defective ticket with another unplayed ticket (or tickets of equivalent sale price from any other current game).

#### AMENDATORY SECTION (Amending Order 68, filed 11/7/84)

WAC 315-10-070 TICKET VALIDATION REQUIREMENTS. (1) To be a valid Washington state lottery instant game ticket, a ticket must meet all of the following validation requirements.

(a) The ticket must have been issued by the director in an authorized manner.

(b) The ticket must not be altered, unreadable, (~~reconstructed;~~) or tampered with in any manner.

(c) The ticket must not be counterfeit in whole or in part.

(d) The ticket must not be stolen nor appear on any list of omitted tickets on file with the lottery.

(e) The ticket must be complete and not blank or partially blank, miscut, misregistered, defective, or printed or produced in error.

(f) The ticket must have exactly one play symbol and exactly one caption under each of the rub-off spots, exactly one pack-ticket number, exactly one agent verification code, and exactly one validation number. They must be present in their entirety, legible, right-side up, and not reversed in any manner.

(g) The validation number of an apparent winning ticket shall appear on the lottery's official list of validation numbers of winning tickets; and a ticket with that validation number shall not have been previously paid.

(h) The ticket must pass all additional confidential validation requirements established by the director.

(2) The director may authorize reconstruction of an alleged winning ticket which was not received and/or cannot be located by the lottery. Provided, the person requesting reconstruction submits to the lottery sufficient evidence to enable reconstruction and that they have submitted a claim for the prize, if any, for that ticket. If the reconstructed ticket is a winning ticket and meets the validation requirements contained in subsection (1) of this section and the specific validation requirements contained in the rules for its specific game, the director may authorize payment of the prize. Provided, the ticket shall not be validated nor the prize paid prior to the one hundred eighty-first day following the official end of that instant game. A ticket(s) validated pursuant to this subsection shall not entitle the claimant entry into the grand prize drawing, if any, for that or any subsequent instant game.

(3) Any ticket not passing all the validation requirements in subsection (1) of this section and the specific validation requirements contained in the rules for its specific game is invalid and ineligible for any prize.

~~((3))~~ (4) The director may replace any invalid ticket with an unplayed ticket of equivalent sales price from any current instant game. In the event a defective ticket is purchased, the only responsibility or liability of the lottery shall be the replacement of the defective ticket with an unplayed ticket of equivalent sales price from any current instant game, or issue a refund of the sales price. However, if the ticket is partially mutilated or if the ticket is not intact but it still can be validated by other validation tests, the director may pay the prize for that ticket.

AMENDATORY SECTION (Amending Order 64, filed 9/17/84)

WAC 315-30-030 ON-LINE GAMES CRITERIA. (1) The base price of an on-line ticket shall not be less than \$.50 and not more than \$5.00.

(2) On the average the total of all prizes available to be won in an on-line game shall not be less than forty-five percent of the on-line game's projected revenue.

(3) The manner and frequency of drawings may vary with the type of on-line game.

(4) The times, locations, and drawing procedures shall be determined by the director.

(5) A ticket bearer (~~(entitled to)~~) claiming a prize shall submit the apparent winning ticket as specified by the director. The ~~((winning))~~ ticket must be validated pursuant to WAC 315-30-050 by the lottery or an on-line agent through use of the validation number and any other means as specified by the director.

(6) Procedures for claiming on-line prizes are as follows:

(a) To claim an on-line game prize of \$600.00 or less within thirty days of the drawing, the claimant shall present the winning on-line ticket to any on-line agent or to the lottery.

(i) If the claim is presented to an on-line agent, the on-line agent shall validate the claim and, if determined to be a winning ticket, make payment of the amount due to the claimant. If the on-line agent cannot validate the claim, the claimant may obtain and complete a claim form, as provided in WAC 315-06-120, and submit it with the disputed ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets will not be returned to the claimant.

(ii) If the claim is presented to the lottery, the claimant shall complete a claim form, as provided in WAC 315-06-120, and submit it with the apparent winning ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due, less the withholding required by the Internal Revenue Code. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets will not be returned to the claimant.

(b) To claim an on-line prize of more than \$600.00, or any prize more than thirty days after the date of the drawing, the claimant shall obtain and complete a claim form, as provided in WAC 315-06-120, and submit it with the apparent winning ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due, less the withholding required by the Internal Revenue Code. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets will not be returned to the claimant.

WSR 85-16-032  
EMERGENCY RULES  
LOTTERY COMMISSION  
[Order 78—Filed July 30, 1985]

Be it resolved by the Washington State Lottery Commission, acting at Vancouver, Washington, that it does adopt the annexed rules relating to validation requirements, amending WAC 315-30-050.

We, the Washington State Lottery Commission, find that an emergency exists and that this 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 the emergency is this amendment establishes liability for claims based on previously paid or cancelled tickets. This rule is required before a permanent rule could be adopted. Delay in implementation would be contrary to the public interest.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 67.70.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 26, 1985.

By Duane Kovacevich  
Deputy Director

AMENDATORY SECTION (Amending Order 44, filed 12/8/83)

WAC 315-30-050 VALIDATION REQUIREMENTS. (1) To be a valid winning on-line ticket, all of the following conditions must be met:

(a) All printing on the ticket shall be present in its entirety, be legible, and correspond, using the computer validation file, to the combination and date printed on the ticket.

(b) The ticket shall be intact.

(c) The ticket shall not be mutilated, altered, or tampered with in any manner.

(d) The ticket shall not be counterfeit or an exact duplicate of another winning ticket.

(e) The ticket must have been issued by an authorized licensed agent in an authorized manner.

(f) The ticket must not have been stolen (~~(or cancelled)~~).

(g) The ticket must not have been cancelled or previously paid.

(h) The ticket shall pass all other confidential security checks of the lottery.

(2) Any ticket failing any validation requirement listed in WAC 315-30-050(1) is invalid and ineligible for a prize. Provided, if a court of competent jurisdiction determines that a claim based on a ticket which has failed to validate solely because of subsection (1)(g) of

this section is valid, the claim shall be paid as a prize pursuant to WAC 315-06-120, 315-30-030, and the rules for that specific type of game. The agent that cancelled or paid such ticket shall indemnify the lottery for payment of the prize and from any other claim, suit, or action based on that ticket.

(3) The director may replace an invalid on-line ticket with an on-line ticket for a future drawing of the same game. The director may pay the prize for a ticket that is partially mutilated or is not intact if the on-line ticket can still be validated by the other validation requirements.

(4) In the event a defective on-line ticket is purchased, the only responsibility or liability of the lottery or the on-line agent shall be the replacement of the defective on-line ticket with another on-line ticket for a future drawing of the same game.

### WSR 85-16-033

#### EMERGENCY RULES

#### DEPARTMENT OF NATURAL RESOURCES

[Order 458—Filed July 30, 1985]

I, Brian J. Boyle, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the amendment of an emergency rule restricting logging, land clearing, and other industrial operations which may cause a fire to start on lands protected by the Department of Natural Resources in Western Washington.

I, Brian J. Boyle, find that an emergency exists and that this 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 the emergency is due to change in fire weather danger in certain shutdown zones in Western Washington logging, land clearing, and other industrial operation restrictions are modified or lifted.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 76.04.190 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 30, 1985.

By Brian J. Boyle  
Commissioner of Public Lands

#### AMENDATORY SECTION (Amending Emergency Order 456, filed 7/29/85)

#### WAC 332-26-083 HOOT OWL LOGGING RESTRICTIONS ON LANDS PROTECTED BY THE DEPARTMENT OF NATURAL RESOURCES IN

WESTERN WASHINGTON Effective midnight, Monday, July 29, 1985, through midnight, Monday, August 5, 1985, all logging, land clearing, and other industrial operations which may cause a fire to start are to cease operation during the following times and under the following conditions: 1) All power saws, except those used on landings, to shutdown from 11:00 a.m. to 8:00 p.m. during the shutdown period. Landing saws to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 2) All yarding, skidding, loading, and hauling to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 3) All other operations not specifically listed here will shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 4) Watchperson required for a minimum of one hour following operation of spark emitting equipment.

Effected Areas: Olympic Area – shutdown zones ((649,)) 650, 651L, 653, 654; Central Area – shutdown zones 651L, 651H, 655, 657; Southwest Area – shutdown zones ((649,)) 651L, 651H, 655, 621 West, 621 East, 660; South Puget Sound Area – shutdown zones 654, 657; Northwest Area – shutdown zones 653, 656.

All persons are excluded from logging operating areas and areas of logging slash, except those present in the interest of fire protection, from 1:00 p.m. to 8:00 p.m. during the shutdown period.

All burning permits and burning privileges are cancelled in the affected shutdown zones.

#### AMENDATORY SECTION (Amending Emergency Order 456, filed 7/29/85)

WAC 332-26-084 LOGGING RESTRICTIONS ON LANDS PROTECTED BY THE DEPARTMENT OF NATURAL RESOURCES IN WESTERN WASHINGTON. Effective midnight, Monday, July 29, 1985, through midnight, Monday, August 5, 1985, all logging, land clearing, and other industrial operations which may cause a fire to start shall cease operation.

Areas affected by these restrictions are:

1) Shutdown zone 658 lying in the eastern half of Whatcom, Skagit, and Snohomish counties and the northeast portion of King County protected by the Department of Natural Resources Northwest Area;

2) Shutdown zone 652 lying in western Mason County and zone 659 lying in the eastern half of King and Pierce counties protected by the Department of Natural Resources South Puget Sound Area;

3) Shutdown zone 659 lying in the eastern half of Lewis County protected by the Department of Natural Resources Central Area;

((4) Shutdown zone 660 in Skamania County and the eastern portions of Cowlitz and Clark counties, and zone 621 east lying in the southern portion of Skamania County protected by the Department of Natural Resources Southwest Area;))

((5) 4) Shutdown zone 652 lying in the interior of Clallam and Jefferson counties and the northeast portion of Grays Harbor County protected by the Department of Natural Resources Olympic Area.

During the shutdown period all persons are excluded from logging operating areas and areas of logging slash

except those persons present in the interest of fire protection.

Burning permits and burning privileges are cancelled in the affected areas.

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.

WSR 85-16-034
NOTICE OF PUBLIC MEETINGS
WHATCOM COMMUNITY COLLEGE
[Memorandum—July 30, 1985]

The Whatcom Community College board of trustees will not hold its meeting scheduled for August 13, 1985, as indicated on its 1984 board meeting schedule.

WSR 85-16-035
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed July 31, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning Pupils—Immunization requirement, chapter 180-38 WAC;

that the agency will at 9:00 a.m., Thursday, September 19, 1985, in the Conference Center, Campbell's Lodge, Chelan, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, September 20, 1985.

The authority under which these rules are proposed is RCW 28A.31.118.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, September 19, 1985.

Dated: August 1, 1985
By: Monica Schmidt
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-38 WAC, Pupils—Immunization requirement.

Rule Section(s): WAC 180-38-005 Authority; 180-38-010 Purpose; 180-38-020 Definition—Student; 180-38-025 Definition—Chief administrator; 180-38-030 Definition—Full immunization; 180-38-035 Schedule of immunization; 180-38-040 Certificate of exemption; 180-38-045 Attendance condition; 180-38-050 Notice prior to exclusions from school; 180-38-055 Public

schools; 180-38-060 Private schools; 180-38-065 Exclusion of students for failure to comply; and 180-38-070 Supplementing rules of SPI.

Statutory Authority: RCW 28A.31.118.

Purpose of the Rule(s): To set forth state policy on immunization as condition to school attendance.

Summary of the New Rule(s) and/or Amendments: WAC 180-38-005 sets forth authorization for chapter; 180-38-010 sets forth purpose of the chapter; 180-38-020 defines student to conform to definition of child by state board of health; 180-38-025 sets forth statutory definition of "chief administrator" and notes uniqueness of definition from usual application in schools; 180-38-030 defines full immunization as compliance with rules of state board of health; 180-38-035 defines "schedule of immunization" to conform with policy of state board of health; 180-38-040 sets forth statutory definition of "exemption"; 180-38-045 repeats public policy as set forth in RCW 28A.31.104 regarding conditions for school attendance; 180-38-050 repeats statutory requirement that notice is required prior to school exclusion; 180-38-055 sets forth content of notice for public school students; 180-38-060 sets forth content of notice for private school students; 180-38-065 requires chief administrator to exclude children who fail to comply and repeats notice requirement prior to exclusion; and 180-38-070 cross references to proposed SPI rules on quick verification.

Reasons Which Support the Proposed Action(s): Implements action by the 1985 legislature.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Judith Maire, SPI, 3-3220; and Enforcement: Judy Schrag, SPI, 4-1842.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): In addition to implementing action by 1985 legislature, this revision clarifies agency policies regarding substantive and procedural rights of students.

Chapter 180-38 WAC
PUPILS—IMMUNIZATION REQUIREMENT

Table with 2 columns: WAC number and description. Includes entries for 180-38-005 Authority, 180-38-010 Purpose, 180-38-020 Definition—Student, 180-38-025 Definition—Chief administrator, 180-38-030 Definition—Full immunization, 180-38-035 Definition—Schedule of immunization, 180-38-040 Definition—Certificate of exemption, 180-38-045 Attendance condition upon compliance, 180-38-050 Notice prior to exclusions from school, 180-38-055 Public schools—Content of written notice, 180-38-060 Private schools—Content of written notice, 180-38-065 Exclusion of students for failure to comply, 180-38-070 Supplementing rules of SPI.

NEW SECTION

WAC 180-38-005 AUTHORITY. The authority for this chapter is RCW 28A.31.118 which authorizes the state board of education to adopt rules which establish the procedural and substantive due process requirements governing the exclusion of students from public and private schools for failure to comply with the immunization requirement of the state of Washington.

NEW SECTION

WAC 180-38-010 PURPOSE. The purpose of this chapter is to establish the procedural and substantive due process requirements governing the exclusion of students from public and private schools for failure to comply with the immunization requirement of the state of Washington.

NEW SECTION

WAC 180-38-020 DEFINITION—STUDENT. As used in this chapter, the term "student" shall mean the same as defined for "child" in WAC 248-100-163 (1)(f) by the state board of health.

NEW SECTION

WAC 180-38-025 DEFINITION—CHIEF ADMINISTRATOR. As used in this chapter, the term "chief administrator" shall mean the same as defined in RCW 28A.31.102(1), to wit: "Chief administrator" shall mean the person with the authority and responsibility for the immediate supervision of the operation of a school . . . or, in the alternative, such other person as may hereafter be designated in writing for the purposes of . . . [this chapter] by the statutory or corporate board of directors of the school district, school . . . or, if none, such other persons or person with the authority and responsibility for the general supervision of the operation of the school district, [or] school . . ." This definition of chief administrator is unique to this chapter and in application may or may not include the principal or headmaster of a school depending on the degree of authority delegated to such principal or headmaster and whether the responsibility has been delegated to another school official.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 180-38-030 DEFINITION—FULL IMMUNIZATION. As used in this chapter, the term "full immunization" shall mean the same as defined in RCW 28A.31.102(2), to wit: "Full immunization" shall mean immunization against certain vaccine-preventable diseases in accordance with schedules and with immunizing agents approved by the state board of health." This definition of full immunization is unique to this chapter and includes immunization only against diseases as required by rules of the state board of health.

NEW SECTION

WAC 180-38-035 DEFINITION—SCHEDULE OF IMMUNIZATION. For the purpose of this chapter, the term "schedule of immunization" shall mean the beginning or continuing of a course of immunization prescribed by the state board of health.

NEW SECTION

WAC 180-38-040 DEFINITION—CERTIFICATE OF EXEMPTION. As used in this chapter, the term "certificate of exemption" shall mean the filing with the chief administrator of the school, on a form prescribed by the department of social and health services, which complies with RCW 28A.31.106, to wit:

"(1) A written certification signed by any physician licensed to practice medicine pursuant to chapter 18.71 or 18.57 RCW that a particular vaccine required by rule of the state board of health is, in his or her judgment, not advisable for the . . . [student]; PROVIDED, That when it is determined that this particular vaccine is no longer contraindicated, the . . . [student] will be required to have the vaccine;

(2) A written certification signed by any parent or legal guardian of the . . . [student] or any adult in loco parentis to the . . . [student] that the religious beliefs of the signator are contrary to the required immunization measures; and

(3) A written certification signed by any parent or legal guardian of the . . . [student] or any adult in loco parentis to the . . . [student] that the signator has either a philosophical or personal objection to the immunization of the . . . [student]."

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 180-38-045 ATTENDANCE CONDITION UPON COMPLIANCE. It is the public policy of this state, as codified in RCW 28A.31.104, that "[t]he attendance of every . . . [student] in the state . . . shall be conditioned upon the presentation before or on each . . . [student's] first day of attendance at a particular school . . ., of proof of . . .[:] (1) full immunization, (2) the initiation of and compliance with a schedule of immunization, as required by rules of the state board of health, or (3) a certificate of exemption as provided for in RCW 28A.31.106. [See WAC 180-38-040]"

The statutory scheme requires exclusion from school prior to a termination hearing on the implied basis that such students are an immediate and continuing danger to themselves or others—i.e., the constitutional basis for an emergency expulsion from public schools and the exemption from providing a pretermination due process hearing.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 180-38-050 NOTICE PRIOR TO EXCLUSIONS FROM SCHOOL. It is the public policy of this state, as codified in RCW 28A.31.114, that "each school . . . shall provide written notice to the parent(s) or legal guardian(s) of each . . . [student] or to the adult(s) in loco parentis to each . . . [student] who is not in compliance with . . . [the public policy stated in WAC 180-38-045]", prior to the exclusion of such student.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 180-38-055 PUBLIC SCHOOLS—CONTENT OF WRITTEN NOTICE. The written notice for public school students shall:

(1) Comply with the emergency expulsion notice requirements of WAC 180-40-300 except that the notice must be received prior to the emergency expulsion of the student.

(2) Advise the appropriate party of the applicable law and provide copies of such laws and implementing rules, including procedural due process rules prescribed by the state board of education for emergency expulsion.

(3) Advise regarding immunization services that are available from or through the local health department and other public agencies.

(4) Order an emergency expulsion of the student from school and state that such order is effective immediately upon receipt of the notice.

NEW SECTION

WAC 180-38-060 PRIVATE SCHOOLS—CONTENT OF WRITTEN NOTICE. The written notice for private school students shall:

(1) Advise the appropriate party of the applicable law and provide copies of such law and implementing rules.

(2) Advise regarding immunization services that are available from or through the local health department or other public agencies.

(3) Order the exclusion of the student from school and state that such order is effective upon receipt of the notice.

**NEW SECTION**

WAC 180-38-065 EXCLUSION OF STUDENTS FOR FAILURE TO COMPLY. The chief administrator of each public or private school shall exclude from such school all students who fail to comply with the public policy stated within WAC 180-38-045: PROVIDED, That if the chief administrator did not provide written notice as required in WAC 180-38-050 prior to the student's first day of attendance at such school, the emergency expulsion or exclusion shall be stayed until the notice is received.

**NEW SECTION**

WAC 180-38-070 SUPPLEMENTING RULES OF SPI. Chapter 392-183 WAC contains rules of the superintendent of public instruction which supplement this chapter.

**WSR 85-16-036  
PROPOSED RULES  
STATE BOARD OF EDUCATION  
[Filed July 31, 1985]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning Physical education—Grade school and high school requirement, WAC 180-50-135;

that the agency will at 9:00 a.m., Thursday, September 19, 1985, in the Conference Center, Campbell's Lodge, Chelan, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, September 20, 1985.

The authority under which these rules are proposed is RCW 28A.04.120 (6) and (8) and 28A.05.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, September 19, 1985.

Dated: August 1, 1985

By: Monica Schmidt  
Secretary

**STATEMENT OF PURPOSE**

Rule: Chapter 180-50 WAC, Courses of study and equivalencies.

Rule Section: WAC 180-50-135 Physical education—Grade school and high school requirement.

Statutory Authority: RCW 28A.04.120 (6) and (8) and 28A.05.060.

Purpose of the Rule: To define the required physical education course offering.

Summary of the Amendment: WAC 180-50-135 changes the requirement from six credits to two credits to reflect the annualized definition of credit adopted by the State Board of Education.

Reasons Which Support the Proposed Action: To provide a consistent definition of credit.

Person or Organization Proposing the Rule: SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation and Enforcement: Alfred Rasp, SPI, 3-3449.

The Rule is Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule: [No information supplied by agency.]

**AMENDATORY SECTION (Amending Order 12-84, filed 10/4/84)**

WAC 180-50-135 PHYSICAL EDUCATION—GRADE SCHOOL AND HIGH SCHOOL REQUIREMENT. (1) Grades 1-8. An average of at least twenty instructional minutes per day per year in physical education shall be required of all pupils in the common schools in the grade school (grades 1-8) program unless waived pursuant to RCW 28A.05.030.

(2) Grades 9-12. A one year course—i.e., 180 (50 minute) hours of instruction—or its equivalent shall be offered in physical education for each grade (grades 9-12) in the high school program. Pursuant to RCW 28A.05.040 and 28A.05.060, ~~((six))~~ two credits in physical education also shall be required for high school graduation unless waived pursuant to RCW 28A.05.040.

**WSR 85-16-037  
PROPOSED RULES  
STATE BOARD OF EDUCATION  
[Filed July 31, 1985]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning pupil personnel services, chapter 180-52 WAC;

that the agency will at 9:00 a.m., Thursday, September 19, 1985, in the Conference Center, Campbell's Lodge, Chelan, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, September 20, 1985.

The authority under which these rules are proposed is RCW 28A.04.120, chapter 28A.31 RCW and RCW 28A.31.118.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, September 19, 1985.

Dated: August 1, 1985

By: Monica Schmidt  
Secretary

**STATEMENT OF PURPOSE**

Rule: Chapter 180-52 WAC, Pupil personnel services.

Rule Section(s): WAC 180-52-040 Purpose; 180-52-045 Definitions; 180-52-050 Determination, order of exclusion and notice; 180-52-055 Right to a hearing; 180-52-060 Prehearing and hearing rights; and 180-52-065 Issues to be decided.

Statutory Authority: RCW 28A.04.120, chapter 28A.31 RCW and RCW 28A.31.118.

Purpose of the Rule(s): Former agency policies regarding immunization as condition to school attendance.

Summary of the New Rule(s) and/or Amendments: Repeals existing WAC.

Reasons Which Support the Proposed Action(s): Agency has recodified policies in new chapter 180-38 WAC.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Judith Maire, SPI, 3-3220; and Enforcement: Judy Schrag, SPI, 4-1842.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): See new chapter 180-38 WAC.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 180-52-040 PURPOSE.
- WAC 180-52-045 DEFINITIONS.
- WAC 180-52-050 DETERMINATION, ORDER OF EXCLUSION AND NOTICE.
- WAC 180-52-055 RIGHT TO A HEARING—NOTICE TO SCHOOL OFFICIAL.
- WAC 180-52-060 PREHEARING AND HEARING RIGHTS—DECISION AND NOTICE THEREOF.
- WAC 180-52-065 ISSUES TO BE DECIDED.

**WSR 85-16-038  
ADOPTED RULES  
HIGHER EDUCATION  
PERSONNEL BOARD**

[Order 134—Filed July 31, 1985—Eff. September 1, 1985]

Be it resolved by the Higher Education Personnel Board, acting at Edmonds Community College, Lynnwood, Washington, that it does adopt the annexed rules relating to:

- Amd WAC 251-04-020 Definitions (examinations, essential job elements, job analysis, institutional examination, rating guide, specific position elements, specific position requirements, system examination).
- Amd WAC 251-08-100 Periodic increment date.
- Amd WAC 251-10-030 Layoff.
- Amd WAC 251-10-035 Layoff—Special employment programs.
- Amd WAC 251-12-073 Appeals from exempt status.
- Amd WAC 251-18-010 Examination—Requirement—Responsibilities.
- New WAC 251-18-035 Recruitment notices—Required content.
- New WAC 251-18-041 Application materials—Distribution.
- New WAC 251-18-075 Examination administration.
- New WAC 251-18-095 Examinations—Evaluation of.
- Amd WAC 251-18-140 Examination results—Notification—Institutional review.
- New WAC 251-18-165 Examinations—Records requirements.
- Amd WAC 251-18-185 Eligible lists—Tied scores—Certification.
- Amd WAC 251-18-240 Certification—Method.
- New WAC 251-18-255 Certification—Specific position requirements.
- Amd WAC 251-18-420 Appointment—Conversion of exempt position.
- Amd WAC 251-22-040 Holidays.

- Amd WAC 251-22-060 Vacation leave—Accrual.
- Amd WAC 251-22-090 Vacation leave—Cash payment.
- Amd WAC 251-22-200 Leave of absence without pay.

This action is taken pursuant to Notice No. WSR 85-12-047 filed with the code reviser on June 5, 1985. These rules shall take effect at a later date, such date being September 1, 1985.

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 the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 19, 1985.

By John A. Spitz  
Director

**AMENDATORY SECTION** (Amending Order 123, filed 1/30/85)

WAC 251-04-020 DEFINITIONS. Unless the context clearly indicates otherwise, the words used in these rules shall have the meanings given in this section.

"ADMINISTRATIVE ASSISTANT EXEMPTION" – A president or vice president may have individual(s) acting as his/her administrative assistant(s). The employee normally performs supportive work for his/her superior as an individual contributor without subordinates.

"ADMINISTRATIVE EMPLOYEES" – Personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

- (1) Primary duty is office or nonmanual work directly related to the management policies or general business operations; and
- (2) Must have the authority to make important decisions, customarily and regularly exercise discretion and independent judgment, as distinguished from using skills and following procedures; and
- (3) Must regularly assist an executive or administrative employee, or perform work under, only general supervision along specialized or technical lines requiring special training, experience or knowledge; and
- (4) Must be paid at a rate of at least \$672 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if the primary duty consists of responsible office or nonmanual work directly related to management policies or general business operations.

"AGRICULTURAL EMPLOYEES" – Employees performing work which includes farming and all its branches, including cultivating the soil, or growing or harvesting crops, or raising livestock, bees, fur-bearing animals, or poultry; or doing any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations.

"ALLOCATION" – The assignment of an individual position to an appropriate class on the basis of the kind, difficulty, and responsibility of the work of the position.

"ANNUAL PERFORMANCE EVALUATION" – The official annual performance rating of an employee recorded on a form approved by the board.

"APPOINTING AUTHORITY" – A person or group of persons lawfully authorized to make appointments.

"AVAILABILITY" – An estimate of the number of women, minorities, and handicapped persons who have the skills and abilities required for employment in a particular job group as determined from an analysis of relevant data.

"BOARD" – The higher education personnel board established under the provisions of the higher education personnel law.

"CERTIFICATION" – The act of providing an employing official or appointing authority with the names of the appropriate eligibles to be considered for appointment to fill a vacancy.

"CHARGES" – A detailed statement of the specific incidents alleging cause for dismissal or disciplinary action.

"CLASS" – One or more positions sufficiently similar with respect to duties and responsibilities that the same descriptive title may be used with propriety to designate each position allocated to the class; that the same general qualification requirements are needed for performance of the duties of the class; that the same tests of fitness may be used to select employees; and that the same schedule of pay can be applied with equity to all positions in the class under the same or substantially the same employment conditions.

"CLASSIFIED SERVICE" – All positions in the higher education institutions which are subject to the provisions of the higher education personnel law.

"COLLECTIVE BARGAINING" – The performance of the mutual obligation of the appointing authority and the certified exclusive bargaining representative to meet at reasonable times, to confer and bargain in good faith, and to execute a written agreement with respect to those personnel matters over which the appointing authority may lawfully exercise discretion.

"COMPETITIVE SERVICE" – All positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

"CORRECTIVE EMPLOYMENT PROGRAM" – A program designed to increase the employment of handicapped persons and of women and minorities who are underutilized in certain job groups because of present or past practices or other conditions which resulted in limited employment opportunities.

"COUNSELING EXEMPTION" – Individuals in counseling-exempt positions are responsible for directing and/or participating in providing academic, athletic, medical, career, financial aid, student activity and/or personal counseling to students. Such activities include, but are not limited to, providing individual and group guidance services using recognized professional techniques and practices.

"CYCLIC YEAR POSITION" – A position scheduled to work less than twelve full months each year, due to known, recurring periods in the annual cycle when the position is not needed.

"DEMOTION" – The change of an employee from a position in one class to a position in another class which has a lower salary range maximum.

"DEVELOPMENT" – The attainment through work experience and training of proficiency in skills which will enable the employee to perform higher level duties.

"DIRECTOR" – The personnel director of the higher education personnel board.

"DISMISSAL" – The termination of an individual's employment for just cause as specified in these rules.

"ELIGIBLE" – An applicant for a position in the competitive service who has met the minimum qualifications for the class involved, has been admitted to and passed the examinations, and has met all requirements for eligibility as stated on the bulletin board posting; or an applicant for a position in the noncompetitive service who has met all requirements for eligibility as stated on the bulletin board posting.

"ELIGIBLE LIST" – A list established by the personnel officer, composed of names of persons who have made proper application, met the minimum qualifications, and successfully completed the required examination process to be certified for vacancies in a class at the institution.

"EMPLOYEE" – A person working in the classified service at an institution.

"EMPLOYEE ORGANIZATION" – Any lawful association, labor organization, federation, council, or brotherhood, having as one of its purposes the improvement of working conditions among employees, and which has filed a notice of intent to represent employees with the director, and which has been authorized in accordance with WAC 251-14-020.

"EMPLOYING OFFICIAL" – An administrative or supervisory employee designated by the appointing authority to exercise responsibility for requesting certification, interviewing eligibles, and employing classified employees.

"ESSENTIAL JOB ELEMENTS" – Knowledges, skills, and abilities which persons must possess in order to perform the duties of a class or a specific position in a class.

"EXAMINATIONS" – Any measures or assessments used in the process of identifying names for certification to vacancies in accordance with RCW 28B.16.100(2) and WAC 251-18-240. Examinations include examination content, administration, and evaluation.

"EXECUTIVE EMPLOYEES" – Management personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

- (1) Primary duty must be management of a recognized department or subdivision; and
- (2) Must customarily and regularly direct the work of two or more employees; and
- (3) Must have the authority to hire and fire, or to recommend with authority on these and other actions affecting employees; and
- (4) Must customarily and regularly exercise discretionary powers; and
- (5) Must be paid at a rate of at least \$672 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if he/she regularly directs the work of at least two other employees and the

primary duty is management of a recognized department or subdivision.

"EXECUTIVE HEAD EXEMPTION" – Executive heads of major academic or administrative divisions are analogous in the hierarchy to vice presidents, deans and chairmen. Directors may be executive heads as determined by the higher education personnel board. An executive head is in charge of a separate budget unit and directs subordinates.

"EXEMPT POSITION" – A position properly designated as exempt from the application of these rules as provided in WAC 251-04-040. (Also see separate definitions of "administrative assistant exemption," "executive head exemption," "research exemption," "counseling exemption," "extension and/or continuing education exemption," "graphic arts or publication exemption," and "principal assistant exemption.")

"EXTENSION AND/OR CONTINUING EDUCATION EXEMPTION" – Individuals considered exempt in this category are responsible for originating and developing formal education programs for the general public, usually involving close contact with faculty and staff or training or consulting with specific groups in the community to enable them to provide specialized training and/or services to the community.

"FINAL EXAMINATION SCORE" – An applicant's final passing score on an examination, plus any veterans preference or other applicable credits added in accordance with WAC 251-18-130, 251-18-180 (6) and/or (8)(b).

"FRINGE BENEFITS" – As used in the conduct of salary surveys, the term shall include but not be limited to compensation for leave time, including vacation, civil, and personal leave; employer retirement contributions; health insurance payments, including life, accident, and health insurance, workmen's compensation, and sick leave; and stock options, bonuses, and purchase discounts where appropriate.

"FULL-TIME EMPLOYMENT" – Work consisting of forty hours per week.

"GRAPHIC ARTS OR PUBLICATION EXEMPTION" – Individuals qualifying for exemption under this category will be involved in performing selected graphic arts or publication activities requiring prescribed academic preparation or special training. Positions of this type are those which use special visual techniques, require original design and layout and/or can be distinguished from positions associated with the standard editorial functions.

"GRIEVANCE" – A dispute filed in accordance with a grievance procedure of a signed collective bargaining agreement.

"HANDICAPPED PERSON" – Any person with physical, mental or sensory impairments that would impede that individual in obtaining and maintaining permanent employment and promotional opportunities. The impairments must be material rather than slight, static and permanent in that they are seldom fully corrected by medical replacement, therapy, or surgical means.

"HEARING EXAMINER" – An individual appointed by the board to preside over, conduct and make recommended decisions including findings of fact and conclusions of law in all cases of employee appeals to the board.

"INSTITUTIONAL EXAMINATION" – An examination developed to meet unique requirements of a single institution.

"INSTITUTIONS OF HIGHER EDUCATION" – The University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges. For purposes of application of these rules, the term shall be considered to include the various related boards as defined in this section, unless specifically indicated to the contrary.

"JOB ANALYSIS" – Any systematic procedure for gathering, documenting and analyzing information about the job content and requirements for a class or position in a class.

"JOB CATEGORIES" – Those groupings required in equal employment opportunity reports to federal agencies.

"JOB GROUP" – For affirmative action goal-setting purposes, a group of jobs having similar content, wage rates and opportunities. An EEO job category may consist of one or more job groups.

~~("JOB CATEGORIES" – Those groupings required in equal employment opportunity reports to federal agencies:))~~

"LATERAL MOVEMENT" – Appointment of an employee to a position in another class which has the same salary range maximum as the employee's current class.

"LAYOFF" – Any of the following management initiated actions caused by lack of funds or lack of work:

- (1) Separation from service to an institution;
- (2) Separation from service within a class;
- (3) Reduction in the work year; and/or
- (4) Reduction in the number of work hours.

"LAYOFF SENIORITY" – The total amount of service an employee earns as a result of unbroken classified employment and statutory allowance.

"LAYOFF UNIT" – A clearly identified structure within an institution, which is approved by the director, and within which employment/layoff options are determined in accordance with the reduction in force procedure.

"LEAD" – An employee who performs the same duties as other employees in his/her work group and in addition regularly assigns, instructs and checks the work of the employees.

"MANAGEMENT EMPLOYEE" – An employee whose position: (1) Is at system-wide salary range 49 or above, and (2) includes supervision of subordinates, and (3) includes responsibilities normally associated with management such as planning, organizing, directing, and controlling a program or function.

"NONMANAGEMENT EMPLOYEES" – All classified employees except those defined as "management employees."

"NONCOMPETITIVE SERVICE" – All positions in the classified service for which a competitive examination is not required.

"ORGANIZATIONAL UNIT" – A clearly identified structure, or substructure of persons employed to achieve a common goal or function under the direction of a single official. An organizational unit may consist of either an

administrative entity or a geographically separated activity.

"PART-TIME EMPLOYMENT" – Work of twenty or more hours per week but less than full time employment with an understanding of continuing employment for six months or more.

"PERIODIC INCREMENT DATE" – ("P.I.D.") – The date upon which an employee is scheduled to move to a higher salary step within the range for his/her current class.

"PERMANENT EMPLOYEE" – An employee who has successfully completed a probationary period at the institution within the current period of employment or trial service period resulting from promotion, transfer, lateral movement, or voluntary demotion from another institution, related board or state agency.

"PERSONNEL OFFICER" – The principal employee in each institution/related board responsible for administrative and technical personnel activities of the classified service.

"P.I.D." – Commonly used abbreviation for periodic increment date.

"POSITION" – A set of duties and responsibilities normally utilizing the full or part time employment of one employee.

"PRINCIPAL ASSISTANT EXEMPTION" – Individuals qualifying for exemption under this category function as second-in-command in importance levels. The individual may perform many of the functions of his/her superior in the superior's absence, or alternatively may have major administrative or program responsibilities. Reporting relationships will not be below that of the executive head. In some institutions an executive head may have more than one principal assistant as determined by the higher education personnel board.

"PROBATIONARY PERIOD" – The initial six-month period of employment in a class following appointment from an eligible list of a nonpermanent employee. However, upon prior approval by the board, the probationary period for selected classes may be established for a period in excess of six months but not to exceed twelve months.

"PROBATIONARY REAPPOINTMENT" – Appointment of a probationary employee from an eligible list to a position in a different class.

"PROFESSIONAL EMPLOYEES" – Personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

(1) Primary duty must involve work that requires knowledge of an advanced type in a field of science or learning, customarily obtained by a prolonged course of specialized instruction and study or work that is original and creative in character in a recognized field of artistic endeavor and the result of which depends primarily on invention, imagination, or talent; and

(2) Must consistently exercise discretion and judgment; and

(3) Must do work that is predominantly intellectual and varied, as distinguished from routine or mechanical duties; and

(4) Must be paid at a rate of at least \$737 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if the primary duty consists of work requiring knowledge of an advanced type in a field of science or learning which requires consistent exercise of discretion and judgment.

"PROMOTION" – The appointment as a result of recruitment, examination and certification, of a permanent employee to a position in another class having a higher salary range maximum.

"PROVISIONAL APPOINTMENT" – Appointment made prior to establishment of an eligible list, per the provisions of WAC 251-18-300. A person so appointed is required to apply through the competitive process to be considered for the position on a permanent basis.

"PUBLIC RECORDS" – Any writing containing information relating to conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

"RATING FACTOR" – An element, duty, responsibility, skill, ability, or other specific aspect of performance which is rated as part of the annual performance evaluation.

"RATING GUIDE" – A written document which outlines the way in which ratings are assigned to applicants' experience, training, or other qualifications on each job element in an examination. It specifies the range of ratings to be given for each job element and gives examples of the experience, training, or other qualifications that will be used to assign ratings.

"REALLOCATION" – The assignment of a position by the personnel officer to a different class.

"REASSIGNMENT" – A management initiated movement of a classified employee from one position to another in the same class.

"RELATED BOARDS" – The state board for community college education, the council for postsecondary education, the higher education personnel board, and such other boards, councils and commissions related to higher education as may be established. For purposes of application of these rules, the term "institution" shall be considered to include these related boards, unless specifically indicated to the contrary.

"RESEARCH EXEMPTION" – Individuals in research-exempt positions spend the majority of their time in one or more of the following activities: Identification and definition of research problems, design of approaches or hypotheses and methodology to be used, design of specific phases of research projects, analysis of results, development of conclusion and hypothesis, presentation of research results in publishable form.

"RESIGNATION" – A voluntary termination of employment.

"REVERSION" – The return of a permanent employee from trial service to the most recent class in which permanent status was achieved at the institution.

"SPECIFIC POSITION ELEMENTS" – Knowledges, skills, and abilities which a job analysis indicates to be significant for performing the duties of a specific position in a class but which are not significant for the class in general.

"SPECIFIC POSITION REQUIREMENTS" – Specific position elements which are essential job elements.

"SUPERVISOR" – Any individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them or adjust their grievances, or effectively to recommend such action if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

"SUSPENSION" – An enforced absence without pay for disciplinary purposes.

"SYSTEM EXAMINATION" – An examination developed to meet the requirements of all institutions in the HEPB system and approved by the director for use by all such institutions.

"TEMPORARY APPOINTMENT" –

(1) Work performed in the absence of an employee on leave for:

(a) Less than ninety consecutive calendar days (WAC 251-18-350(4));

(b) Ninety or more consecutive calendar days (WAC 251-18-350(2)); or

(2) Formal assignment of the duties and responsibilities of a higher level class for a period of less than ninety consecutive calendar days; or

(3) Performance of extra work required at a work load peak, a special project, or a cyclic work load which does not exceed one hundred seventy-nine consecutive calendar days.

"TRAINING" – Formal and systematic learning activities intended to provide employees with the knowledge and skills necessary to become proficient or qualified in a particular field.

"TRANSFER" – An employee initiated change from one classified position to another in the same class without a break in service.

"TRIAL SERVICE" – The initial period of employment following promotion, transfer, demotion, or lateral movement into a class in which the employee has not held permanent status at the institution or related board, beginning with the effective date of the change and continuing for six months, unless interrupted as provided in these rules or extended as provided in WAC 251-18-330(6).

"UNDERUTILIZATION" – Having fewer minorities, women, or handicapped persons in a particular job group than would reasonably be expected by their availability.

"UNION SHOP" – A union membership provision which, as a condition of employment, requires all employees within a bargaining unit to become members of an employee organization.

"UNION SHOP REPRESENTATIVE" – An employee organization which is the exclusive representative of a bargaining unit that has been certified by the director as the union shop representative following an election wherein a majority of employees in the bargaining unit voted in favor of requiring membership in the employee organization as a condition of employment.

"UNION SHOP REPRESENTATION FEE" – Employees who are granted a nonassociation right based on religious

tenets or teachings of a church or religious body of which they are members, must pay a representation fee to the union shop representative. Such fee is equivalent to the regular dues of the employee organization minus any monthly premiums for union sponsored insurance programs.

"WRITING" – Handwriting, typewriting, printing, photostating, photographing and every other means of recording any form of communication or representation including letters, words, pictures, sounds; or symbols or combination thereof and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

AMENDATORY SECTION (Amending Order 105, filed 4/29/83, effective 6/1/83)

WAC 251-08-100 PERIODIC INCREMENT DATE. (1) For purposes of payment of periodic increment increases, the effective date shall be determined as follows:

(a) The first of the current month for actions occurring between the first and the fifteenth of the month; or

(b) The first of the following month for actions occurring between the sixteenth and the end of the month.

(2) The periodic increment date of new employees or probationary employees who are reappointed to a new class during the probationary period shall be established:

(a) Upon completion of the probationary period for those appointed at the first step in the salary range; or

(b) Upon completion of twelve months' service in the class for those appointed at a salary step above the first step in the salary range.

(3) The periodic increment date of all employees shall be changed as follows:

(a) Upon promotion, the existing periodic increment date will be eliminated and a new date established to be effective upon completion of the trial service period;

(b) Upon reappointment of a probationary employee during the probationary period, the former periodic increment date will be eliminated and a new date established as provided in WAC 251-08-100(2);

(c) Upon reallocation under WAC 251-06-080 (1)(a) of an employee who is at the top step of the current salary range, the employee will be given a new periodic increment date which will be six months following the reallocation action;

(d) When a leave of absence without pay exceeds ten working days in any calendar month, or exceeds ten consecutive working days, the date will be extended by one month, except as provided by WAC 251-22-180 and ((251-18-380)) 251-18-381;

(e) When employees return from layoff status, the date will be reestablished and extended by an amount of time equal to the period of layoff in order to give credit for time served in a salary step prior to layoff;

(f) When a cyclic year position leave of absence without pay exceeds ninety calendar days, the periodic increment date shall be extended on a month-for-month basis. Provisions of WAC 251-08-100 (3)(d) shall apply to that period exceeding the ninety calendar days. Cyclic year position employees serving a probationary or trial service period will have their periodic increment dates

extended by an amount of time equal to the period in which the employee is on leave of absence without pay;

(g) When employees are reverted from trial service following promotion (or return from alternate appointment), the periodic increment date held prior to promotion or layoff will be reestablished;

(h) When the board or the director order remedial action per WAC 251-12-600, the periodic increment date may be modified as part of the order.

(4) The periodic increment date of all employees shall remain unchanged for all other actions including, but not limited to, transfer within class, appointment to another class with the same or lower salary range maximum, and reallocations except as provided in WAC 251-08-100 (3)(c).

(5) The periodic increment date for incumbents of exempt positions which are converted to classified status shall be established as provided in WAC 251-18-420.

**AMENDATORY SECTION** (Amending Order 94, filed 3/23/82)

WAC 251-10-030 LAYOFF. (1) An appointing authority may separate or reduce the number of working hours or the work year of an employee without prejudice because of lack of funds or lack of work.

(2) Each institution shall develop for approval by the director a layoff procedure based upon layoff seniority as defined in WAC 251-04-020, to include as a minimum:

(a) Clearly defined layoff unit(s), in order to minimize the disruption of an institution's total operation, and

(b) Provision for veterans preference for eligible veterans and their unmarried widows/widowers as defined in WAC 251-10-045.

(3) A permanent status employee scheduled for layoff shall receive written notice of any available options in lieu of layoff as provided in WAC 251-10-030 (5) and (6). The employee shall be given no less than three working days to select an option, if available, or to elect to be laid off and/or be placed on the appropriate institution-wide layoff list(s).

(4) Written notice of at least fifteen calendar days must be given to the employee after he/she has selected one of the options or upon completion of the option period.

(5) Within the layoff unit, a permanent status employee scheduled for layoff shall be offered employment options to comparable position(s), as determined by the personnel officer, in:

(a) Class(es) in which the employee has held permanent status which have the same or lower salary range maximum as the current class;

(b) Lower class(es) in those same class series for which the employee is qualified.

The employee may exercise either option WAC 251-10-030 (5)(a) or (5)(b) provided that the employee being replaced is the least senior in a comparable position in the class and has less layoff seniority than the employee replacing him/her. A vacant position, if available, should be considered to be the position in the class held by the least senior person. The employee may elect to have access to less-than-comparable positions by so notifying the personnel officer in writing.

(6) Except as provided in WAC 251-10-035, a permanent employee scheduled for layoff who has no options available under subsection (5) above shall be offered position(s) as follows:

(a) The personnel officer will offer in writing not less than three positions from among the highest available classes (unless the total available is less than three); provided that any position(s) offered must be:

(i) At the same level or lower than the class from which the employee is being laid off; and

(ii) Vacant or held by a provisional, temporary, or probationary employee; and

(iii) In a class for which the employee being laid off meets the minimum qualifications and can pass the appropriate qualifying examination.

(b) The employee will be required to indicate within three working days his/her interest in a specific class(es) so that the personnel officer may schedule the appropriate examination(s).

(c) Upon satisfactory completion of the examination(s) the employee will be offered option(s) to specific position(s), including salary information.

(d) Employees appointed to positions through provisions of this subsection (6) will be required to serve a trial service period.

(7) In order to be offered a layoff option or return from layoff to a position for which ~~((selective certification as identified in WAC 251-18-250 (1)(a) has been authorized by the personnel officer))~~ specific position requirements have been documented in accordance with WAC 251-18-255(1), the employee must ((possess the required prerequisite skill(s) called for in the selective certification)) demonstrate a satisfactory level of knowledge, skill, or ability on the specific position requirements.

(8) In a layoff action involving a position for which a particular sex is a ~~((bonafide))~~ bona fide occupational requirement, as approved by the Washington state human rights commission, the most senior employee meeting the occupational requirements may be retained in the position over more senior employees in such class who do not meet the occupational requirement.

(9) When it is determined that layoffs will occur within a unit, the personnel officer will:

(a) Provide a copy of the institution's reduction in force procedure to all employees subject to layoff;

(b) Advise each employee in writing of available options in lieu of layoff;

(c) Advise each employee in writing of the specific layoff list(s) upon which he/she may be placed as required per WAC 251-10-055 and 251-10-035;

(d) Provide information about the process by which the employee may make application for state-wide layoff lists, as required per WAC 251-10-060(7);

(e) Advise each employee in writing of the right to appeal his/her layoff to the board per WAC 251-12-080.

(10) Layoff actions for employees of special employment programs as identified in WAC 251-18-410 shall be administered as provided in WAC 251-10-035.

AMENDATORY SECTION (Amending Order 102, filed 9/20/82, effective 10/25/82)

WAC 251-10-035 LAYOFF—SPECIAL EMPLOYMENT PROGRAMS. (1) Institutions participating in special employment programs qualifying under the conditions identified in WAC 251-18-410 shall establish a special employment program layoff unit.

(2) An appointing authority may separate or reduce the number of working hours or the work year of a special employment program employee without prejudice because of lack of funds or lack of work, or when an incumbent must be separated due to the salary or longevity requirements of Public Law 95-524.

(3) A permanent status special employment program employee scheduled for layoff shall receive written notice of any available options in lieu of layoff as provided in subsection (5) of this section. Employment options are limited to positions within the special employment program layoff unit and/or program for which the employee qualifies. The employee shall be given no less than three working days to select an option, if available, or to elect to be laid off and/or be placed on the appropriate special employment program layoff list(s).

(4) The appointing authority must provide the employee at least fifteen calendar days written notice beyond the date of selection of an option or the completion of the option period, whichever is sooner. The notice shall inform the employee of his/her right to appeal the layoff action to the board per WAC 251-12-080.

(5) Within the special employment program layoff unit, a permanent status employee scheduled for layoff shall be offered the following:

(a) Except as provided in subsection (5)(b) of this section, employees who are being laid off shall be offered options within the layoff unit and placement on special employment program layoff lists in class(es) with the same or lower salary range maximum that are:

(i) Class(es) in which the employee has held permanent status;

(ii) Lower class(es) in the same class series for which the employee is qualified.

The employee may exercise either option provided that the employee being replaced is the least senior in the class and has less layoff seniority than the employee replacing him/her.

(b) Employees who are being laid off due to the expiration of the maximum allowable period of subsidized employment as provided in Public Law 95-524 shall not be afforded layoff options but shall be placed on the special employment program layoff list(s) for which they are eligible.

(6) The provisions of WAC 251-10-030 (7) and (8) relative to ~~((selective certification))~~ specific position and ~~((bonafide))~~ bona fide occupational requirements shall apply to special employment program layoff actions.

(7) The names of employees scheduled for layoff or actually laid off from service within a class shall be placed on the special employment program layoff list as provided in WAC 251-18-180.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-12-073 APPEALS FROM EXEMPT STATUS. As indicated in WAC 251-04-040~~((6))~~(11), any employee who feels that any classification should or should not be exempt, or any employee in a nonexempt classification who feels that he/she should be exempt because of academic qualifications which would enable such employee to teach and thus be exempt, may appeal to the board in the same manner as provided in WAC 251-12-080.

AMENDATORY SECTION (Amending Order 115, filed 5/2/84)

WAC 251-18-010 EXAMINATION—REQUIREMENT—RESPONSIBILITIES. (1) Appointment to positions in the classified service shall be made according to merit and suitability ascertained for each class by an appropriate examination. ~~((Examinations shall be developed utilizing the class specifications and a detailed job analysis, to the degree possible, in a manner which will test fairly the capacity and fitness of the candidates.~~

~~(2)(a) The director shall establish procedures approved by the board for the development, modification, approval, administration, evaluation and use of examinations.~~

~~(b) Personnel officers may establish procedures to meet specific institutional requirements, provided such procedures are approved by the director before they are used.~~

~~(3) Personnel officers shall be responsible for following the procedures established in subsection (2)(a) and (b) of this section for all appointments to positions in the classified service in their institutions.))~~

(2) All job elements included in examinations developed or modified subsequent to September 1, 1985, shall be justified by documented job analysis.

(3) Personnel officers shall assist in conducting and/or conduct job analyses at their institutions.

(4) Job analysis methods shall meet professional standards and be approved by the director before they are used to develop examinations.

(5) System examinations shall be developed by the director with the assistance of the personnel officers and made available for the use of all institutions. The director shall periodically distribute an approved system job element examination list showing all current system examinations.

(6) Personnel officers shall use only the current versions of the examinations shown on the approved system job element examination list unless approval has been given by the director for examination modifications or the use of institutional examinations.

(7) Personnel officers may develop modifications to system examinations and/or institutional examinations to meet requirements which are unique to their institutions.

(8) Institutional examinations and modifications to system examinations shall be:

(a) Approved by the director before they are used;

(b) Used by institutions other than the developing institution only with the approval of the director.

~~((4))~~ (9) The personnel officer is responsible for determining when to open eligible lists and conduct examinations.

#### NEW SECTION

WAC 251-18-035 RECRUITMENT NOTICES—REQUIRED CONTENT. Official institutional recruitment notices (not to include media or other supplemental publicity) shall contain the following information:

(1) For promotional examinations, a statement that the examination is open only to unit organization and/or institution-wide promotional applicants.

(2) The title of the HEPB classification for which the list is open.

(3) The salary range for the class.

(4) Any conditions of employment for the class or position(s).

(5) The closing date of the recruitment notice, i.e., the specific date and time by which applications must be received by the personnel officer.

(6) When the recruitment notice is to be widely distributed, a statement of the specific locations at which corrected or extended recruitment notices will be displayed.

(7) A brief description of the duties of the class and, if applicable, the duties of the specific position(s).

(8) The minimum qualifications of the classification, if any.

(9) When applicable, a statement regarding the use of a combined list per WAC 251-18-180(10).

(10) When applicable, a statement that certification for corrective employment per WAC 251-18-250 may be utilized.

(11) When applicable, a statement that certification for specific position requirements per WAC 251-18-255 may be utilized.

(12) When applicable per WAC 251-18-060(3), the minimum number of most highly qualified applicants who will be admitted to each phase of the examination other than the screening or other initial phase, provided that at least this number of applicants pass the initial phase(s) of the examination.

(13) For classes in the approved noncompetitive service of the institution:

(a) That applicants will be placed on the list(s) in the order in which they complete making proper application for the class.

(b) The number of applicants who will be placed on the eligible list(s).

#### NEW SECTION

WAC 251-18-041 APPLICATION MATERIALS—DISTRIBUTION TO APPLICANTS. The following materials shall be provided to job applicants when they apply for a specific recruitment:

(1) The institution's application form as prescribed in WAC 251-18-070(1).

(2) The institution's examination information for job applicants document which explains the HEPB job element examination system and the examination process at that institution.

(3) Either the supplemental application or a brief description of the examination elements for the class.

#### NEW SECTION

WAC 251-18-075 EXAMINATION ADMINISTRATION. (1) Personnel officers shall administer examinations in accordance with the administration instructions developed for each system or institutional examination.

(2) The personnel officer is responsible for maintaining the security of all confidential examination materials, including test booklets, answer sheets, scoring keys, and rating guides. The personnel officer shall notify the director immediately if there is a suspected breach of examination security.

(3) Personnel officers shall develop institutional procedures for the reexamination of applicants at their institutions. Such procedures shall be approved by the director before they are used.

#### NEW SECTION

WAC 251-18-095 EXAMINATIONS—EVALUATION OF. (1) The director shall specify the rating and/or scoring systems to be used to evaluate examinations, including the ratings, scores and/or percentiles required to pass an examination.

(2) Personnel officers shall evaluate examinations in accordance with the rating guides and rating/scoring instructions developed for each system and institutional examination.

(3) Rating guides shall be used to evaluate all job elements included in system and institutional examinations.

(4) Personnel officers shall develop rating guides for all examinations for which system rating guides are not available.

(5) Personnel officers shall assure that raters of examinations, including supplemental applications, performance tests and oral boards, shall have an adequate knowledge of the work required by the specific class or position.

(6) The personnel officer is responsible for the accuracy of the total examination ratings given by the raters of examinations and may disqualify a rater for good and sufficient reason(s). The personnel officer shall disqualify any rater who was biased, did not follow either the content or the intent of the rating guide, or did not possess the required technical knowledge to evaluate the examination.

(7) Applicants must obtain ratings of "satisfactory ability" or higher on all of the essential job elements in an examination in order to pass that examination.

(8) Applicants must pass the final phase of an examination in order to be placed on an eligible list.

AMENDATORY SECTION (Amending Order 115, filed 5/2/84)

WAC 251-18-140 EXAMINATION RESULTS—NOTIFICATION—INSTITUTIONAL REVIEW. (1) The personnel officer shall:

(a) Provide each applicant with written notice of his/her final status in the examination process, normally within fifteen calendar days after the eligible list is established; and

(b) Inform each applicant that within fifteen calendar days of service of his/her notice, he/she may request a review of the action by the personnel officer; and

(c) Inform each applicant of his/her appeal rights per WAC 251-18-145 (1)(c).

(2) Applicants' final status in the examination process shall consist of one of the following:

(a) Application was rejected for good and sufficient reason in accordance with WAC 251-18-110.

(b) Applicant failed the screening or intermediate phase(s) of the examination.

(c) Applicant was not among the most highly qualified applicants to be admitted to subsequent phase(s) of the examination.

(d) Applicant failed the final phase of the examination.

(e) Applicant was placed on the appropriate eligible list in accordance with WAC 251-18-180.

(3) Within thirty calendar days after receiving a request for review as provided in subsection (1)(b) of this section, the personnel officer will provide the applicant with written notice of the results of the review and of appeal rights as provided in WAC 251-18-145 (1)(b).

NEW SECTION

WAC 251-18-165 EXAMINATIONS—RECORDS REQUIREMENTS. (1) The personnel officer shall maintain selection records as required by applicable federal, state, and local laws and institutional policies.

(2) The director shall maintain records of all current approvals given with regard to the selection process at each institution.

(3) Personnel officers shall maintain written records of all current approvals given with regard to the selection process at their institutions.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-18-185 ELIGIBLE LISTS—TIED SCORES—CERTIFICATION. ~~((When two or more candidates on the same eligible list have the same rating, their position on the list, for recordkeeping purposes, will be determined by lot.))~~ When ~~((, in the process of))~~ certification ~~((, a tie score group is reached which, if))~~ of all eligibles with the same final examination score ~~((were certified))~~ would result in a certification of more than the number of eligibles ~~((permitted by these rules, the official responsible for certification may exercise either of the following options))~~ specified in WAC 251-18-240(1), the personnel officer will certify the required

number of eligibles from the tied score group using ranks determined by:

~~(1) ((Complete the certification by certifying the necessary number of eligibles according to their position on the list as drawn by lot for recordkeeping purposes))~~ Random assignment; or

~~(2) ((Complete the certification by determining, on the basis of the description of))~~ The documented qualifications of the eligibles for the particular ~~((vacancy))~~ position for which certification is being made ~~((, which eligible(s) from the tie score group will be referred. Such decision shall be based on the appropriateness of the eligible's experience and training to the particular job vacancy))~~; or

(3) A combination of subsections (1) and (2) of this section.

NEW SECTION

WAC 251-18-255 CERTIFICATION—SPECIFIC POSITION REQUIREMENTS. (1) All specific position requirements shall be justified by a job analysis in accordance with WAC 251-18-010(2).

(2) When specific position requirements have been documented for a position, only the names of eligibles who have demonstrated a satisfactory level of knowledge, skill or ability on such specific position requirements shall be certified for that position.

AMENDATORY SECTION (Amending Order 119, filed 7/31/84)

WAC 251-18-240 CERTIFICATION—METHOD. (1) Upon receipt of a personnel request, the personnel officer shall provide the following number of names to the employing official in writing:

(a) When there are names on the institution-wide layoff list for the class, a single name for each vacancy to be filled by the certification.

(b) When there are no names on the institution-wide layoff list for the class, four more names than there are vacancies to be filled by the certification.

(2) Names shall be certified in strict order of standing on the eligible list(s).

(3) When it is necessary to use more than one eligible list to complete a certification, each eligible list must be exhausted before progressing to the next eligible list. Eligible lists shall be used for filling classified vacancies in the strict order of priority listed below:

(a) Unless the personnel officer has established a combined eligible list in accordance with WAC 251-18-180~~((#8))~~(10):

- (i) Institution-wide layoff list;
- (ii) Organizational unit promotional list;
- (iii) Institution-wide promotional list;
- (iv) Special employment program layoff list;
- (v) State-wide layoff list;
- (vi) Interinstitutional employee list;
- (vii) Intersystem employee list;
- (viii) Open competitive or noncompetitive list.

(b) When the personnel officer has established a combined eligible list:

- (i) Institution-wide layoff list;

(ii) Combined eligible list.

AMENDATORY SECTION (Amending Order 108, filed 9/23/83, effective 10/24/83)

WAC 251-18-420 APPOINTMENT—CONVERSION OF EXEMPT POSITION. (1) Incumbents of positions which are converted from exempt to classified service for the following reasons may be placed within the classified service as provided in subsections (2) through (9) of this section:

(a) When it has been determined that the exempt position does not meet the criteria for exemption per WAC 251-04-040 (1), ~~((3))~~ (8), ~~((4))~~ (9), or ~~((5))~~ (10) and thus is inappropriately exempt;

(b) When an organizational realignment has caused the exempt position to become inappropriately exempt by no longer meeting the criteria for exemption per WAC 251-04-040 (1), ~~((3))~~ (8), ~~((4))~~ (9), or ~~((5))~~ (10); or

(c) When an institution elects to convert a position which has been exempt per the provisions of WAC 251-04-040~~((5))~~(10).

(2) An incumbent whose position is converted as indicated in subsection (1)(c) of this section must have served a minimum of one year in the position being converted in order to be subject to the provisions of this section.

(3) The incumbent shall not be required to pass a qualifying examination or meet the minimum qualifications for entry into the class.

(4) The incumbent shall enter the classified position with permanent status unless he/she has been employed less than six months in the exempt position being converted, in which case he/she shall hold probationary status until a total of six months has been served.

(5) The incumbent shall be placed at the first step within the salary range or range extension which is not less than the current exempt salary.

(6) The periodic increment date shall be established based on the date of conversion to the classified service or the date of last salary increase, whichever is sooner. Those employees at or above the top step of the new range shall not be assigned a P.I.D.

(7) The incumbent shall be credited with unused accrued sick leave on the books at the time of conversion and shall continue to accrue at the rate of one day per month as provided in WAC 251-22-100.

(8) The incumbent shall be credited with unused accrued vacation leave on the books at the time of conversion and shall accrue at the same rate as for classified employees as provided in WAC 251-22-060.

(9) Layoff seniority for the incumbent shall be established based upon unbroken service at the institution.

AMENDATORY SECTION (Amending Order 108, filed 9/23/83, effective 10/24/83)

WAC 251-22-040 HOLIDAYS. (1) Legal holidays are designated by statute. The following holidays are identified per RCW 1.16.050:

(a) The first day of January (New Year's Day);

(b) ~~((The twelfth day of February (Abraham Lincoln's birthday)))~~ The third Monday of January (Martin Luther King, Jr.'s birthday);

(c) ~~The third Monday of February (((George Washington's birthday)))~~ President's Day;

(d) The last Monday of May (Memorial Day);

(e) The fourth day of July (Independence Day);

(f) The first Monday in September (Labor Day);

(g) The eleventh day of November, (Veteran's Day);

(h) The fourth Thursday of November (Thanksgiving Day);

(i) The day immediately following Thanksgiving Day; and

(j) The twenty-fifth day of December (Christmas Day).

Each higher education institution will provide qualifying employees in pay status with a paid holiday on the above days. However, the governing board of each institution, and in the case of the community college system through the state board for community college education, may designate other days to be observed in lieu of the above holidays. Holiday schedules must be filed annually with the director for approval prior to implementation and may not be modified without prior approval by the director. Schedules may be submitted on a calendar or fiscal year basis. When an institution establishes an in lieu of schedule, paid holidays shall be granted based on the approved in lieu of schedule.

(2) Classified employees working twelve-month schedules or cyclic year position employees who work full monthly schedules throughout their work year shall receive the number of holidays for which they qualify during their scheduled work year as set forth in this section. Qualification is determined by being in pay status on the work day preceding the holiday(s).

(3) Cyclic year position employees scheduled to work less than full monthly schedules throughout their work year qualify for holiday compensation if they work or are in pay status on their last regularly scheduled working day preceding the holiday(s) in that month.

(4) Part time classified employees shall be entitled to the number of paid hours on a holiday that their monthly schedule bears to a full time schedule.

(5) Full time alternate work schedule employees shall receive eight hours of regular holiday pay per holiday. Any differences between the scheduled shift for the day and eight hours may be adjusted by use of vacation leave, use or accumulation of compensatory time as appropriate, or leave without pay.

(6) When a holiday falls on an employee's regularly scheduled day off, he/she shall receive a day of compensatory time off.

(7) Holiday time worked shall be compensated as provided in WAC 251-09-035.

(8) Whenever a holiday falls on Sunday, the following Monday shall be considered a nonworking or legal holiday. When a holiday falls on Saturday, the preceding Friday shall be considered a nonworking or legal holiday.

(9) Employees terminating immediately prior to a holiday do not qualify for holidays occurring after termination.

(10) Employees shall be entitled to one paid personal holiday per calendar year in addition to those specified in this section as provided in WAC 251-22-045.

AMENDATORY SECTION (Amending Order 108, filed 9/23/83, effective 10/24/83)

WAC 251-22-060 VACATION LEAVE—ACCRUAL. (1) Full-time employees eligible for vacation leave shall accrue vacation leave, to be credited monthly, at the following rates:

- (a) During the first year of continuous state employment – 12 days (8.0 hours per month);
- (b) During the 2nd year of continuous state employment – 13 days (8 hours, 40 minutes per month);
- (c) During the 3rd and 4th years of continuous state employment – 14 days (9 hours, 20 minutes per month);
- (d) During the 5th through the 9th years of total state employment – 15 days (10 hours per month);
- (e) During the 10th year of total state employment – 16 days (10 hours, 40 minutes per month);
- (f) During the 11th year of total state employment – 17 days (11 hours, 20 minutes per month);
- (g) During the 12th year of total state employment – 18 days (12 hours per month);
- (h) During the 13th year of total state employment – 19 days (12 hours, 40 minutes per month);
- (i) During the 14th year of total state employment – 20 days (13 hours, 20 minutes per month);
- (j) During the 15th year of total state employment – 21 days (14 hours per month);
- (k) During the 16th and succeeding years of total state employment – 22 days (14 hours, 40 minutes per month).

(2) Employees working less than full time schedules shall accrue vacation leave credit on the same prorata basis that their appointment bears to a full time appointment.

(3) Per the provisions of WAC 251-18-381(2), the scheduled period of cyclic year position leave of absence without pay shall not be deducted for purposes of computing the rate of vacation leave accrual for cyclic year position employees.

(4) The following shall apply for purposes of computing years of qualifying state employment:

(a) Employment in the legislative and/or the judicial branch shall not be credited;

(b) Employment exempt by the provisions of WAC 251-04-040(~~((2))~~) (4) or employment under the state personnel board jurisdiction which is analogous to the conditions specified in WAC 251-04-040(~~((2))~~)(4) shall not be credited;

(c) Each contract year of full time faculty and/or administrative exempt employment within the higher education institutions shall be credited as a year of qualifying service;

(d) Employment in part time classified positions shall be credited as full time service.

(5) Vacation leave credits shall not accrue during a leave of absence without pay which exceeds ten working days in any calendar month, nor shall credit be given toward the rate of vacation leave accrual.

AMENDATORY SECTION (Amending Order 117, filed 6/1/84)

WAC 251-22-090 VACATION LEAVE—CASH PAYMENT. Classified employees who have completed six continuous months of employment and who separate from service by resignation, layoff, dismissal, retirement or death are entitled to a lump sum cash payment for all unused vacation leave (~~((except that accrued under WAC 251-22-080(2)))~~). In the case of voluntary resignation, an employee may be required to provide fourteen calendar days' notice to qualify for such lump sum cash payment. (~~((Excess vacation leave accumulated as prescribed in WAC 251-22-080(2) must be taken as vacation leave or be lost as provided in WAC 251-22-080(2).))~~) Vacation leave payable under WAC 251-22-080 and this section shall be computed and paid as prescribed by the office of financial management.

AMENDATORY SECTION (Amending Order 117, filed 6/1/84)

WAC 251-22-200 LEAVE OF ABSENCE WITHOUT PAY. (1) Leave of absence without pay may be allowed for any of the following reasons:

- (a) Conditions applicable for leave with pay;
- (b) Maternity leave;
- (c) Educational leave;
- (d) Leave for government service in the public interest;

(e) To accommodate annual work schedules of employees occupying cyclic year positions as specified in WAC (~~(251-22-381)~~) 251-18-381.

(2) Requests for leave of absence without pay must be submitted in writing to the employing official or designee and must receive the approval of both the employing official and the personnel officer.

(3) Leave of absence without pay extends from the time an employee's leave commences until he/she is scheduled to return to continuous service, unless at the employee's request the employing official and the personnel officer agree to an earlier date.

(4) Vacation leave and sick leave credits will not accrue during a leave of absence without pay which exceeds ten working days in any calendar month.

(5) A classified employee taking an appointment to an exempt position shall be granted a leave of absence without pay, with the right to return to his/her regular position, or to a like position at the conclusion of the exempt appointment; provided application for return to classified status must be made not more than thirty calendar days following the conclusion of the exempt appointment.

WSR 85-16-039

PROPOSED RULES

LIQUOR CONTROL BOARD

[Filed July 31, 1985]

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 standards of identity for wine, WAC 314-24-003;

that the agency will at 9:30 a.m., Wednesday, September 11, 1985, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 66.08.030.

The specific statute these rules are intended to implement is RCW 66.08.030 [(2)](y).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 11, 1985.

Dated: July 31, 1985

By: L. H. Pedersen  
Chairman

### STATEMENT OF PURPOSE

Title: WAC 314-24-003 Standards of identity for wine.

Description of Purpose: To permit the use of viticultural areas to be named as the appellation of origin for the purposes of advertising and wine labeling requirements.

Statutory Authority: RCW 66.08.030.

Statutes Implemented by the Rule: RCW 66.08.030 [(2)](y).

Summary of Rule: Would permit the use of the designated viticultural area on wine labels.

Reason Supporting Proposed Action: Would bring the state into compliance with federal regulations.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Jan Britt, Supervisor, Manufacturers/Importers/Wholesalers Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6282.

Person or Organization Proposing Rule: Washington State Liquor Control Board.

Agency Comments: None.

Necessity of Rule: While the current rule allows for the declaration of viticultural areas in most instances, Washington is faced with the unique situation of having the "Columbia River" viticultural area which includes land in both the states of Washington and Oregon.

Some wineries may purchase grapes and/or agricultural products from a viticultural area and produce wine made of 75 percent or more of that agricultural product in a location outside of the viticultural area itself. The rule change proposed would allow the use of the viticultural area declaration on the label.

This rule will bring Washington state into compliance with the federal rule change, 27 CFR Part 4.25A.

Small Business Economic Impact Statement: There will be no negative cost impact for this rule.

AMENDATORY SECTION (Amending Order 85, Resolution No. 94, filed 10/28/81)

WAC 314-24-003 STANDARDS OF IDENTITY FOR WINE.

(1) Application of standards. The standards of identity for the several classes and types of wine set forth herein shall be applicable to all wines produced, imported, bottled, offered for sale, or sold within this state for beverage use or any other purpose, except as hereinafter prescribed. The standards herein established are minimum standards for wines of the several classes and types defined.

(2) Standards of identity. The several classes and types of wine set forth herein shall be as follows:

(a) Wine (or grape wine). "Wine" is the product of the normal alcoholic fermentation of the juice of sound, ripe grapes (including pure condensed must), with or without added grape brandy or other spirits derived from grapes or grape products, and containing not to exceed 24 percent alcohol by volume, but without any other addition or abstraction whatsoever except such as may occur in normal cellar treatment: PROVIDED, That the product may be ameliorated before, during or after fermentation by the use of pure dry sugar, a combination of water and pure dry sugar, liquid sugar, invert sugar syrup, grape juice or concentrated must, but only in accordance with federal regulations 27 CFR part 240, and the total solids of the wine shall in no case exceed 21 percent by weight. The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for red table wine, more than 0.14 gram, and for all other wine, more than 0.12 gram in both cases per 100 cubic centimeters (20 degrees C.). The maximum sulphur dioxide content of any wine shall not be greater than 350 parts per million of total sulphur dioxide or sulphites expressed as sulphur dioxide.

Pure condensed must. "Pure condensed must" means the dehydrated juice or must of sound, ripe grapes, or other fruit or agricultural products, concentrated to not more than 80° Brix, the composition thereof remaining unaltered except for removal of water; the term "restored pure condensed must" means pure condensed must to which has been added an amount of water not exceeding the amount removed in the dehydration process; and the term "sugar" means pure cane, beet, or dextrose sugar in dry form containing, respectively, not less than 95 percent of actual sugar calculated on a dry basis.

(b) Natural wine is the product of the juice of sound, ripe grapes, or the product of the juice of sound ripe fruit or berries other than grapes, produced in accordance with section 5381, I.R.C., and federal regulations 27 CFR part 240, as applicable.

(c) Red and white wine. Red wine is wine which contains the red coloring matter of the skins, juice, or pulp of grapes; pink, amber or rose wine is wine which contains partial red coloring of the skins, juice, or pulp of grapes; and white wine is wine which does not contain the red coloring matter of the skins, juice, or pulp of grapes.

(d) Table wine (including light wine, light grape wine, light red wine, light white wine, and natural wine) is wine containing not to exceed 14 percent alcohol by volume. The maximum Balling or Brix saccharometer test for any table wine shall not be more than 14 percent (at 20 degrees C. using a saccharometer calibrated at this temperature) when the test is made in the presence of the alcoholic content provided herein.

(e) Dessert wine (including appetizer wine) is wine containing more than 14 percent alcohol by volume, and not to exceed 24 percent alcohol by volume. Angelica, madeira, malaga, marsala, muscatel, port, white port, sherry, and tokay are types of dessert wine containing added grape brandy or other spirits derived from grapes or grape products, possessing the taste, aroma and other characteristics generally attributed to these products, and having an alcoholic content of not less than 17 percent by volume in the case of sherry, and not less than 18 percent in the case of all other types named in this paragraph.

(f) Aperitif wine is grape wine, containing added grape brandy or other spirits derived from grapes or grape products and having an alcoholic content of not less than 15 percent by volume flavored with herbs and other natural aromatic flavoring materials and possessing the taste, aroma and other characteristics generally attributed to wine of this class.

(g) Vermouth is a type of aperitif wine made from grape wine and possessing the taste, aroma and other characteristics generally attributed to vermouth.

(h) The term vintage wine means a wine produced wholly from (i) grapes gathered and (ii) the juice therefrom fermented, in the same calendar year and in the same viticultural area (e.g., county, state, department, province, or equivalent geographic area, or subdivision thereof), as identified on the label of such wine.

(i) Sacramental wine. Wine used solely for sacramental purposes may possess such alcoholic content not exceeding 24 percent by volume as required by ecclesiastical codes.

(j) Sparkling grape wine (including sparkling wine, sparkling red wine, and sparkling white wine) is grape wine made effervescent with carbon dioxide resulting solely from the fermentation of the wine within a closed container, tank or bottle.

(k) Champagne is a type of sparkling light white wine which derives its effervescence solely from the secondary fermentation of the wine within glass containers of not greater than one gallon capacity, and which possesses the taste, aroma, and other characteristics attributed to champagne as made in the Champagne District of France.

(l) A sparkling light wine having the taste, aroma, and characteristics generally attributed to champagne but not otherwise conforming to the standard for champagne may, in addition to but not in lieu of the class designation sparkling wine, be further designated as champagne style, or champagne type or American (or New York state, California, etc.) champagne — bulk process; all the words in such further designation shall appear in lettering of substantially the same size and such lettering shall not be substantially larger than the words "sparkling wine."

(m) Pink (or rose) champagne is a type of sparkling pink wine otherwise conforming to the definition of champagne, and shall be labeled in the same manner as champagne except that the designation pink (or rose) champagne shall be used in lieu of the designation champagne.

(n) Sparkling burgundy and sparkling moselle are types of sparkling wine possessing the taste, aroma and characteristics attributed to these products.

(o) Carbonated wine (including carbonated grape wine, carbonated red wine, carbonated pink (or rose) wine and carbonated white wine) is wine made effervescent with carbon dioxide other than that resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle.

(p) Fruit wine is wine produced by the normal alcoholic fermentation of the juice of sound, ripe fruit (other than grape), including pure condensed fruit must, with or without added fruit brandy or fruit spirits distilled from the same type of fruit or fruit products as the wine to which such fruit brandy or fruit spirits is added, and containing not to exceed 24 percent of alcohol by volume but without any other addition or abstraction whatsoever except such as may occur in normal cellar treatment: PROVIDED, That the product may be ameliorated before, during, or after fermentation by the addition of water, pure dry sugar, a combination of water and pure dry sugar, liquid sugar, invert sugar syrup and concentrated and unconcentrated juice of the same fruit, but, only in accordance with federal regulations and the total solids of the wine shall in no case exceed 21 percent by weight.

The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be for natural fruit wine, more than 0.14 gram, and for other fruit wine, more than 0.12 gram, per 100 cubic centimeters (20 degrees C.).

(q) Light fruit wine (including natural fruit wine) is fruit wine containing not to exceed 14 percent alcohol by volume.

(r) Fruit wine derived wholly (except for sugar, water, or added fruit brandy or fruit spirits) from one kind of fruit shall be designated by the word wine, qualified by the name of such fruit; e.g., peach wine, orange wine, blackberry wine, etc. Fruit wine not derived wholly from one kind of fruit shall be designated as fruit wine or berry wine, as the case may be, qualified by a truthful and adequate statement of composition appearing in direct conjunction therewith. Fruit wines derived wholly (except for sugar, water, or added fruit brandy or fruit spirits) from apples or pears may if desired be designated cider, and perry, respectively, and shall be so designated if lacking in vinous taste, aroma, and other characteristics. Fruit wine rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle shall be further designated as sparkling, and fruit wine rendered effervescent by carbon dioxide otherwise derived shall be further designated as carbonated.

(s) Berry wine is fruit wine produced from berries.

(t) Citrus wine or citrus fruit wine is fruit wine produced from citrus.

(u) Wine from other agricultural products. Sake is wine produced from rice in accordance with the commonly accepted method of producing such product.

(v) Other agricultural wines (such as honey wine), the production or sale of which is not prohibited by these regulations, shall be made in accordance with the commonly accepted standards of such product.

(w) Specialty wine is wine not otherwise herein defined, produced in accordance with commercial standards for such wines. Such wines may bear a fanciful proprietary designation and shall be labeled with a truthful and adequate statement of composition or with any commonly accepted trade designation indicative of such composition.

(x) Specially sweetened natural wine (a wine such as Kosher wine) is wine produced in accordance with federal regulation 27 CFR part 240.

(y) High fermentation wine is a grape or fruit wine made within the limitations of regulation (57)(2)(a) for grape wine, and regulation (57)(2)(p) for fruit wine, except that the alcohol content after complete fermentation or complete fermentation and sweetening is more than 14 percent and that wine spirits may not be added, produced in accordance with federal regulation 27 CFR part 240.

(z) Special natural wine is a flavored wine made on bonded wine cellar premises from a base of natural wine, in conformity with federal regulation 27 CFR part 240.

(3) Grape-type designations. A name indicative of variety of grape may be employed as the type designation of a wine if the wine derives its predominate taste, aroma, and other characteristics, and at least 51 percent of its volume, from that variety of grape.

(4) Appellations of origin. A wine shall be entitled to an appellation of origin if:

(a) At least 75 percent of its volume is derived from both fruit or other agricultural products ((both)) grown ((and fermented)) in the place or region indicated by such appellation; and

(b) ((It has been fully produced and finished within such place or region; and

(c)) It conforms to the requirements of the laws and regulations of such place or region governing the composition, method of production and designation of wines for consumption within such place or region of origin.

(5) Conformance to state standards required. Wines of any defined class or type labeled or advertised under appellation of origin such as Spanish, New York, Ohio, Finger Lakes, California, etc., shall meet the requirements of standards herein prescribed applicable to such wines and shall, in addition, contain the minimum percentage of alcohol and conform as to composition in all other respects with all standards of identity, quality and purity applicable to wines of such classes or types marketed for consumption in the place or region of origin.

For example, all grape wines bearing labels showing California as the origin of such wine, shall be derived one hundred percent from grapes grown and wine from such grapes fermented within the state of California, shall contain no sugar or material containing sugar, other than pure condensed grape must; and any type of grape dessert wine (except sherry) shall contain not less than 18 percent of alcohol by volume; any type of sherry shall contain not less than 17 percent alcohol by volume; except as hereinbefore provided. Wines subjected to cellar treatment outside the place or region of origin, and blends of wine of the same origin, blended together outside the place or region of origin (if all the wines, in the blend have a common class, type, or other designation which is employed as the designation of the blend), shall be entitled to the same appellation of origin to which they would be entitled if such cellar treatment of blending took place within the place or region of origin.

(6) Grape-type designations, generic, semi-generic and nongeneric designations of geographic significance, are subject to the same requirements as set forth under Title 27, Code of Federal regulations, Part 4.

**WSR 85-16-040**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Filed July 31, 1985]

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 AFDC and GAU—Eligibility—Need, amending chapter 388-28 WAC;

that the agency will at 1:30 p.m., Wednesday, August 14, 1985, in the Lunchroom, Capitol Hill Community Services Office, 1700 East Cherry, Seattle, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 21, 1985.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.12 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 14, 1985.

This notice is connected to and continues the matter in Notice No. WSR 85-13-048 filed with the code reviser's office on June 17, 1985.

Dated: July 31, 1985

By: David A. Hogan, Director  
Division of Administration and Personnel

**WSR 85-16-041**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
[Filed July 31, 1985]

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 AFDC—Eligibility, amending chapter 388-24 WAC;

that the agency will at 1:30 p.m., Wednesday, August 14, 1985, in the Lunchroom, Capitol Hill Community Services Office, 1700 East Cherry, Seattle, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 21, 1985.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.12 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 14, 1985.

This notice is connected to and continues the matter in Notice No. WSR 85-13-049 filed with the code reviser's office on June 17, 1985.

Dated: July 31, 1985

By: David A. Hogan, Director  
Division of Administration and Personnel

**WSR 85-16-042**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
[Filed July 31, 1985]

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 food stamps, amending chapter 388-54 WAC;

that the agency will at 10:00 a.m., Wednesday, September 11, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 18, 1985.

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is RCW 74.04.510.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 11, 1985.

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

David A. Hogan, Director  
Division of Administration and Personnel  
Department of Social and Health Services  
Mailstop OB 14  
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, at State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by August 28, 1985. The meeting site is in a location which is barrier free.

Dated: July 30, 1985

By: David A. Hogan, Director  
Division of Administration and Personnel

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.045.

Amending WAC 388-54-601, 388-54-630, 388-54-665, 388-54-728, 388-54-740, 388-54-745, 388-54-750, 388-54-760, 388-54-768, 388-54-775, 388-54-776 and 388-54-820, regarding monthly reporting/retrospective budgeting (MRRB).

Purpose of the Rule Changes: To simplify and clarify MRRB.

Reason These Rules are Necessary: Federal clarification of MRRB regulations. This clarification is an outgrowth of implementation of MRRB in January 1984.

Statutory Authority: RCW 74.04.510.

Summary of the Rule Change: WAC 388-54-601 includes an additional definition for beginning months. The other changes are editorial and are made to clarify

that the monthly reporting system is a method of budgeting income; 388-54-630 (3)(c) requires that if a Social Security number is not verified at initial certification, it must be done prior to the next recertification; 388-54-630 (3)(h)(ii) requires actual utility expenses must be verified before utility cost can be allowed for a shelter deduction; 388-54-630 (6)(b) adds utility cost in excess of the utility standard shall be verified for monthly reporters; 388-54-630 (6)(c) adds verification of medical expense for monthly reporting; 388-54-630 (6)(d) adds citizenship, residency, and Social Security number as required verification for food stamp monthly reporting if the status of any item has changed; 388-54-665 (3)(a) through (d) identifies individuals who are considered nonhousehold members; 388-54-665 (4)(a) through (d) identifies individuals who are excluded household members; 388-54-665 (7)(d) removes the effective date for section on shelters for battered women and children. This date is no longer pertinent; 388-54-728(1) removes seasonal farmworkers as prospectively budgeted throughout the certification period. Seasonal farmworkers are prospective in beginning months only; 388-54-728(3) stresses a new member must be reported timely for income and circumstances to be considered prospectively; 388-54-740 (4)(a) adds cooling as a shelter cost; 388-54-740 (4)(g) adds that a household can choose actual cost rather than the standard; 388-54-740 (4)(h) identifies circumstances when a household can switch between actual costs and the standard utility allowance; 388-54-745 removes much of this section. Some portions are rewritten for clarification. Specific changes are as follows: 388-54-745(1) removes seasonal farmworker from the group that is budgeted prospectively over the entire certification period; 388-54-745(2) states PA and SSI income are budgeted prospectively; 388-54-745(3) makes editorial changes in the description of the budgeting process; 388-54-745(4) defines method to use in budgeting scholarships, educational loans and grants; 388-54-745 (5)(a) instructs how to anticipate income for beginning months; 388-54-745 (5)(b) advises how to budget income when adding a household member; 388-54-745 (5)(c) states how to budget income when a new food stamp household is established; 388-54-745 (5)(d) refers to WAC 388-54-750 for instructions in budgeting self-employment income; 388-54-745 (5)(e) edits statement for clarity and removes seasonal farmworkers as an exception; 388-54-745 (6)(a) edits material for clarity; 388-54-745 (6)(b) stipulates disregarded income must have been included in beginning month budget. Disregard is for only one month; 388-54-745 (6)(c) states income may be disregarded when a household begins to receive PA if the income is from a discontinued source; 388-54-745 (6)(d) states how self-employment income is budgeted; 388-54-745 (6)(e) defines an AFDC corrective payment and how to budget that payment; 388-54-745 (7)(a) directs how to budget income deductions in beginning months; 388-54-745 (7)(b) eliminates averaging of household expenses for retrospective budgeting; 388-54-750 (1)(a) through (c) defines the procedure for arriving at self-employment income; 388-54-750(2) identifies how to

budget self-employment income prospectively; 388-54-750(3) explains how to budget self-employment income retrospectively; 388-54-750 (3) through (7) removes most subsections of (3)(a), (b), (c) and (d) because self-employment income has been described under prospective and retrospective budgeting process. Subsections (4), (5) and (6) have been included in new subsection (3). Subsection (7) has been removed because certification periods are covered in WAC 388-54-760; 388-54-760(1) adds the end of the assistance period as an option for end of the certification period; 388-54-760(2) eliminates seasonal farmworkers; 388-54-760 (3) through (6) edits material for clarity; 388-54-768 (1)(a) and (b) identifies who must report monthly; 388-54-775(2) adds verification of a change is required; 388-54-776(2) adds SSI as budgeted prospectively. References another section for budgeting corrective payments. Part of subsection (2) is removed and covered in WAC 388-54-745(6); 388-54-820 (1)(e) adds completed monthly status reports as a requirement for monthly reporters who request continued benefits; 388-54-820 (2)(b) explains in more detail material on continued benefits; 388-54-820 (3)(a) through (c) further defines what a monthly reporter must do to receive continued benefits; and 388-54-820(6) removes this subsection because it refers to the implementation of the Food Stamp Act of 1977. Since implementation has past, this section is obsolete.

Person Responsible for Drafting, Implementation and Enforcement of the Rule Change: Dana Beck, Program Manager, Division of Income Assistance, mailstop OB 31C, phone 753-4912.

These rules are not necessary as a result of state law, federal court decision or state court decision.

#### AMENDATORY SECTION (Amending Order 2078, filed 2/28/84)

WAC 388-54-601 DEFINITIONS. ((+)) Food stamp monthly reporting (FSMR) = The eligibility requirement for food stamp recipients to submit a monthly report of household circumstances.

(2) Compliance date = The last day in the process month that the community services office (CSO) will process monthly status reports.

(3) Food stamp monthly reporting cycle = The three-month cycle consisting of the report month, process month, and the payment month.

(a) Report month = The first month of the FSMR cycle. The month for which the recipient reports his or her circumstances.

(b) Process month = The second month of the FSMR cycle. The month in which the MSR is to be returned by the client to the CSO.

(c) Payment month = The third month of the FSMR cycle. The month in which the food stamp allotment is affected by information reported on the monthly status report for the report month.

(4) Prospective budgeting = The computation of a household's income based on income which has been received or anticipated income the household and the department are reasonably certain will be received during the month of issuance.

(5) Prospective eligibility = The determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.

(6) Retrospective budgeting = The computation of a household's income for a payment month based on actual income which existed in the corresponding report month of the FSMR cycle.

(7) Retrospective eligibility = The determination of eligibility based on retrospective budgeting rules and other circumstances existing in the budget month.

(8) Beginning months = The month the household applies for food stamps and the month thereafter. An initial beginning month cannot follow a month in which a household was certified eligible to receive coupons.)) (1) Beginning months = The first month the household is

eligible for food stamp benefits and the month thereafter. The first beginning month cannot follow a month in which a household was certified eligible to receive coupons. This includes households who are found eligible but do not receive benefits due to proration.

(2) Compliance date - The last day in the process month that the community services office (CSO) will process monthly status reports.

(3) Food stamp monthly budgeting cycle - The three-month cycle consisting of the report month, process month, and the payment month.

(4) Food stamp monthly reporting - The eligibility requirement for food stamp recipients to submit a monthly report of household circumstances as specified in WAC 388-54-768(1).

(5) Payment month - The third month of the budgeting cycle. The month in which the food stamp allotment is affected by information reported on the monthly status report for the report month.

(6) Process month - The second month of the budgeting cycle. The month in which the monthly status report is to be returned by the client to the CSO.

(7) Prospective budgeting - The computation of a household's income based on income which has been received or anticipated income the household and the department are reasonably certain will be received during the month of issuance.

(8) Prospective eligibility - The determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.

(9) Report month - The first month of the budgeting cycle. The month for which the recipient reports his or her circumstances.

(10) Retrospective budgeting - The computation of a household's income for a payment month based on actual income which existed in the corresponding report month of the budgeting cycle.

(11) Retrospective eligibility - The determination of eligibility based on retrospective budgeting rules and other circumstances existing in the report month.

#### AMENDATORY SECTION (Amending Order 2041, filed 10/20/83)

##### WAC 388-54-630 APPLICATION AND PARTICIPATION—VERIFICATION. (1) Sources of verification shall be:

(a) Documentary evidence. Documentary evidence consists of a written confirmation of a household's circumstances and shall be the primary source of verification. Whenever documentary evidence cannot be obtained, the department shall use alternate sources of verifications, such as collateral contacts or home visits.

(b) Collateral contacts. A collateral contact is a verbal contact confirmation of a household's circumstances by a person outside the household. A collateral contact is the secondary source of verification (except for household size and citizenship).

(c) Home visits. Home visits shall be scheduled in advance with the household. See WAC 388-54-620(4).

(2) The household has primary responsibility for providing documentary evidence. If it would be difficult or impossible for the household to obtain the documentary evidence in a timely manner, the department shall offer assistance in obtaining this evidence. Designation of a collateral contact is the responsibility of the household; however, the CSO may designate a collateral contact if collateral contact designated by the client is not acceptable.

(3) Mandatory verifications shall include:

(a) Identity of the person making the application. When an authorized representative applies for a household, the identity of the authorized representative and the head of household shall be verified.

(b) Residency; except in unusual cases where verification of residency cannot reasonably be accomplished.

(c) Social Security number (SSN) reported for each household member. If verification of an issued SSN is not completed (~~only the individual whose SSN is not verified shall be disqualified if he or she is unable to show "good cause" for failure to acquire the SSN (see WAC 388-54-687))~~ at initial certification it shall be completed at the time of or prior to the next recertification.

(d) Resources.

(e) Loans.

(f) Gross nonexempt income. Gross nonexempt income shall be verified for all households prior to certification (except expedited service households).

(g) Continuing shelter expenses, other than utilities, if allowing the expense could potentially result in a deduction. Verification will be on a one-time basis unless the household has moved, reported an increase in cost which would affect the level of the deduction, or unless questionable.

(h) Utility expenses.

(i) If the household is entitled to the utility standard, heating and/or cooling costs shall be verified on a one-time basis unless the household has moved, changed its utilities, or the information is questionable.

(ii) If the household wishes to claim actual utility expenses (~~(in excess of the utility standard and the expense would actually result in a deduction, excess))~~ these utility costs shall be verified.

(i) Medical care costs. Verify medical expenses that will result in a deduction including the amount of reimbursement. If reimbursement cannot be verified, certify without allowing the expense except in prospective budgeting as in WAC 388-54-745(8).

(j) Dependent care cost. Verify actual costs of care of a child or other dependent when necessary for a household member to seek, accept, or continue employment or training except in prospective budgeting as in WAC 388-54-745(8).

(k) Household size. Verify the number of individuals within a food stamp household who reside in a domicile.

(l) Household composition. Verify the number of people who customarily purchase and prepare meals together.

(4) Verification of questionable information. Verify all other factors of eligibility prior to certification if the factors are questionable and affect a household's eligibility or benefit level. Questionable factors shall include but not be limited to:

(a) Citizenship. When a household's statement that one or more of its members are U.S. citizens is questionable, the household shall be asked to provide verification.

(b) Alien status. When a household identifies that a member is not a citizen, verification of alien status is required.

(i) The alien not providing documentation of status shall be ineligible.

(ii) The household is responsible for providing documentation of alien status. The department shall not contact INS to obtain information about the alien's correct status without the alien's written consent.

(iii) The household shall be given the option of withdrawing the application or participating without the alien member.

(iv) The income and resources of the ineligible alien shall be treated in the same manner as a disqualified individual as found in WAC 388-54-830.

(5) Verification at reapplication. At reapplication, a change in income or source of income, medical expenses, or actual utility expenses claimed in an amount over twenty-five dollars must be verified.

(a) All other changes may be reverified at recertification.

(b) Verifications shall be subject to the same verification procedures as apply during initial verification.

(6) For cases subject to food stamp monthly reporting, the department shall verify on a monthly basis:

(a) Gross nonexempt income;

(b) Utility expenses (~~(which exceed the standard))~~ unless the standard utility allowance is used;

(c) (~~(All other questionable information))~~ Medical expenses per WAC 388-54-740(6);

(d) Alien status, Social Security number, residency, and citizenship if changed;

(e) All other questionable information.

#### AMENDATORY SECTION (Amending Order 1956, filed 4/6/83)

WAC 388-54-665 HOUSEHOLD DETERMINATION. (1) The following individuals or groups of individuals may make up a household provided such individuals or groups are not residents of an institution or residents of a commercial boarding house:

(a) An individual living alone.

(b) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from the others.

(c) A group of individuals living together but customarily purchasing food and preparing meals together for home consumption.

(d) An individual, age sixty or older, and his or her spouse not able to prepare his or her own meals because he or she suffers from a disability considered permanent under the Social Security Act or some other permanent physical or mental nondisease-related disability even though the elderly individual may be living with others. The income of other household members cannot exceed one hundred sixty-five percent of poverty level.

(2) Separate household status shall not be granted to the following:

(a) Children under eighteen years of age under the parental control of a member of the household;

(b) Parents living with their natural, adoptive or stepchildren or such children living with parents unless at least one parent is elderly or disabled. Elderly or disabled is defined as:

- (i) An individual sixty years of age or older; or
- (ii) An individual receiving Supplemental Security Income benefits under Title XVI of the Social Security Act or disability or blindness payments under Titles I, II, XIV or XVI of the Social Security Act; or
- (iii) A veteran with a service-connected disability rated or paid as total under Title 38 of the U.S.C. or is considered in need of regular aid and attendance or permanently housebound under such title of the code; or
- (iv) A surviving spouse of a veteran and considered in need of aid and attendance or permanently housebound or a surviving child of a veteran and considered to be permanently incapable of self-support under Title 38 of the U.S.C.; or

(v) A surviving spouse or child of a veteran and entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death under Title 38 of the U.S.C. and has a disability considered permanent under Section 221(i) of the Social Security Act.

(c) A spouse of a member of the household. Spouse refers to either of two individuals:

- (i) Defined as married to each other under applicable state law; or
- (ii) Living together and holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors or trades people.

(d) Siblings (defined as natural, adopted, half or stepbrothers and stepsisters) unless at least one sibling is elderly or disabled.

(e) A boarder as defined in WAC 388-54-665(4).

(3) The following individuals residing with a household shall not be considered household members in determining eligibility or allotment and are termed nonhousehold members. Nonhousehold members may, if otherwise eligible, qualify as separate households:

(a) Roomers. Individuals to whom a household furnishes lodging, but not meals, for compensation.

(b) Live-in attendants. Individuals residing with a household to provide medical, housekeeping, child care or other similar personal services.

~~(c) ((Ineligible aliens. Individuals not meeting the citizenship or eligible alien status. Ineligible aliens are treated as disqualified individuals.~~

~~(d)) Students enrolled in an institution of higher education who are ((eligible)) ineligible because of not meeting the requirements of WAC 388-54-670.~~

~~((e) Disqualified individuals. Individuals disqualified for fraud or failure to provide required Social Security numbers without good cause.~~

~~(f)) (d) Other individuals sharing living quarters with the household but do not customarily purchase food and prepare meals with the household.~~

~~(4) The following individuals residing with a household shall not be considered household members in determining eligibility or allotment levels and are termed excluded household members. Income and resources of excluded individuals are considered as in WAC 388-54-83050.~~

- ~~(a) Persons disqualified for intentional program violation;~~
- ~~(b) Persons sanctioned as part of a disqualified workfare household;~~
- ~~(c) Persons who are ineligible aliens;~~
- ~~(d) Persons who are disqualified for failure to secure or provide a Social Security number.~~

(5) Boarders are not eligible to participate in the program unless the household providing the board requests the boarder be included in the food stamp household. A boarder is defined as an individual residing with the household and paying reasonable compensation to the household for lodging and meals. If an applicant household identifies any individual in the household as a boarder, the following provisions apply:

(a) Boarder status shall not be extended to the spouse of a member of a food stamp household, children under eighteen under parental control of a member of the household, children living with parents or parents living with children, unless at least one parent is sixty years of age or older.

(b) Boarder status shall not be extended to persons paying less than a reasonable monthly payment for meals. Boarders whose board arrangement is for more than two meals per day shall pay an amount equaling or exceeding the thrifty food plan for the appropriate size of the boarder household. Boarders whose board arrangement is for two meals or less per day shall pay an amount equaling or exceeding two-

thirds of the thrifty food plan for the appropriate size of the boarder household.

~~((f)) (6) Residents of commercial boarding houses are not eligible for program benefits. A boarding house shall be defined as:~~

~~(a) An establishment licensed as a commercial enterprise offering meals and lodging for compensation.~~

~~(b) In project areas without licensing requirements, a boarding house is a commercial establishment offering meals and lodging for compensation with the intention of making a profit.~~

~~(c) The household of the proprietor of a boarding house may participate separate and apart from the residents if otherwise eligible.~~

~~((f)) (7) Residents of institutions. Individuals shall be considered residents of an institution when the institution provides the individual with the majority of meals as part of the institution's normal service and the institution has not been authorized to accept coupons. Residents of institutions are not eligible for participation in the program, with the following exceptions:~~

~~(a) Residents of federally subsidized housing for the elderly, built under either Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act;~~

~~(b) Narcotic addicts or alcoholics residing at a facility or treatment center for the purpose of regular participation in a drug or alcohol treatment and rehabilitation program;~~

~~(c) Disabled or blind individuals who are residents of group living arrangements and are blind or disabled and receive benefits under Title II or Title XVI of the Social Security Act. Group living arrangement is defined as a public or private nonprofit residential setting serving no more than sixteen residents and certified by appropriate state agencies;~~

~~(d) ((Effective April 1, 1982:)) Women or women with children temporarily residing in a shelter for battered women and children. "Shelter for battered women and children" means a public or private nonprofit residential facility serving battered women and children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children. Such persons temporarily residing in shelters shall be considered individual household units for the purposes of applying for and participating in the program.~~

#### AMENDATORY SECTION (Amending Order 2078, filed 2/28/84)

WAC 388-54-728 INCOME ELIGIBILITY. (1) Eligibility shall be determined prospectively during the ~~((entire))~~ certification period for migrants ~~((and/or seasonal farmworkers))~~.

(2) For all other households, eligibility shall be determined prospectively in the beginning months and retrospectively thereafter.

(3) When a household gains and timely reports a ~~((new))~~ member who has not received food stamps within the last calendar month, the department shall consider the new member's income and circumstances prospectively for the first two months of participation.

#### AMENDATORY SECTION (Amending Order 2203, filed 2/13/85)

WAC 388-54-740 INCOME—DEDUCTIONS. In computing net income, only the following deductions shall be allowed:

(1) A standard deduction of ninety-five dollars per household per month.

(2) An earned income deduction of eighteen percent of gross earned income. Earnings excluded in WAC 388-54-735 shall not be included in gross earned income for purposes of computing earned income deductions.

(3) Payments for the care of a child or other dependent when necessary for a household member to accept or continue employment, seek employment, or attend training or education preparatory to employment.

The amount to be deducted for child care shall be the amount actually paid not to exceed one hundred thirty-four dollars. The dependent care deduction in combination with the shelter deduction shall not exceed one hundred thirty-four dollars.

(4) Shelter costs in excess of fifty percent of the household's income after deducting standard, earned income, and dependent care deductions. The shelter deductions alone or in combination with the dependent care deduction shall not exceed one hundred thirty-four dollars.

(a) "Shelter costs" mean rent or mortgage payment plus taxes on a dwelling and property, insurance on the structure only, unless the costs for insuring the structure and its contents cannot be separated, assessments, and utility costs such as heat and cooking fuel, cooling and electricity, water, garbage, sewage disposal, and ((basic service fee for one telephone (plus tax))) a standard basic telephone allowance, and

initial installation fees for utility services. One-time deposits shall not be included as shelter costs.

Shelter costs shall also include continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments.

(b) Shelter costs for a home not occupied because of employment, training away from home, illness, or abandonment caused by casualty loss or natural disaster shall be allowed if:

- (i) The household intends to return to the house;
- (ii) The current occupants, if any, are not claiming shelter costs for food stamp purposes; or
- (iii) The home is not being leased or rented during the household's absence.

(c) Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as a fire or flood.

(d) Standardized utility amounts include utilities such as heating and cooling costs, cooking fuel, electricity not used to heat or cool the residence, water, garbage, sewage disposal, and telephone. Cooling costs are defined as central air conditioners or operation of a room air conditioner.

| Persons<br>in Household | Annualized<br>Utility Standards<br>December 1, 1984 |
|-------------------------|---|
| 1                       | \$ 131  |
| 2                       | 140   |
| 3                       | 150   |
| 4                       | 158   |
| 5                       | 169   |
| 6                       | 178   |
| 7                       | 184   |
| 8                       | 191   |
| 9                       | 199   |
| 10 or more              | 209   |

(e) Households not incurring any separate utility charges for heating or cooling costs shall not be entitled to claim the standard utility allowance.

(f) If a household is not entitled to the standard utility allowance, the household may claim actual utility expenses for any utility which the household does pay separately (~~(, except the telephone)~~).

(i) The telephone standard, for families incurring telephone costs, but not entitled to claim the (~~(single)~~) standard utility allowance, is ten dollars.

(ii) The telephone allowance applies to households not entitled to claim the (~~(overrath)~~) standard utility allowance, but which have telephone expenses.

(g) If a household requests and can verify the household's utility bills (~~(are higher than the standards)~~), the actual utility costs shall be used rather than the standard utility allowance.

(h) A household shall not be allowed to switch between actual utility costs and the utility standard for a period of twelve months (~~(following initial certification and no more frequently than once every twelve months thereafter)~~) unless:

- (i) The household changes residence; or
- (ii) The household begins to incur a heating and/or cooling cost; or
- (iii) The household no longer incurs a heating and/or cooling cost.

(i) Where the household shares a residence and utility costs with other individuals, the standard allowance shall be divided equally among the individuals contributing to meeting the utility costs. The household shall only be permitted to use the household's prorated share of the standard allowance.

(j) Households living in a public housing unit or other rental housing unit having central utility meters and charging the household only for excess utility costs shall not be permitted to use the standard utility allowance including a heating or cooling cost component. Payment of excess heating or cooling costs shall not qualify the household for the standard utility allowance including a heating or cooling component.

(5) Households containing one or more members who are elderly or disabled, as defined in WAC 388-54-665 (2)(b), shall be authorized:

(a) A dependent care deduction up to one hundred thirty-four dollars as specified in WAC 388-54-740(3), and

(b) An excess shelter deduction as specified in WAC 388-54-740(4) for the monthly amount exceeding fifty percent of the household's monthly income after all applicable deductions have been made.

(6) An individual who is elderly or disabled, as defined in WAC 388-54-665 (2)(b), shall be authorized a deduction for unreimbursable monthly medical expenses over thirty-five dollars.

(a) Allowable medical expenses are:

(i) The cost of maintaining an attendant, homemaker, home health aide, housekeeper, and/or child care service. These expenses, which could be claimed either as a medical or child care expense, must be considered as medical expenses;

(ii) The cost of medical insurance;

(iii) Medicare premiums related to coverage under Title XVIII of the Social Security Act;

(iv) Any cost-sharing on spend-down expenses incurred by Medicaid (medical only) recipients;

(v) Hospitalization or outpatient treatment, nursing care, and nursing home care including payments by the household for an individual who was a household member immediately prior to entering a hospital or licensed nursing home;

(vi) Prescription drugs and other over-the-counter medication (including insulin) when prescribed or approved by a licensed practitioner or other qualified health professional;

(vii) The cost of medical supplies, sick-room equipment (including rental), or other prescribed equipment;

(viii) Dentures, hearing aids, prosthetics, and eyeglasses prescribed by an optometrist or physician skilled in eye disease;

(ix) Securing and maintaining a seeing eye dog including the cost of dog food and veterinarian bills;

(x) Reasonable cost of transportation and lodging to obtain medical treatment or services.

(b) Nonallowable expenses are:

(i) The cost of health and hospital insurance which pays in lump-sum settlements or which continue mortgage or loan payments while the beneficiary is disabled; and

(ii) The cost of special diets.

AMENDATORY SECTION (Amending Order 2078, filed 2/28/84)

WAC 388-54-745 INCOME-BUDGETING. (1) (~~(For mi-~~  
~~grants or seasonal farmworkers;)) Budget income (~~(to be counted in~~  
~~determining the basis of coupon issuance shall be determined using~~  
~~prospective budgeting)) for migrant households prospectively over the~~  
~~(entire)) certification period.~~~~

(2) (~~(For all)) Budget PA and SSI income prospectively over the~~  
~~certification period.~~

(3) Other households(~~(, income to be counted in determining the~~  
~~basis of coupon issuance)) shall be(~~(:~~~~

(a) ~~(Determined using prospective budgeting)) prospectively budget-~~  
~~ed in the beginning months(, except as provided in subsection (3) of~~  
~~this section;~~

(b) ~~(Determined using retrospective budgeting)) and retrospectively~~  
~~budgeted in months other than beginning months, except as provided~~  
~~in subsection (4) of this section.~~

~~((+)) (4) Average nonexcluded scholarships, deferred education~~  
~~loans, and other educational grants over the period of intended use.~~

(5) For prospective budgeting(~~(, the department shaft)):~~

(a) (~~(Count wages held at the request of the employee in the month~~  
~~wages would otherwise have been paid by the employer.~~

(b) ~~Convert income received on less than a monthly basis into a~~  
~~monthly amount based on 4.3 weeks per month.~~

(c) ~~At the option of the household, average income received less of-~~  
~~ten than monthly, except for destitute households and public assistance~~  
~~households subject to monthly reporting.~~

(d) ~~Notwithstanding subsection (3)(c) of this section, prorate the~~  
~~following income over the period of intended use:~~

(i) ~~Self-employment income, except for individuals who are on an~~  
~~hourly wage or are paid on a piecework basis)) Count income already~~  
~~received and which can be reasonably anticipated to be received by the~~  
~~household during the month of application. Count only the income~~  
~~which can be reasonably anticipated for the second beginning month.~~

(b) Budget income prospectively for the month a nonparticipating  
individual is added to the household and the following month when re-  
ported timely. Combine prospective budgeting for the nonparticipating  
individual with the method in effect for the rest of the household.

(c) Income from self-employment shall be considered according to  
WAC 388-54-750.

~~((+)) Income received by contract) (d) Average contractual in-~~  
~~come, except for migrant (s or seasonal farm workers)) households.~~

~~((+)) Nonexcluded scholarships, deferred educational loans, and~~  
~~other educational grants:~~

~~(4))~~ (6) For retrospective budgeting (~~the department shall~~):

(a) ~~(Determine coupon allotment using)~~ Use the household composition as of the last day of the report month.

(b) Disregard income received in ~~(the)~~ a beginning month(s) from a source which no longer provides income to the household. To be disregarded, income must have been included in the household's prospective budget. The disregard shall be for no more than one month.

(c) ~~(Prorate nonexcluded scholarships, deferred educational loans, and other educational grants over the period of intended use.~~

(d) ~~Determine coupon allotment and eligibility using the assistance grant to be received in the payment month of the FSMR cycle. In conjunction with the receipt of a public assistance grant, the department shall disregard income received in the report month from a source which no longer provides income to the household. PROVIDE: That the household has reported the termination of the income at least ten days prior to the start of the payment month.~~

(e) ~~When a household gains a member, the income to be counted for the new member shall be determined prospectively for the first two months the individual is added to the food stamp household.)~~ Disregard income received from a discontinued source by a nonassistance household member if that member applies for and begins to receive a PA grant. The household must have reported at least ten days prior to the start of the payment month.

(d) Use self-employment income from the corresponding report month.

(e) Count an AFDC corrective payment. An AFDC corrective payment is an AFDC warrant in addition to the regular monthly warrant. Budget only corrective payments which cover the current month. Disregard corrective payments received outside the month for which it is issued.

~~((5))~~ (7) When a participating household member establishes a new household, remove the member from the prior household and use the method of income budgeting that was in effect in the prior household.

(8) Budget income deductions (~~shall be determined~~) as follows:

(a) ~~(Under prospective budgeting:~~

(i) ~~Deductions shall be allowed only in the month the expense is billed or otherwise becomes due; amounts carried forward from past billing periods are not deductible, even if included with the most recent billing and actually paid by the household;~~

(ii) ~~A household may elect to have expenses which fluctuate or are billed less often than monthly, averaged over the period the expense is to cover;~~

(iii) ~~The department shall calculate a household's expenses on the basis of anticipated expenses.)~~ Medical, medical reimbursements, dependent care, and shelter will be anticipated in the beginning months.

(b) Under retrospective budgeting, the department shall ~~(calculate)~~ use a household's expenses (~~as billed or averaged~~) from the corresponding report month.

(c) A household may elect to have expenses which fluctuate or are billed less often than monthly, averaged over the period the expense is to cover.

#### AMENDATORY SECTION (Amending Order 1956, filed 4/6/83)

WAC 388-54-750 INCOME—SELF-EMPLOYMENT. ~~((+))~~ A household whose ~~(primary source of)~~ income is from self-employment (~~including self-employed farmers;~~) shall be certified according to this section.

(1) The department shall add all gross self-employment income including capital gains and exclude the cost of producing the self-employment income.

(2) For prospective budgeting average income to determine eligibility and payment levels in the beginning months as follows:

(a) Self-employment income which is received on a monthly basis but which represents a household's annual support shall normally be averaged over a twelve-month period. If, however, the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial increase or decrease in business, the department shall calculate the self-employment income based on anticipated earnings.

~~((2))~~ (b) Income which represents annual income and costs of producing that income are to be computed on a yearly basis and averaged evenly over twelve months to determine eligibility even if it is received in only a short period of time.

~~((+))~~ (c) Self-employment income which represents only a part of a household's annual support shall be averaged over the period of time the income is intended to cover.

~~((b))~~ (d) If a household's self-employment enterprise has been in existence for less than a year, this income shall be averaged over the period of time the business has been in operation and the monthly amount projected for the coming year.

(3) ~~(In determining monthly income from self-employment:~~

(a) The household may choose to determine the benefit level by using either the same net income which was used to determine eligibility or by unevenly prorating the household's total net income over the period for which the household's self-employment income was averaged. If income is prorated, the net income assigned in any month cannot exceed the maximum monthly income eligibility standards or net monthly income eligibility standards for the household's size.

(b) For the period of time over which self-employment income is determined, the department shall add all gross self-employment income (including capital gains), exclude the cost of producing the self-employment income and divide this income by the number of months over which the income will be averaged.

(c) For those households whose self-employment income is not averaged but is instead calculated on an anticipated basis, the department shall add any capital gains the household anticipates receiving in the next twelve months, starting with the date the application is filed and divide this amount by twelve. This amount shall be used in successive certification periods during the next twelve months, but recalculated should anticipated capital gains amounts change. The anticipated monthly amount of capital gains shall be added to the anticipated monthly self-employment income, and subtract the cost of producing the income. The cost of producing the self-employment income shall be calculated by anticipating the monthly allowable costs of producing the income.

(d) The monthly net self-employment income shall be added to any other earned income received by the household. The total monthly earned income less the eighteen percent earned income deduction shall then be added to all other monthly income received by the household. The standard deduction, dependent care, and shelter costs shall be computed as for any other household and subtracted to determine the adjusted monthly net income of the household.

~~((4))~~ For retrospective budgeting add all gross self-employment income including capital gains and subtract the cost of doing business from the corresponding report month.

(a) In calculating capital gains, the proceeds from the sale of capital goods or equipment shall be calculated in the same manner as a capital gain for federal income tax purposes. The department shall count the full amount of the capital gain as income (~~for food stamp purposes even if only fifty percent of the proceeds from the sale of capital goods or equipment is taxed for federal income tax purposes~~).

~~((5))~~ (b) Allowable costs of producing self-employment income include, but are not limited to, the identifiable costs of labor, stock, raw material, seed (~~and~~), fertilizer, interest paid to purchase income-producing property, insurance premiums, and taxes paid on income-producing property.

~~((6))~~ (c) The following items ~~(shall)~~ are not to be allowed as a cost of producing self-employment income:

~~((+))~~ (i) Payments on the principal of the purchase price of income producing real estate and capital assets, equipment, machinery, and other durable goods;

~~((b))~~ (ii) Net losses from previous periods; and

~~((e))~~ (iii) Federal, state and local income taxes, money set aside for retirement purposes, and other work-related personal expenses, such as transportation to and from work, as these expenses are accounted for by the eighteen percent earned income deduction specified.

~~((d))~~ (iv) Depreciation.

~~((7))~~ In assigning certification periods:

(a) Households that receive their annual support from self-employment and have no other source of income may be certified for up to twelve months;

(b) For those households that receive other sources of income or whose self-employment income is intended to cover a period of time that is less than a year, the department shall assign a certification period appropriate for the household's circumstances;

(c) For businesses which have been in operation for such a short time that there is insufficient data to make a reasonable projection, the household may be certified for less than a year until the business has been in operation long enough to base a longer projection.

(d) For those self-employed households that receive their annual income in a short period of time, the initial certification period shall be assigned to bring the household into the annual cycle.)

AMENDATORY SECTION (Amending Order 2077, filed 2/28/84)

WAC 388-54-760 CERTIFICATION PERIODS(~~(=DURATION)~~). (1) ~~((An))~~ Certify assistance households ~~((shall be assigned a certification))~~ for a period which coincides with the scheduled assistance review ~~or end of the assistance period, whichever is earlier.~~

(2) ~~((Nonassistance))~~ Certify households consisting ~~((solely))~~ of migrants ~~((and/or seasonal farmworkers shall be assigned a certification period of))~~ up to three months ~~((or less))~~.

(3) Certify households without earned income and all members are at least sixty years of age or receive SSA or SSI ~~((may be certified))~~ for up to twelve months.

(4) Certify households, where there is little likelihood of change~~((; shall be certified))~~ for ~~((up to))~~ six months.

(5) Certify households subject to monthly reporting ~~((shall be certified))~~ for six months ~~((or as provided in subsection (1) of this section))~~.

(6) Certify all other households ~~((shall be certified))~~ for up to three months.

AMENDATORY SECTION (Amending Order 2077, filed 2/28/84)

WAC 388-54-768 FOOD STAMP MONTHLY REPORTING. (1) As a condition of continuing eligibility for food stamps~~((; each))~~ certain recipients ~~((subject to food stamp monthly reporting))~~ 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))~~ monthly status report describes the household circumstances.

Recipients who must report monthly are:

(a) Food stamp households with earned income; or

(b) AFDC households subject to mandatory monthly reporting per WAC 388-24-044.

(2) Failure to return a completed ~~((MSR))~~ report 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 by the compliance date, the department shall:

(a) Accept the monthly status report; and

(b) Continue food stamps if the information on the monthly status report indicates the recipient is still eligible.

AMENDATORY SECTION (Amending Order 2077, filed 2/28/84)

WAC 388-54-775 CERTIFICATION PERIODS—EFFECTING CHANGES UNDER PROSPECTIVE BUDGETING. Changes occurring in the initial beginning month or changes for households consisting solely of migrants ~~((and/or seasonal farmworkers))~~ shall be effective as follows:

(1) ~~((Except as provided in subsection (2) of this section;))~~ An increase in benefits shall be effective not later than the first allotment issued ten days after the change was reported to the department, provided that the household has furnished the required verification. If verification is not provided within ten days from the date the change was reported, the increase in benefits shall be effective not later than the first allotment issued ten days after the verification is provided.

(2) An increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of fifty dollars or more in the household's gross monthly income shall be effective the month following the month in which the change is reported and required verification is provided.

(3) Decreases in the benefit level shall be made effective with the first allotment after the ten-day notice of adverse action has expired, provided a fair hearing and continuation of benefits have not been requested.

AMENDATORY SECTION (Amending Order 2077, filed 2/28/84)

WAC 388-54-776 CERTIFICATION PERIODS—EFFECTING CHANGES DURING THE CERTIFICATION PERIOD UNDER RETROSPECTIVE BUDGETING. Changes from a report month shall be effective in the corresponding payment month of the ~~((FSMR))~~ monthly reporting cycle except:

(1) The addition or deletion of a household member shall be effective as in WAC 388-54-775.

(2) Changes in the public assistance grant and supplemental security income which are to occur in the payment month shall be effective in the payment month. ~~((In conjunction with the receipt of a public assistance grant, the department shall disregard income received in the report month from a source which no longer provides income to the household. PROVIDED, That the household has reported the termination of the income at least ten days prior to the start of the payment month.))~~ See WAC 388-54-745 for AFDC corrective payments.

AMENDATORY SECTION (Amending Order 2032, filed 10/6/83)

WAC 388-54-820 FAIR HEARINGS—CONTINUATION OF BENEFITS PENDING. (1) The household is entitled to continuation of benefits if:

(a) The household requests a fair hearing within the period specified by the notice of adverse action;

(b) The household's certification period has not expired;

(c) The household has not waived continuation of benefits;

(d) A certification period expires and the household has made a timely application for a new certification period pending receipt of the fair hearing decision. The department shall determine eligibility on the basis of all eligibility requirements without regard to the matter at issue in the fair hearing;

(e) A completed timely monthly status report is submitted for each month of continued benefits if the household is subject to monthly reporting.

(2) If a hearing request is not made within the period provided by the notice of adverse action, benefits shall be reduced or terminated as provided in the notice, unless failure to make the request was for good cause. Once continued or reinstated, benefits shall not be reduced or terminated prior to receipt of the hearing decisions unless:

(a) The certification period expires; the household may reapply and may be determined eligible for a new certification period with a benefit amount as determined by the department;

(b) The ~~((presiding or review officer))~~ hearing official makes a preliminary determination in writing and at the hearing that ~~((good cause))~~ the sole issue is ~~((a matter of policy))~~ one of federal law or regulation and that the household's claim that the state agency improperly computed the benefits or misapplied such law or regulation is invalid;

(c) A change affecting the household's eligibility or basis of issuance occurs while the hearing decision is pending and the household fails to request a hearing after the subsequent notice of adverse action; or

(d) A mass change occurs while the hearing decision is pending.

(3) For households subject to monthly reporting:

(a) Continue benefits no later than five working days from the day the request for continued benefits is received;

(b) A household whose benefits have been continued shall file monthly reports;

(c) The department shall adjust the household's allotment according to verified changes reported on the monthly status report except for the factors on which the fair hearing is based.

(4) The department shall promptly inform the household in writing if benefits are reduced or terminated pending the hearing decision.

~~((4))~~ When benefits are reduced or terminated due to a mass change, participation on the prior basis shall be reinstated only if the issue being contested is food stamp eligibility or benefits were improperly computed or federal law or regulation is being misapplied or misinterpreted by the department.))

(5) If the department's action is upheld by the hearing decision, a claim against the household shall be established for all overissuances.

~~((6))~~ The department shall send an individual notice of the adverse action to each household receiving a reduction or termination in benefits during the certification period due to mass changes resulting from implementation of the Food Stamp Act of 1977. The notice of adverse action shall explain to the household the change is the result of changes in federal law and although the household has the right to request a fair hearing, benefits will be continued pending the fair hearing only if the household believes the eligibility or benefits level was computed incorrectly under the new law, or the new law is being misapplied or misinterpreted.))

**WSR 85-16-043**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Filed July 31, 1985]

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:

- Amd ch. 388-24 WAC Consolidated emergency assistance program (CEAP).  
 Amd WAC 388-29-270 Additional requirements for emergency situations—AFDC.

It is the intention of the secretary to adopt these rules on an emergency basis on or about July 29, 1985;

that the agency will at 10:00 a.m., Wednesday, September 11, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 18, 1985.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 335, Laws of 1985.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 11, 1985.

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

David A. Hogan, Director  
 Division of Administration and Personnel  
 Department of Social and Health Services  
 Mailstop OB 14  
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, at State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by August 28, 1985. The meeting site is in a location which is barrier free.

Dated: July 30, 1985

By: David A. Hogan, Director  
 Division of Administration and Personnel

#### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: WAC 388-24-250, 388-24-253, 388-24-254, 388-24-255, 388-24-260, 388-24-270 and 388-29-270.

Purpose of the Rule Change: To modify the consolidated emergency assistance program (CEAP) and additional requirements - emergent needs (AR-EN).

These rules are necessary to implement provisions of Substitute House Bill 396, chapter 335, Laws of 1985, which amend RCW 74.04.660 and to make AR-EN comparable to CEAP.

Statutory Authority: RCW 74.08.090.

Summary: To implement amendments to RCW 74.04.660; to maintain current expenditure levels; to comply with federal guidelines; and to make AR-EN comparable to CEAP. Changes include: Program eligibility is being expanded to include AFDC recipients; an income cutoff is being added to limit program participation. In order to qualify for CEAP, all households will need to have nonexempt income less than 50 percent of the AFDC standard of need for households with shelter costs; the treatment of nonrecurrent income is being changed. Nonrecurrent income received before the date of authorization will be considered as available; maximums are being updated to reflect current levels; and AR-EN is being expanded (slightly) to be comparable to CEAP.

Person Responsible for Drafting, Implementation and Enforcement of the Rule Change: Jay Emry, Program Manager, Division of Income Assistance, mailstop OB-31J, phone 753-4910.

These rules are not necessary as a result of federal law, federal court decision, or state court decision.

#### AMENDATORY SECTION (Amending Order 1704, filed 9/25/81)

WAC 388-24-250 CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM—CONDITIONS OF ELIGIBILITY. Effective ~~((July 1, 1984))~~ July 28, 1985, the consolidated emergency assistance program (CEAP) shall be granted to families with dependent children who meet all of the following eligibility conditions:

(1) Have monthly income less than fifty percent of the need standard for AFDC households with shelter costs.

(2) Are in financial need ((as defined in subsequent sections of this chapter)).

~~((2))~~ Have not been certified as eligible for, are not receiving, or are not having their needs met by AFDC, SSI, GAU or refugee assistance.

(3) Are experiencing one or more of the following emergent needs:

- (a) Food.
- (b) Shelter.
- (c) Clothing.
- (d) Minor medical.
- (e) Utilities.
- (f) Household maintenance.

(g) Necessary clothing or transportation costs to accept or maintain a job.

(h) Transportation for a minor, not in foster care, to a home where care will be provided by family members or approved caretakers.

(4) Are taking all steps necessary to make themselves eligible for AFDC, SSI, ~~((GAU or))~~ GA-U, refugee assistance, medical assistance for CEAP applicants requesting emergent medical care, and food stamps for those CEAP applicants requesting emergent food assistance.

(5) Are not under sanction for failure to comply with the eligibility requirements of AFDC, SSI, ~~((GAU))~~ GA-U, refugee assistance, medical assistance for CEAP applicants requesting emergent medical care, or food stamps for CEAP applicants requesting emergent food assistance. ~~((AFDC and GAU applicants who are waiting for an incapacity decision to be made may be granted CEAP prior to the date of the eligibility determination for AFDC or GAU.))~~

(6) Are residents of Washington state. A resident is a person who is living in the state voluntarily with the intention of making and maintaining his or her home in the state and not for a temporary purpose; that is, a person who has indicated no intention of presently leaving the state to take up residence.

(7) Have not transferred property contrary to WAC 388-28-457 through 388-28-465.

(8) Are registered for employment with the Washington department of employment security (DES). Persons are exempt from registration if they are:

- (a) Ill or incapacitated; or
- (b) Needed in the home to care for an incapacitated person in the household; or

- (c) A needy caretaker relative or parent of a child under the age of six who is caring for the child; or
- (d) Under sixteen; or
- (e) AFDC, ~~((GAU))~~ GA-U applicants who are waiting for an incapacity determination to be made; or
- (f) Sixty years of age or older.
- (9)(a) Have not refused a bona fide job offer without good cause within thirty days prior to application or after application.
- (b) Have not voluntarily terminated employment without good cause within thirty days prior to application or after application.
- (c) Refusal of a bona fide offer of employment or voluntary termination without good cause within thirty days prior to application or after application shall result in a period of ineligibility of thirty days or until the person accepts employment, whichever period is less:
  - (i) The period of ineligibility shall begin on the date of refusal or termination of employment;
  - (ii) Conditions which constitute good cause for refusal or termination of employment are defined in WAC ~~((388-57-025(7)))~~ 388-57-064(7).
- (10) Have applied for unemployment compensation if potentially eligible.
- (11) Have completed an interview with employment and training staff when referred.

**NEW SECTION**

WAC 388-24-253 EXEMPT INCOME AND RESOURCES. In determining financial need and the amount of assistance in CEAP, the following shall be disregarded as income and resources:

- (1) A home: WAC 388-28-420 shall apply in determining whether real property is used as a home;
- (2) A used and useful vehicle with an equity value not to exceed one thousand five hundred dollars;
- (3) Used and useful household furnishings;
- (4) Used and useful personal effects;
- (5) Tools and equipment used and useful in the person's occupation;
- (6) Livestock, the products of which are consumed by the applicants and his or her dependents;
- (7) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- (8) The value of the coupon allotment under the Food Stamp Act of 1977, as amended;
- (9) Any compensation provided to volunteers in ACTION programs established by Titles II and III of P.L. 93-113, the Domestic Volunteer Service Act of 1973;
- (10) Any compensation provided volunteers in ACTION programs established by Title I of P.L. 93-113, the Domestic Volunteer Service Act;
- (11) Any benefits received under the women, infants and children program (WIC) of the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended;
- (12) Payments made under the Community Services Administration's Emergency Energy Conservation Program of 1979; and
- (13) Energy assistance payments.

**NEW SECTION**

WAC 388-24-254 DETERMINING INCOME FOR CEAP. In determining income for CEAP, the following shall be considered:

- (1) Recurrent income shall be considered available in the month it will be received provided:
  - (a) Income not yet received by the time of application, but expected to start during the month, shall be considered as nonrecurrent; and
  - (b) The last income from a recurring source shall be counted if it is expected to be received on or after the date of application.
- (2) Nonrecurrent income shall be considered available in the month it will be received provided the income is received prior to authorization.

**AMENDATORY SECTION** (Amending Order 1704, filed 9/25/81)

WAC 388-24-255 CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM (CEAP)—FINANCIAL NEED AND BENEFIT AMOUNTS. ~~((Determination of))~~ In determining financial need and benefit amounts, the following shall be considered:

- (1) ~~((Exempt resources and income. The following types of property shall be exempt in determination of financial need:~~

- ~~(a) A home: WAC 388-28-420 shall apply in determining whether real property is used as a home;~~
- ~~(b) A used and useful vehicle with an equity value not to exceed one thousand five hundred dollars;~~
- ~~(c) Used and useful household furnishings;~~
- ~~(d) Used and useful personal effects;~~
- ~~(e) Tools and equipment used and useful in the person's occupation;~~
- ~~(f) Livestock, the products of which are consumed by the applicant and his dependents.~~
- ~~(2) Nonexempt resources and income:))~~ All income, cash, marketable securities, and personal and real property not specifically exempted in this section shall be considered nonexempt in determination of financial need.

~~((3) Computation of grant amount, treatment of income and resources:~~

- ~~(a))~~ (2) Income ~~((received regularly))~~, cash on hand ~~((if not already counted as income))~~, and the value of other nonexempt resources at the time of grant authorization shall be deducted from the amount required to meet the emergent need subject to payment maximums ~~((if the amount of income or cash is less than the applicant's emergent needs for the certification period))~~.

- (a) If the amount of income, cash on hand ~~((is))~~, and nonexempt resources are the same as or ~~((is))~~ are greater than the applicant's needs for the certification period, the applicant shall be ineligible.

- (b) ~~((Income received after application and before grant authorization shall be deducted from the emergent need payment limit, or from the amount required to meet the emergent need if that amount is less than the payment maximum.~~

- ~~(c))~~ A value shall be placed on all other nonexempt resources available to the applicant at the time of grant authorization in accordance with WAC 388-28-400.

- ~~((i) If the value of available nonexempt resources is greater than the applicant's needs for the certification period, the applicant shall be ineligible.~~

- ~~((ii) If the value of available nonexempt resources is less than the applicant's needs for the certification period, the amount of the value shall be deducted from the grant.~~

~~(4) These rules shall be effective July 1, 1981.)~~

**AMENDATORY SECTION** (Amending Order 1910, filed 11/18/82)

WAC 388-24-260 CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM—CERTIFICATION PERIOD. CEAP may be authorized for no more than one calendar month in any period of twelve consecutive calendar months.

- (1) Each certification period ~~((can not))~~ cannot exceed one calendar month.
- (2) A specified emergent ~~((need(s)))~~ need or needs must exist for the period of eligibility.
- (3) CEAP may not be paid to persons who received emergency assistance ~~((under previous emergency assistance programs))~~ from the department within the last twelve months.

**AMENDATORY SECTION** (Amending Order 1910, filed 11/18/82)

WAC 388-24-270 CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM (CEAP)—GRANT STANDARDS. (1) CEAP requirements shall be paid in the amount necessary to meet allowable emergent needs ~~((under the CEAP program, with the issuance of not more than one hundred percent of the payment standard for any month:))~~ not to exceed the following ~~((are))~~ payment maximums:

| Number in Household     | Maximum                |
|-------------------------|------------------------|
| 1                       | <del>((288))</del> 304 |
| 2                       | <del>((365))</del> 385 |
| 3                       | <del>((451))</del> 476 |
| 4                       | <del>((531))</del> 561 |
| 5                       | <del>((612))</del> 646 |
| 6                       | <del>((693))</del> 731 |
| 7                       | <del>((802))</del> 847 |
| 8 or more               | <del>((887))</del> 936 |
| <del>((9</del>          | 887                    |
| <del>10 (or more)</del> | 887))                  |

- (2) The following are individual monthly payment maximums for the allowable emergent need items payable under the CEAP program. These limits may not be exceeded for individual need items. If more

than one emergent need exists, the total payment for all needs may not exceed the standards in subsection (1) of this section.

|                  | 1     | 2   | 3   | 4   | 5   | 6   | 7   | 8<br>(or more) |
|------------------|-------|-----|-----|-----|-----|-----|-----|----------------|
| Food             | (150) | 190 | 236 | 277 | 320 | 362 | 419 | 463            |
|                  | 166   | 210 | 260 | 306 | 352 | 400 | 462 | 511            |
| Shelter          | (159) | 202 | 249 | 293 | 338 | 383 | 443 | 491            |
|                  | 186   | 235 | 291 | 342 | 394 | 447 | 516 | 571            |
| Clothing         | (21)  | 26  | 33  | 38  | 44  | 50  | 58  | 64             |
|                  | 22    | 27  | 34  | 40  | 46  | 52  | 60  | 67             |
| Minor Medical    | (54)  | 67  | 80  | 100 | 120 | 139 | 157 | 174            |
|                  | 128   | 162 | 201 | 236 | 272 | 308 | 356 | 394            |
| Utilities        | (32)  | 40  | 50  | 59  | 68  | 77  | 88  | 98             |
|                  | 43    | 55  | 68  | 80  | 92  | 105 | 121 | 134            |
| Household Maint. | (27)  | 34  | 42  | 49  | 56  | 64  | 74  | 82             |
|                  | 54    | 69  | 85  | 100 | 115 | 131 | 151 | 167            |

Clothing and transportation - as needed not to exceed the grant maximum.

**AMENDATORY SECTION** (Amending Order 1877, filed 9/17/82)

WAC 388-29-270 ADDITIONAL REQUIREMENTS FOR EMERGENT SITUATIONS—AFDC. (1) Additional requirements shall be allowed in the following emergent situations (~~in no instances is the payment under this section to exceed one month's payment standard as set in WAC 388-29-100 for renting, owning, or buying~~) in which, for good cause, a recipient does not have adequate funds to:

(a) ~~((To))~~ Secure housing and necessary clothing in the event of a natural disaster such as flood or fire and relief is not available under WAC 388-53-010 et seq.;

(b) ~~Prevent~~ imminent eviction, where a formal notice of eviction or notice to pay or vacate has been received, and only in an amount needed to prevent the eviction or to secure new housing ~~(but only if the basis of eviction is not a delinquency in payment resulting from a fault of the client)~~;

(c) ~~Correct~~ a sudden malfunction resulting in loss of heat, water, electricity, or cooking facilities and the recipient is legally responsible for the repairs and winterization funds are not available; limited to actual costs of repairs or replacement when there is no other alternative;

(d) ~~Obtain new housing when the premises contains a verifiable material defect jeopardizing the occupant's health and safety and the landlord or owner fails or refuses to correct the defect within the time allowed by law.~~

(e) ~~((A notice of))~~ Prevent an impending utility shutoff ~~((issued by the company providing the service, and only in the amount needed to prevent))~~ when a notice of impending shutoff ~~((;))~~ has been received or it is otherwise verified by the CSO that the applicant or recipient is without necessary fuel for heating or cooking and only in the amount to meet the emergent need ~~((Assistance is limited to situations where the emergent need occurred due to conditions beyond the control of the recipient))~~;

~~((f))~~ (f) Obtain new housing for needs caused by an abusive spouse. Payments will be limited to:

(i) Established fees paid to shelters especially for abused spouses ~~((;))~~, or

(ii) The amount necessary to obtain new housing.

~~((f))~~ (g) Repair an inoperable vehicle ~~((which is))~~ necessary to continue employment and where public transportation is not available; limited to actual costs of repairs.

(h) Obtain food, when no other resource is available.

(2) ~~((Emergency assistance as defined in WAC 388-24-260, shall be provided to AFDC recipients from another state when it is determined that such individuals are detained in Washington for reasons beyond their control and as a result of events which could not have been reasonably anticipated or they have decided to become residents))~~ For the purposes of this section, good cause means the emergent situation did not occur as a result of deliberate neglect by the applicant or recipient. Good cause may be established when the department determines funds ordinarily available to meet need are no longer available because of:

(a) Stolen proceeds from cashed warrants.

(b) Payment for necessities for:

(i) Medical bills;

(ii) Child care in an emergency;

(iii) Avoiding abuse;

(iv) Dental care for alleviation of pain or to obtain employment;

(v) Needs identified in subsections (1)(a) through (h) of this section; provided the actions of the applicant or recipient were reasonable under the circumstances. A recipient will be presumed to have acted reasonably when the amount expended for necessities does not exceed the amount specified in WAC 388-29-112. Other cases shall be determined on a case-by-case basis. If the amount in WAC 388-29-112 is exceeded, the department will make a judgment regarding reasonability.

(3) In no instance is the payment under this section to exceed one month's payment standard as set in WAC 388-29-100 for renting, owning, or buying.

**WSR 85-16-044**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 2260—Filed July 31, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd ch. 388-24 WAC Consolidated emergency assistance program (CEAP).

Amd WAC 388-29-270 Additional requirements for emergency situations—AFDC.

I, David A. Hogan, find that an emergency exists and that this 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 the emergency is these rules are necessary to implement chapter 335, Laws of 1985.

These 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 Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 29, 1985.

By David A. Hogan, Director  
 Division of Administration and Personnel

**AMENDATORY SECTION** (Amending Order 1704, filed 9/25/81)

WAC 388-24-250 CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM—CONDITIONS OF ELIGIBILITY. Effective ~~((July 1, 1981))~~ July 28, 1985, the consolidated emergency assistance program (CEAP) shall be granted to families with dependent children who meet all of the following eligibility conditions:

(1) Have monthly income less than fifty percent of the need standard for AFDC households with shelter costs.

(2) Are in financial need ~~((as defined in subsequent sections of this chapter))~~.

~~((2) Have not been certified as eligible for, are not receiving, or are not having their needs met by AFDC, SSI, GAU or refugee assistance.))~~

(3) Are experiencing one or more of the following emergent needs:

- (a) Food.
- (b) Shelter.
- (c) Clothing.
- (d) Minor medical.
- (e) Utilities.
- (f) Household maintenance.
- (g) Necessary clothing or transportation costs to accept or maintain a job.

(h) Transportation for a minor, not in foster care, to a home where care will be provided by family members or approved caretakers.

(4) Are taking all steps necessary to make themselves eligible for AFDC, SSI, ~~((GAU or))~~ GA-U, refugee assistance, medical assistance for CEAP applicants requesting emergent medical care, and food stamps for those CEAP applicants requesting emergent food assistance.

(5) Are not under sanction for failure to comply with the eligibility requirements of AFDC, SSI, ~~((GAU))~~ GA-U, refugee assistance, medical assistance for CEAP applicants requesting emergent medical care, or food stamps for CEAP applicants requesting emergent food assistance. ~~((AFDC and GAU applicants who are waiting for an incapacity decision to be made may be granted CEAP prior to the date of the eligibility determination for AFDC or GAU.))~~

(6) Are residents of Washington state. A resident is a person who is living in the state voluntarily with the intention of making and maintaining his or her home in the state and not for a temporary purpose, that is, a person who has indicated no intention of presently leaving the state to take up residence.

(7) Have not transferred property contrary to WAC 388-28-457 through 388-28-465.

(8) Are registered for employment with the Washington department of employment security (DES). Persons are exempt from registration if they are:

- (a) Ill or incapacitated; or
- (b) Needed in the home to care for an incapacitated person in the household; or
- (c) A needy caretaker relative or parent of a child under the age of six who is caring for the child; or
- (d) Under sixteen; or
- (e) AFDC, ~~((GAU))~~ GA-U applicants who are waiting for an incapacity determination to be made; or
- (f) Sixty years of age or older.

(9)(a) Have not refused a bona fide job offer without good cause within thirty days prior to application or after application.

(b) Have not voluntarily terminated employment without good cause within thirty days prior to application or after application.

(c) Refusal of a bona fide offer of employment or voluntary termination without good cause within thirty days prior to application or after application shall result in a period of ineligibility of thirty days or until the person accepts employment, whichever period is less:

(i) The period of ineligibility shall begin on the date of refusal or termination of employment;

(ii) Conditions which constitute good cause for refusal or termination of employment are defined in WAC ~~((388-57-025(7)))~~ 388-57-064(7).

(10) Have applied for unemployment compensation if potentially eligible.

(11) Have completed an interview with employment and training staff when referred.

#### NEW SECTION

WAC 388-24-253 EXEMPT INCOME AND RESOURCES. In determining financial need and the amount of assistance in CEAP, the following shall be disregarded as income and resources:

(1) A home: WAC 388-28-420 shall apply in determining whether real property is used as a home;

(2) A used and useful vehicle with an equity value not to exceed one thousand five hundred dollars;

(3) Used and useful household furnishings;

(4) Used and useful personal effects;

(5) Tools and equipment used and useful in the person's occupation;

(6) Livestock, the products of which are consumed by the applicants and his or her dependents;

(7) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(8) The value of the coupon allotment under the Food Stamp Act of 1977, as amended;

(9) Any compensation provided to volunteers in ACTION programs established by Titles II and III of P.L. 93-113, the Domestic Volunteer Service Act of 1973;

(10) Any compensation provided volunteers in ACTION programs established by Title I of P.L. 93-113, the Domestic Volunteer Service Act;

(11) Any benefits received under the women, infants and children program (WIC) of the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended;

(12) Payments made under the Community Services Administration's Emergency Energy Conservation Program of 1979; and

(13) Energy assistance payments.

#### NEW SECTION

WAC 388-24-254 DETERMINING INCOME FOR CEAP. In determining income for CEAP, the following shall be considered:

(1) Recurrent income shall be considered available in the month it will be received provided:

(a) Income not yet received by the time of application, but expected to start during the month, shall be considered as nonrecurrent; and

(b) The last income from a recurring source shall be counted if it is expected to be received on or after the date of application.

(2) Nonrecurrent income shall be considered available in the month it will be received provided the income is received prior to authorization.

AMENDATORY SECTION (Amending Order 1704, filed 9/25/81)

WAC 388-24-255 CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM (CEAP)—FINANCIAL NEED AND BENEFIT AMOUNTS. ~~((Determination of))~~ In determining financial need and benefit amounts, the following shall be considered:

(1) ~~((Exempt resources and income. The following types of property shall be exempt in determination of financial need:~~

- ~~(a) A home. WAC 388-28-420 shall apply in determining whether real property is used as a home;~~
- ~~(b) A used and useful vehicle with an equity value not to exceed one thousand five hundred dollars;~~
- ~~(c) Used and useful household furnishings;~~
- ~~(d) Used and useful personal effects;~~
- ~~(e) Tools and equipment used and useful in the person's occupation;~~
- ~~(f) Livestock, the products of which are consumed by the applicant and his dependents.~~

~~(2) Nonexempt resources and income:))~~ All income, cash, marketable securities, and personal and real property not specifically exempted in this section shall be considered nonexempt in determination of financial need.

~~((3) Computation of grant amount, treatment of income and resources.~~

~~(a))~~ (2) Income ~~((received regularly)),~~ cash on hand ~~(if not already counted as income),~~ and the value of other nonexempt resources at the time of grant authorization shall be deducted from the amount required to meet the emergent need subject to payment maximums ~~((if the amount of income or cash is less than the applicant's emergent needs for the certification period)).~~

(a) If the amount of income, cash on hand ~~((is)),~~ and nonexempt resources are the same as or ~~((is))~~ are greater than the applicant's needs for the certification period, the applicant shall be ineligible.

(b) ~~((Income received after application and before grant authorization shall be deducted from the emergent need payment limit, or from the amount required to meet the emergent need if that amount is less than the payment maximum.~~

(c)) A value shall be placed on all other nonexempt resources available to the applicant at the time of grant authorization in accordance with WAC 388-28-400.

~~((i) If the value of available nonexempt resources is greater than the applicant's needs for the certification period, the applicant shall be ineligible.~~

~~((ii) If the value of available nonexempt resources is less than the applicant's needs for the certification period, the amount of the value shall be deducted from the grant:~~

~~(4) These rules shall be effective July 1, 1981.))~~

AMENDATORY SECTION (Amending Order 1910, filed 11/18/82)

WAC 388-24-260 CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM—CERTIFICATION PERIOD. CEAP may be authorized for no more than one calendar month in any period of twelve consecutive calendar months.

(1) Each certification period ~~((can not))~~ cannot exceed one calendar month.

(2) A specified emergent ~~((need(s)))~~ need or needs must exist for the period of eligibility.

(3) CEAP may not be paid to persons who received emergency assistance ~~((under previous emergency assistance programs))~~ from the department within the last twelve months.

AMENDATORY SECTION (Amending Order 1910, filed 11/18/82)

WAC 388-24-270 CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM (CEAP)—GRANT STANDARDS. (1) CEAP requirements shall be paid in the amount necessary to meet allowable emergent needs ~~((under the CEAP program, with the issuance of not more than one hundred percent of the payment standard for any month.))~~ not to exceed the following ~~((are))~~ payment maximums:

| Number<br>in Household  | Maximum                |
|-------------------------|------------------------|
| 1                       | <del>((288))</del> 304 |
| 2                       | <del>((365))</del> 385 |
| 3                       | <del>((451))</del> 476 |
| 4                       | <del>((531))</del> 561 |
| 5                       | <del>((612))</del> 646 |
| 6                       | <del>((693))</del> 731 |
| 7                       | <del>((802))</del> 847 |
| 8 or more               | <del>((887))</del> 936 |
| <del>((9</del>          | <del>887</del>         |
| <del>10 (or more)</del> | <del>887))</del>       |

(2) The following are individual monthly payment maximums for the allowable emergent need items payable under the CEAP program. These limits may not be exceeded for individual need items. If more than one emergent need exists, the total payment for all needs may not exceed the standards in subsection (1) of this section.

|                  | 1                | 2              | 3              | 4              | 5              | 6              | 7              | 8<br>(or more)   |
|------------------|------------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------|
| Food             | <del>((150</del> | <del>190</del> | <del>236</del> | <del>277</del> | <del>320</del> | <del>362</del> | <del>419</del> | <del>463))</del> |
|                  | 166              | 210            | 260            | 306            | 352            | 400            | 462            | 511              |
| Shelter          | <del>((159</del> | <del>202</del> | <del>249</del> | <del>293</del> | <del>338</del> | <del>383</del> | <del>443</del> | <del>491))</del> |
|                  | 186              | 235            | 291            | 342            | 394            | 447            | 516            | 571              |
| Clothing         | <del>((21</del>  | <del>26</del>  | <del>33</del>  | <del>38</del>  | <del>44</del>  | <del>50</del>  | <del>58</del>  | <del>64))</del>  |
|                  | 22               | 27             | 34             | 40             | 46             | 52             | 60             | 67               |
| Minor Medical    | <del>((54</del>  | <del>67</del>  | <del>80</del>  | <del>100</del> | <del>120</del> | <del>139</del> | <del>157</del> | <del>174))</del> |
|                  | 128              | 162            | 201            | 236            | 272            | 308            | 356            | 394              |
| Utilities        | <del>((32</del>  | <del>40</del>  | <del>50</del>  | <del>59</del>  | <del>68</del>  | <del>77</del>  | <del>88</del>  | <del>98))</del>  |
|                  | 43               | 55             | 68             | 80             | 92             | 105            | 121            | 134              |
| Household Maint. | <del>((27</del>  | <del>34</del>  | <del>42</del>  | <del>49</del>  | <del>56</del>  | <del>64</del>  | <del>74</del>  | <del>82))</del>  |
|                  | 54               | 69             | 85             | 100            | 115            | 131            | 151            | 167              |

Clothing and transportation – as needed not to exceed the grant maximum.

AMENDATORY SECTION (Amending Order 1877, filed 9/17/82)

WAC 388-29-270 ADDITIONAL REQUIREMENTS FOR EMERGENT SITUATIONS—AFDC.

(1) ~~Additional requirements shall be allowed in the following emergent situations (— In no instances is the payment under this section to exceed one month's payment standard as set in WAC 388-29-100 for renting, owning, or buying:)~~ in which, for good cause, a recipient does not have adequate funds to:

(a) ~~((F))~~ Secure housing and necessary clothing in the event of a natural disaster such as flood or fire and relief is not available under WAC 388-53-010 et seq.;

(b) Prevent imminent eviction, where a formal notice of eviction or notice to pay or vacate has been received, and only in an amount needed to prevent the eviction or to secure new housing (— but only if the basis of eviction is not a delinquency in payment resulting from a fault of the client);

(c) Correct a sudden malfunction resulting in loss of heat, water, electricity, or cooking facilities and the recipient is legally responsible for the repairs and winterization funds are not available, limited to actual costs of repairs or replacement when there is no other alternative;

(d) Obtain new housing when the premises contains a verifiable material defect jeopardizing the occupant's health and safety and the landlord or owner fails or refuses to correct the defect within the time allowed by law.

(e) ~~((A notice of))~~ Prevent an impending utility shut-off (— issued by the company providing the service, and only in the amount needed to prevent) when a notice of impending shutoff(;) has been received or it is otherwise verified by the CSO that the applicant or recipient is without necessary fuel for heating or cooking and only in the amount to meet the emergent need (— Assistance is limited to situations where the emergent need occurred due to conditions beyond the control of the recipient));

(f) ~~((F))~~ Obtain new housing for needs caused by an abusive spouse. Payments will be limited to:

(i) Established fees paid to shelters especially for abused spouses(;), or

(ii) The amount necessary to obtain new housing.

(g) ~~((F))~~ Repair an inoperable vehicle (— which is) necessary to continue employment and where public transportation is not available, limited to actual costs of repairs.

(h) Obtain food, when no other resource is available.

(2) ~~((Emergency assistance as defined in WAC 388-24-260, shall be provided to AFDC recipients from another state when it is determined that such individuals are detained in Washington for reasons beyond their control and as a result of events which could not have been reasonably anticipated or they have decided to become residents))~~ For the purposes of this section, good cause means the emergent situation did not occur as a result of deliberate neglect by the applicant or recipient. Good cause may be established when the department determines funds ordinarily available to meet need are no longer available because of:

(a) Stolen proceeds from cashed warrants.

(b) Payment for necessities for:

(i) Medical bills;

(ii) Child care in an emergency;

(iii) Avoiding abuse;

(iv) Dental care for alleviation of pain or to obtain employment;

(v) Needs identified in subsections (1)(a) through (h) of this section; provided the actions of the applicant or recipient were reasonable under the circumstances. A recipient will be presumed to have acted reasonably when the amount expended for necessities does not exceed the amount specified in WAC 388-29-112. Other cases shall be determined on a case-by-case basis. If the amount in WAC 388-29-112 is exceeded, the department will make a judgment regarding reasonability.

(3) In no instance is the payment under this section to exceed one month's payment standard as set in WAC 388-29-100 for renting, owning, or buying.

## WSR 85-16-045

### ADOPTED RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

#### (Public Assistance)

[Order 2261—Filed July 31, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to suspension of grant, amending WAC 388-33-355.

This action is taken pursuant to Notice No. WSR 85-13-009 filed with the code reviser on June 7, 1985. These rules shall take effect thirty days after they are filed with the code reviser 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 the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 31, 1985.

By David A. Hogan, Director  
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 1792, filed 4/14/82)

WAC 388-33-355 SUSPENSION OF GRANT.

(1) A suspension action is taken when:

(a) A general assistance recipient has income sufficient to meet his or her maintenance requirements for more than one but not to exceed two months, or

(b) The amount of the monthly grant following the budgeting of income or deduction to make restitution on an overpayment is less than ten dollars per month, or

(c) The recipient has entered or is in an institution and his or her income is equal to or exceeds his or her grant requirements but is less than his or her grant requirements plus medical costs and/or nursing home or intermediate care, or

(d) An AFDC or RA recipient receives an extra paycheck because of an extra week in a month which makes them ineligible for one month, or

(e) A general assistance grant recipient has entered a state mental hospital; Western State Hospital, Eastern State Hospital, or PORTAL program.

(2) A suspended grant shall be reinstated when the conditions in subsection (1) of this section cease to exist and the recipient is otherwise eligible.

(3) A suspended grant shall be terminated as provided in WAC 388-33-370.

~~((4) The rules in this section shall be effective February 1, 1982.))~~

**WSR 85-16-046**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 2262—Filed July 31, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 388-82-115 Special categories eligible for medical assistance.

Amd WAC 388-83-028 Eligibility factors for special categories.

This action is taken pursuant to Notice No. WSR 85-13-057 filed with the code reviser on June 18, 1985. These rules shall take effect thirty days after they are filed with the code reviser 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 the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 31, 1985.

By David A. Hogan, Director  
 Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2231, filed 5/15/85)

WAC 388-82-115 SPECIAL CATEGORIES ELIGIBLE FOR MEDICAL ASSISTANCE. (1) Persons who, in August 1972, received OAA, AB, AFDC, or APTD, and also received RSDI benefits, and who became ineligible for OAA, AB, AFDC or APTD solely because of the twenty percent increase in Social Security benefits under Public Law 92-336, shall be eligible for medicaid as categorically needy. The provision applies to both current cash applicants and recipients.

(2) Applicants for SSI or AFDC who were entitled to RSDI benefits in August 1972, and would have been ineligible solely because of the Social Security benefits under Public Law 92-336 shall have the twenty percent increase disregarded in determining financial eligibility.

(3) An AFDC family unit which becomes ineligible solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance (MA) for four calendar months beginning with the month of ineligibility provided that:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility.

(b) A member of such family continues to be employed, and

(c) The family is otherwise eligible for AFDC except for increased hours or increased income from employment.

(d) Earned income tax credits (EITC) must be considered as income for purposes of this subsection.

(4) Current recipients of Title II, SSA benefits who ~~((become))~~:

(a) Were concurrent recipients of Title II and SSI benefits; and

(b) Became ineligible for SSI benefits and/or state supplementary payments after April 1, 1977, ((solely because of OASDI)); and

(c) Would be eligible for SSI benefits but for Title II cost-of-living benefit increases under Public Law 94-566, section 503, shall ((remain)) be categorically eligible for medical assistance (MA). Any subsequent OASDI cost-of-living benefit increase shall be disregarded for eligibility. For institutionalized recipients, the amount subsequently is considered in the cost of institutional care. ((This disregard does not apply to:

(a) ~~New applicants (i.e., who were not receiving SSI/SSP prior to increase).~~

(b) ~~Persons who were not actually receiving SSI/SSP payments for some other reason.~~

(c) ~~Persons who would have received SSI/SSP if they had applied.~~

(d) ~~Persons who would have received SSI/SSP if they were not living in a medical or intermediate care facility.))~~

(5) Certain recipients of SSI, after January 1, 1981, will continue to be eligible for medical assistance (MA) under Public Law 96-265.

(6) Pregnant women, with no other eligible children, ineligible for AFDC cash assistance solely because they have not reached the sixth month of pregnancy shall be eligible for Medicaid as categorically needy.

(7) Individuals who are denied AFDC cash payments solely by reason of recovery of overpayment shall be eligible for Medicaid as categorically needy.

(8) A child under five years of age, born after September 30, 1983, and who meets the income and resource requirements of AFDC financial assistance shall be eligible for Medicaid as categorically needy.

(9) Family units which are terminated from AFDC financial assistance solely because of the loss of the thirty dollars plus one-third or the thirty-dollar income exemptions shall remain categorically eligible for medical assistance for nine calendar months beginning with the month of ineligibility for AFDC provided that:

(a) The family unit was terminated on or after October 1, 1984.

(b) Family units terminated prior to October 1, 1984, may be eligible for nine months of medicaid beginning with the month of application if they meet the following conditions:

(i) The family unit must apply for medical assistance.  
 (ii) The family unit must demonstrate that, if the income exemptions had been applied, the family unit would have been eligible for each month for AFDC from the time of termination of AFDC to the time of application for medical assistance.

(iii) The family unit must disclose any health insurance coverage in effect for members of the assistance unit.

(10) A child born to a woman eligible for and receiving medical assistance on the date of the child's birth, shall be eligible for medical assistance on the date of birth and shall remain eligible for a period of one year if:

(a) The child remains a member of the mothers household; and

(b) The mother remains eligible for medical assistance; and

(c) The child was born on or after October 1, 1984.

(11) Family units which become ineligible for AFDC financial assistance as a result (wholly or partly) of the collection or increased collection of child or spousal support shall be eligible for medical assistance for four months beginning with the month of such ineligibility; provided that the family unit:

(a) Received AFDC financial assistance in at least three of the six months immediately preceding the month of such ineligibility; and

(b) Became ineligible for AFDC during or after the month of August 1984 and prior to October 1, 1988.

(12) Other pregnant women who meet the income and resource requirements of AFDC financial assistance shall be eligible for medical assistance as categorically needy.

(13) Individuals denied AFDC or SSI cash assistance solely because of deeming of income of alien sponsors.

#### AMENDATORY SECTION (Amending Order 2074, filed 2/1/84)

WAC 388-83-028 ELIGIBILITY FACTORS FOR SPECIAL CATEGORIES. (1) Cash recipients of OAA, AB or APTD who became ineligible because of the twenty percent increase in RSDI benefits in August 1972, must have that increase disregarded in determining current eligibility. If the sole reason for their income exceeding the cash standard is the August 1972, increase, then they are categorically eligible for Medicaid. Medicaid eligibility determinations for this group must include this factor.

(2) Persons who were eligible under federal cash assistance programs (AFDC, OAA, AB or APTD) but were not receiving assistance, and would have been ineligible solely because of the August 1972, RSDI twenty percent increase shall have the twenty percent increase disregarded in determining financial eligibility.

(3) An AFDC family unit which becomes ineligible solely because of increased hours or increased income from employment shall remain categorically eligible for

medical assistance (MA) for four calendar months beginning with the month of ineligibility provided that:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility,

(b) A member of such family continues to be employed, and

(c) The family is otherwise eligible for AFDC except for increased hours or increased income from employment.

(d) Earned income tax credits (EITC) must be considered as income for purposes of this subsection.

(4) Current recipients of Title II, SSA benefits who ((become)):

(a) Were concurrent recipients of Title II and SSI benefits; and

(b) Became ineligible for SSI benefits and/or state supplementary payments ((solely because of OASDI cost-of-living benefit increases received)) after April 1977((:)); and

(c) Would be eligible for SSI benefits but for Title II cost-of-living benefit increases under Public Law 94-566, section 503, shall ((remain)) be categorically eligible for medical assistance (MA). Any subsequent OASDI cost-of-living benefit increase shall be disregarded for eligibility. For institutionalized recipients, the amount subsequently is considered in the cost of institutional care. ((This disregard does not apply to:

(a) New applicants (i.e., who were not receiving SSI/SSP prior to increase);

(b) Persons who were not actually receiving SSI/SSP payments for some other reason;

(c) Persons who would have received SSI/SSP if they had applied;

(d) Persons who would have received SSI/SSP if they were not living in a medical or intermediate care facility; etc.))

(5) Persons who were "grandfathered" into SSI January 1, 1974, and continue to meet the definition in chapter 388-80 WAC are eligible for medical assistance. Termination and reapplication does not reinstate the "grandfathered" status. Program and eligibility factors are described in chapter 388-93 WAC.

**WSR 85-16-047**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 2263—Filed July 31, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to eligibility determination medically needy in own home, amending WAC 388-99-020.

This action is taken pursuant to Notice No. WSR 85-13-011 filed with the code reviser on June 7, 1985. These rules shall take effect thirty days after they are

filed with the code reviser 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 the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 31, 1985.

By David A. Hogan, Director  
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2206, filed 2/13/85)

WAC 388-99-020 ELIGIBILITY DETERMINATION—MEDICALLY NEEDY IN OWN HOME. (1) The medically needy income level (MNIL) shall be:

|                              |                   |
|------------------------------|-------------------|
| (a) One person               | \$ 364            |
| (b) Two persons              | \$ ((526))<br>517 |
| (c) Three persons            | \$ 544            |
| (d) Four persons             | \$ 561            |
| (e) Five persons             | \$ 646            |
| (f) Six persons              | \$ 731            |
| (g) Seven persons            | \$ 847            |
| (h) Eight persons            | \$ 936            |
| (i) Nine persons             | \$ 1,028          |
| (j) Ten persons<br>and above | \$ 1,117          |

(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 for the base period. The base period shall be the three-month or six-month period which corresponds to the certification period, see WAC 388-99-055.

(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, where more than one assistance unit exists, determine income for the AFDC related assistance unit according to subsection (2) of this section, and for the SSI related assistance unit according to subsection (3) of this section.

WSR 85-16-048

ADOPTED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 2264—Filed July 31, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Food stamps—Income—Eligibility, amending WAC 388-54-730.

This action is taken pursuant to Notice No. WSR 85-13-058 filed with the code reviser on June 18, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.04.510 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 31, 1985.

By David A. Hogan, Director  
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2140, filed 8/15/84)

WAC 388-54-730 INCOME—ELIGIBILITY STANDARDS. ((Participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting the household to obtain a more nutritious diet.))

(1) Eligibility shall be determined on the basis of gross income and net food stamp income, except those households containing a member sixty years of age or over, or a member receiving Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act, or disability and blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act, or is a veteran or a surviving disabled spouse or a surviving disabled child as defined by WAC 388-54-665(2)(b).

The gross income eligibility standards shall be one hundred thirty percent of the office of management and budget's (OMB) nonfarm income poverty guidelines.

Effective July 1, ((1984)) 1985,  
Gross Monthly Income Eligibility Standards Table

| Household Size         | Monthly Standards |
|------------------------|-------------------|
| 1                      | \$ ((540)) 569    |
| 2                      | ((728)) 764       |
| 3                      | ((917)) 959       |
| 4                      | ((1,105)) 1,154   |
| 5                      | ((1,294)) 1,349   |
| 6                      | ((1,482)) 1,544   |
| 7                      | ((1,671)) 1,739   |
| 8                      | ((1,859)) 1,934   |
| Each additional person | + ((189)) 195     |

Effective July 1, ((1984)) 1985,  
Net Monthly Income Eligibility Standards Table

| Household Size         | Maximum Allowable Net Income |
|------------------------|------------------------------|
| 1                      | \$ ((415)) 438               |
| 2                      | ((560)) 588                  |
| 3                      | ((705)) 738                  |
| 4                      | ((850)) 888                  |
| 5                      | ((995)) 1,038                |
| 6                      | ((1,140)) 1,188              |
| 7                      | ((1,285)) 1,338              |
| 8                      | ((1,430)) 1,488              |
| Each additional member | + ((145)) 150                |

(2) Disabled individuals, sixty years of age or older, residing with others, must have the other members meet the following monthly income eligibility standard table. For definition of elderly and disabled, refer to WAC 388-54-665(1)(d).

Effective July 1, ((1984)) 1985,  
Elderly((?)) and Disabled Separate Household Income Eligibility Standards Table

| Household Size         | Maximum Gross Monthly Income Elderly((?)) and Disabled Separate Household |
|------------------------|---|
| 1                      | \$ ((685)) 722  |
| 2                      | ((924)) 970   |
| 3                      | ((1,164)) 1,217   |
| 4                      | ((1,403)) 1,465   |
| 5                      | ((1,642)) 1,712   |
| 6                      | ((1,881)) 1,960   |
| 7                      | ((2,121)) 2,207   |
| 8                      | ((2,360)) 2,455   |
| Each additional member | + ((240)) 248   |

WSR 85-16-049  
ADOPTED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)

[Order 2265—Filed July 31, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Standards of assistance—Basic requirements, amending WAC 388-29-100.

This action is taken pursuant to Notice No. WSR 85-13-083 filed with the code reviser on June 19, 1985. These rules shall take effect thirty days after they are filed with the code reviser 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 the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 31, 1985.

By David A. Hogan, Director  
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2215, filed 3/13/85)

WAC 388-29-100 STANDARDS OF ASSISTANCE—BASIC REQUIREMENTS. (1) Effective ((July 1, 1984)) July 1, 1985, the state-wide monthly need standards for basic requirements are:

(a) Household with shelter costs.

| Recipients in Household | Need Standard   |
|-------------------------|-----------------|
| 1                       | \$ ((491)) 497  |
| 2                       | ((621)) 628     |
| 3                       | ((768)) 777     |
| 4                       | ((904)) 914     |
| 5                       | ((1,041)) 1,053 |
| 6                       | ((1,182)) 1,195 |
| 7                       | ((1,365)) 1,381 |
| 8                       | ((1,511)) 1,528 |
| 9                       | ((1,659)) 1,678 |
| 10 or more              | ((1,803)) 1,823 |

(b) Household with supplied shelter.

The monthly standard for supplied shelter includes requirements for food, clothing, personal maintenance and necessary incidentals, household maintenance, and transportation.

| Recipients in Household | Need Standard |
|-------------------------|---------------|
| 1                       | \$ 181        |
| 2                       | 263           |
| 3                       | 348           |
| 4                       | 433           |

| Recipients in Household | Need Standard |
|-------------------------|---------------|
| 5                       | 518           |
| 6                       | 603           |
| 7                       | 688           |
| 8                       | 773           |
| 9                       | 858           |
| 10 or more              | 943           |

(2) Effective ((November 1, 1984)) July 1, 1985, one hundred eighty-five percent of the state-wide monthly need standard for basic requirements is:

(a) Household with shelter costs.

| Recipients in Household | 185% of Need Standard |
|-------------------------|-----------------------|
| 1                       | \$ ((908))<br>919     |
| 2                       | ((1,149))<br>1,162    |
| 3                       | ((1,421))<br>1,437    |
| 4                       | ((1,672))<br>1,691    |
| 5                       | ((1,926))<br>1,948    |
| 6                       | ((2,187))<br>2,211    |
| 7                       | ((2,525))<br>2,555    |
| 8                       | ((2,795))<br>2,827    |
| 9                       | ((3,069))<br>3,104    |
| 10 or more              | ((3,336))<br>3,373    |

(b) Household with supplied shelter.

| Recipients in Household | 185% of Need Standard |
|-------------------------|-----------------------|
| 1                       | \$ 335                |
| 2                       | 487                   |
| 3                       | 644                   |
| 4                       | 801                   |
| 5                       | 958                   |
| 6                       | 1,116                 |
| 7                       | 1,273                 |
| 8                       | 1,430                 |
| 9                       | 1,587                 |
| 10 or more              | 1,745                 |

(3) Effective ((July 1, 1984)) July 1, 1985, the state-wide monthly payment standard ((reflecting a ratable reduction of 37.9 percent of the need standards)) shall be:

(a) Payment standards for households with shelter costs reflecting a ratable reduction of 38.6 percent of need standards.

| Recipients in Household | Payment Standard |
|-------------------------|------------------|
| 1                       | \$ 304           |
| 2                       | 385              |
| 3                       | 476              |
| 4                       | 561              |
| 5                       | 646              |
| 6                       | 731              |
| 7                       | 847              |
| 8                       | 936              |
| 9                       | 1,028            |
| 10 or more              | 1,117            |

(b) Payment standards for households with supplied shelter reflecting the need standard.

The monthly payment standard for supplied shelter includes requirements for food, clothing, personal maintenance and necessary incidentals, transportation, and household maintenance.

| Recipients in Household | Payment Standard |
|-------------------------|------------------|
| 1                       | \$ 181           |
| 2                       | 263              |
| 3                       | 348              |
| 4                       | 433              |
| 5                       | 518              |
| 6                       | 603              |
| 7                       | 688              |
| 8                       | 773              |
| 9                       | 858              |
| 10 or more              | 943              |

**WSR 85-16-050**

**PROPOSED RULES**

**DEPARTMENT OF LICENSING**

**(Board of Nursing)**

[Filed July 31, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Nursing intends to adopt, amend, or repeal rules concerning the advanced practice of nursing by registered nurses, amending WAC 308-120-170, 308-120-300, 308-120-305, 308-120-315, 308-120-325, 308-120-335, 308-120-345, 308-120-360, 308-120-365, 308-120-400, 308-120-410, 308-120-420, 308-120-430, 308-120-440, 308-120-450 and repealing WAC 308-120-355.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 6, 1985.

The authority under which these rules are proposed is RCW 18.88.080.

The specific statute these rules are intended to implement is RCW 18.88.080.

This notice is connected to and continues the matter in Notice No. WSR 85-07-067 filed with the code reviser's office on March 20, 1985.

Dated: July 30, 1985  
 By: Constance Roth, R.N., Ed.D.  
 Executive Secretary

**WSR 85-16-051**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed July 31, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Licensing intends to adopt, amend, or repeal rules concerning:

|     |                  |  |
|-----|------------------|--|
| Amd | WAC 308-124C-020 | Required records.  |
| Amd | WAC 308-124E-011 | Administration of funds held in trust.                                 |
| New | WAC 308-124F-040 | Standards for professional associations and educational organizations. |
| Amd | WAC 308-124H-010 | Approval of real estate courses to satisfy clock hour requirements.    |
| Amd | WAC 308-124H-020 | Administration.  |
| Amd | WAC 308-124H-030 | Filing of courses.   |
| Amd | WAC 308-124H-040 | Approval of courses.   |
| Amd | WAC 308-124H-045 | Recordkeeping.   |
| Amd | WAC 308-124H-060 | Teachers and/or instructors.   |
| New | WAC 308-124H-065 | Inspection of records.   |
| New | WAC 308-124H-080 | Courses for license activation.  |
| Rep | WAC 308-124H-032 | Course eligibility;  |

that the agency will at 10:00 a.m., Friday, September 27, 1985, in the Evergreen and Rainier Rooms, Doric Tacoma Motor Hotel, 242 St. Helens Avenue, Tacoma, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.85.040.

The specific statute these rules are intended to implement is RCW 18.85.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 27, 1985.

Written or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the hearing or in response to written or oral comments received before or during the hearing.

The agency may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

Robert A. Salerno  
 Department of Licensing  
 Real Estate Division  
 P.O. Box 247  
 Olympia, WA 98504  
 753-6681

Dated: July 31, 1985  
 By: Robert Salerno  
 Administrator

## STATEMENT OF PURPOSE

Title and Numbers of Rule Section(s) or Chapter(s):  
 See above.

Statutory Authority for Adopting Rules and Specific Statutes that the Rules are Intended to Implement: The proposed new rules, amendatory rules, and the repealed rule are proposed under authority of RCW 18.85.040 and intended to implement RCW 18.85.040.

Summary of Rules: WAC 308-124C-020 is for the purpose of updating recordkeeping requirements to bring the requirements into conformity with real estate industry practice; 308-124E-011 is for the purpose of updating administration of trust funds due to the increasing use of computers and computerized bank transfers by the real estate industry; 308-124F-040 is for the purpose of providing notice to persons seeking lists of licensees pursuant to RCW 42.17.260(5) of the items to be provided for recognition as a professional association or educational organization; 308-124H-010 is for the purpose of updating the required education for licensure as a result of new 1985 legislation, chapter 162, Laws of 1985; 308-124H-020 is for the purpose of deleting non-competition language for course approval and adding language pertaining to recognition of out-of-state courses; 308-124H-030 is for the purpose of changing the minimum required hours of classroom work; 308-124H-040 is for the purpose of clarifying notice requirements for changes in course content, materials, instructors or instruction location; 308-124H-045 is for the purpose of providing follow-up information to the department on courses which were approved; 308-124H-060 is for the purpose of clarifying instructor eligibility requirements and use of guest instructors; 308-124H-065 is for the purpose of permitting follow-up visits to ensure courses are complying as approved; 308-124H-080 is for the purpose of implementing chapter 162, Laws of 1985; and 308-124H-032 is repealed for purposes of deleting a rule which is unnecessary.

Reasons Supporting the Proposed Rules: WAC 308-124C-020 will update the recordkeeping procedures to be more consistent with industry practices; 308-124E-011 will update the administration of trust fund requirements to be consistent with increasing usage of computers and computerized banking; 308-124F-040 will assist persons who wish to obtain lists of licensees pursuant to RCW 42.17.260(5); 308-124H-010 is necessitated by chapter 162, Laws of 1985; 308-124H-020 will assist in the recognition of out-of-state courses and deletion of noncompetition language; 308-124H-030 will change the minimum hours of classroom work; 308-124H-040 will clarify ambiguous language; 308-124H-045 will assist in ensuring that courses are taught as approved; 308-124H-060 will clarify instructor eligibility requirements and use of guest instructors; 308-124H-065 will assist in ensuring that courses are taught as approved; 308-124H-080 is necessitated by chapter 162, Laws of 1985; and 308-124H-032 will delete an unnecessary rule.

Agency Personnel Responsible for the Drafting, Implementation and Enforcement of the Rule: Theresa Anna Aragon, Director, Department of Licensing, 4th

Floor, Highways-Licenses Building, Olympia, WA 98504, 234-5029 scan, 753-5029 comm; Ms. Joan Baird, Assistant Director, Business and Professions, 1st Floor, Eastside Plaza Building, 1300 Quince Street, Olympia, WA 98502, 234-2241 scan, 753-2241 comm; and Mr. Robert A. Salerno, Administrator, Real Estate Division, 3rd Floor, Eastside Plaza Building, 1300 Quince Street, Olympia, WA 98502, 234-6681 scan, 753-6681 comm.

Name of Person or Organization that is Proposing These Rules: Department of Licensing.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to These Rules: Most of these rules are necessary in order to specify sufficient details for implementing basic administrative operations under chapter 18.85 RCW.

These rules are not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or Their Purpose: None.

The department has reviewed the impact that the adoption of these rules would have on real estate brokers and salespersons and schools offering real estate courses. Real estate brokers and salespersons are most appropriately classed in SIC Code 6531. They account for more than 10 percent of the firms and individuals in this area. They are less than 20 percent of all firms and individuals in all industries. Cost for small business is estimated to be zero. Any impact that these proposed rules may have is intended to fall equally on all real estate brokers and salespersons. Schools offering real estate courses are most appropriately classed in SIC Code 8299. As such, they account for less than 10 percent of the firms and individuals in this area. Also, they are less than 20 percent of all firms and individuals in all industries. Finally, any impact that these proposed rules may have is intended to fall equally on all schools offering real estate courses.

#### AMENDATORY SECTION (Amending Order 130, filed 8/13/82)

WAC 308-124C-020 REQUIRED RECORDS. The minimum real estate records the real estate broker shall be required to keep are as follows:

- (1) Bank trust account records;
- (a) Duplicate receipt book or cash receipts journal recording all receipts;
- (b) Prenumbered checks with check register, cash disbursements journal or check stubs;
- (c) Validated duplicate bank deposit slips;
- (d) Client's accounting ledger summarizing all moneys received and all moneys disbursed for each real estate or business opportunity transaction or each property management account, contract or mortgage collection account;
- (e) In conjunction with (d) above, separate ledger sheets for each tenant (including security deposit), lessee, vendee or mortgagor;
- (f) Reconciled bank statements and canceled checks for all trust bank accounts.
- (2) Other records:
  - (a) A transaction folder containing all agreements, contracts, documents, leases, closing statements and correspondence for each real estate or business opportunity transaction, and for each rental, lease, contract or mortgage collection account;
  - (b) Reconciled bank statements and cancelled checks for all bank accounts of the real estate firm;

(c) The original lease document may be maintained "on-site" for those brokers who utilize the services of a resident manager: PROVIDED, That a source document is maintained at the brokers office which contains the information filled in the blank spaces by the tenant and resident manager;

(d) The original lease document may be maintained at a branch office: PROVIDED, That a source document is maintained at the main office which contains the information filled in the blank spaces by the tenant and property manager.

#### AMENDATORY SECTION (Amending Order 130, filed 8/13/82)

WAC 308-124E-011 ADMINISTRATION OF FUNDS HELD IN TRUST. Any real estate broker who receives funds or moneys from any principal or any party to a real estate transaction, property management agreement, or collection agreement shall hold the funds or moneys in trust for the purposes of the transaction or agreement, and shall not utilize such funds or moneys for the benefit of the broker or any person not entitled to such benefit. Except as specifically provided in this section, funds or moneys received in trust shall be deposited in a Washington state banking institution approved by the banking division, department of general administration, state of Washington, or successor. The broker is responsible for depositing, holding, disbursing and accounting for funds in trust as provided herein.

(1) Bank accounts shall be designated as trust accounts in the firm name of the real estate broker as licensed. Trust bank accounts shall be noninterest-bearing demand deposit accounts, except as follows:

(a) Interest-bearing trust bank accounts containing funds pertaining to an individual real estate or business opportunity transaction may be established by the broker if directed by written agreement signed by the principals to the transaction and specifying the manner of distribution of accumulated interest to the parties to the transaction.

(b) Interest-bearing trust bank accounts or dividend-earning investment accounts containing only funds held on behalf of an individual owner of income property managed by the broker may be established by the broker when directed by written management agreement or directive signed by the owner: PROVIDED, That all interest or earnings shall accrue to the owner.

(c) Interest-bearing trust bank accounts containing only damage or security deposits received from tenants of residential income properties managed by the broker for an individual owner may be established by the broker when directed by written management agreement, and the interest on such trust bank accounts may be paid to the owner (landlord), if the broker is by written agreement designated as "representative of the landlord" under the provisions of RCW 59.18.270, Residential Landlord-Tenant Act.

(d) Interest credited to a clients account must be recorded as a liability on client ledger. Interest assigned or credited to the broker may not be paid to the trust account. The broker is responsible to make arrangements with the financial institution to credit this interest to the general account of the firm, (or other account as agreed).

(e) The broker is not required to establish individual interest-bearing accounts for each owner when all owners assign the interest to the broker.

(f) A common account, usually referred to as a "clearing account" may be established if desired. (Primarily used in property management operations). No funds which belong to the broker or firm shall be maintained in this account.

(2) The broker shall establish and maintain a system of records and procedures approved by the director that provide an audit trail accounting for all funds received and disbursed, identified to the account of each individual client. Records and procedures described herein meet approval requirements. Any alternative records or procedures proposed for use by a broker shall be approved in advance by the real estate division, department of licensing.

(3) The real estate broker shall be responsible for deposits, disbursements or transfers of clients' funds received and held in trust, whether disbursed by personal signature, signature plate or signature of another person authorized to act on the broker's behalf.

(4) All funds or moneys received for any reason pertaining to the sale, renting, leasing or option of real estate or business opportunities or contract or mortgage collections shall be deposited in the broker's real estate trust bank account not later than the first banking day following receipt thereof; except

(a) Checks received as earnest money deposits when the earnest money agreement states that a check is to be held for a specified length of time or until the occurrence of a specific event; and

(b) Checks, funds or moneys received as rent, contract payments or mortgage payments on real estate or business opportunities, contracts or mortgages owned exclusively by the real estate broker or the broker's real estate firm.

(5) All checks, funds or moneys received shall be identified by the day received and by the amount, source and purpose on either a cash receipts journal or duplicate receipt retained as a permanent record.

(6) All deposits to the trust bank account shall be documented by duplicate deposit slip, validated by bank imprint or (~~attached deposit receipt~~) electronic transfer memo identifying the source of funds and transaction to which it applies. Receipt of funds by wire transfer are to be posted in the same manner as other receipts provided there is a traceable identifying number provided by the financial institution or transferring entity. The broker must also make arrangements for a follow-up "hard-copy" receipt for the deposit.

(7) An individual client's ledger sheet shall be established and maintained for each client for whom funds are received in trust, to which ledger sheet all receipts and disbursements shall be posted. The credit entries must show the date of deposit, amount of deposit, and item covered (e.g., "earnest money deposit," "down payment," "rent," "damage deposit," "rent deposit"). The debit entries must show the date of the check, check number, amount of the check, name of payee and item covered. The "item covered" entry may indicate a code number per chart of accounts, or may be documented by entry in a cash receipts journal, cash disbursements journal, or check voucher.

(8) The real estate trust bank account balance must be equal at all times to the outstanding trust liability to clients. The balance shown in the check register or bank control account must equal the total liability to clients (the sum of credit balances of all individual clients' ledger sheets).

(9) The broker shall be responsible for preparation of a monthly trial balance of the client's ledger, reconciling the ledger with both the trust account bank statement and the trust account check register or bank control account.

(10) All disbursements of trust funds shall be made by check, or electronic transfer, drawn on the real estate trust bank account and identified thereon to a specific real estate or business opportunity transaction. The number of each check, amount, date, payee, items covered and the specific client's ledger sheet debited must be shown on the check stub or check register and all data must agree exactly with the check as written.

(a) The preauthorization of disbursements or deductions by the financial institution for recurring expenses such as mortgage payments on behalf of the owner is not permitted if the account contains tenant security deposits or funds belonging to more than one client.

(b) No disbursement from the trust account shall be made based upon wire transfer receipts until the deposit has been verified.

(c) The broker must make arrangements with the financial institution in which the trust account is located to provide a follow-up "hard-copy" debit memo when funds are disbursed via wire transfer.

(d) The broker shall retain in the transaction file a copy of instructions signed by the owner of funds to be wire-transferred which identifies the receiving entity and account number.

(11) Voided checks written on the trust bank account shall be permanently defaced and shall be retained.

(12) A separate check shall be drawn on the real estate trust bank account, payable to the broker as licensed, for each commission earned, after the final closing of the real estate or business opportunity transaction. Each commission check shall be identified to the transaction to which it applies. Property management activities shall not be considered "transactions" for this purpose. Therefore a single check may be drawn in payment of all property management fees and commissions, if such check is supported by a schedule of commissions identified to each individual client. Property management commissions shall be withdrawn at least once monthly.

(13) Commissions owed to another real estate broker may be paid from the real estate trust bank account. Those commissions shall be paid promptly upon receipt of funds. Commissions shared with another broker are a reduction of the gross commissions received.

(14) No deposits to the real estate trust bank account shall be made of funds:

(a) That belong to the real estate broker or the real estate firm, including funds to "open" the bank account or to keep the account from being "closed;" or

(b) That do not pertain to a client's real estate or business opportunity sales transaction or are not received in connection with a client's rental, contract or mortgage collection account.

(15) No disbursements from the real estate trust bank account shall be made:

(a) For items not pertaining to a specific real estate or business opportunity transaction or a rental, contract or mortgage collection account;

(b) In advance of the closing of a real estate or business opportunity transaction or before the happening of a condition set forth in the earnest money agreement, to any person or for any reason, without a written release from both the purchaser and the seller; except that

(i) If the agreement terminates according to its own terms prior to closing, disbursement of funds shall be made as provided by the agreement without a written release; and

(ii) Funds may be disbursed to the escrow agent designated in writing by the purchaser and seller to close the transaction, reasonably prior to the date of closing in order to permit checks to clear;

(c) Pertaining to a specific real estate or business opportunity transaction or a rental, contract or mortgage collection account in excess of the actual amount held in the real estate trust bank account in connection with that transaction or collection account;

(d) In payment of a commission owed to any person licensed to the real estate broker or in payment of any business expense of the broker. Payment of commissions to persons licensed to the broker or of any business expense of the broker shall be paid from the regular business bank account of the broker;

(e) For bank charges of any nature, including bank services, checks or other items. Bank charges are business overhead expenses of the broker. Arrangements must be made with the bank to have any such charges applicable to the real estate trust bank account charged to the broker's regular business bank account, or to provide a separate monthly statement of bank charges so that they may be paid from the broker's business bank account; or

(f) Of funds received as a damage or security deposit on a lease or rental contract for property managed by the broker to the landlord or any other person without the written agreement of the tenant, until the end of the tenancy when the funds are to be disbursed to the person or persons (tenant, landlord, or assigns) entitled to the funds as provided by the terms of the rental or lease agreement and consistent with the provisions of RCW 59.18.270, Residential Landlord-Tenant Act, or other appropriate statute.

(16) The provisions of this chapter are applicable to manual or computerized accounting systems. For clarity, the following is addressed for computer systems:

(a) The system must provide for a capability to back-up all data files.

(b) Receipt and check registers will be printed at least once monthly (thirty-one days) and retained as a permanent record. Reconciliation and trial balance will be accomplished at least once monthly, printed and retained as a permanent record.

(c) The broker will maintain a printed, dated source document file to support any changes to existing accounting records.

(d) If the program has the ability to write checks, the check number must be preprinted on the check or retained voucher copy by the supplier (printer). The program may, if desired assign suffixes or subaccount codes before or after the check number for identification purposes.

(e) The check number must appear in the magnetic coding (usually at the bottom of the check) which also identifies the account number for readability by the financial institution computer.

#### NEW SECTION

WAC 308-124F-040 STANDARDS FOR PROFESSIONAL ASSOCIATIONS AND EDUCATIONAL ORGANIZATIONS. Standards for a professional association or an educational organization to obtain recognition by the real estate commission for the purpose of securing printed lists of individual real estate salesperson and broker licensees.

The professional association or educational organization must submit the following information.

(1) A corporate entity must furnish certification that they are a nonprofit corporation as defined in chapter 24.03 RCW.

(a) Domestic corporation

(i) Certificate of incorporation; or

(ii) Certificate of elective coverage.

(b) A foreign corporation must have a certificate of authority.

(2) Noncorporate entities must submit all of the following items which they have.

(a) Current business license in the city or county in which they are located.

(b) Certificate of registration with the Washington state commission for vocational education.

(c) Department of revenue registration, or other acceptable proof that they are a lawful business under the laws of the state of Washington.

(3) An executed affidavit agreeing to protect the list of licensees from being used for commercial purposes.

(4) The real estate commission will then review and approve or disapprove each application based upon the information received.

Recognition of a professional association or educational organization shall not be denied solely on the basis that such association or organization has been in lobbying activities.

**AMENDATORY SECTION** (Amending Order RE 125, filed 10/23/78)

WAC 308-124H-010 APPROVAL OF REAL ESTATE COURSES TO SATISFY CLOCK HOUR REQUIREMENTS. RCW 18.85.090 (~~and~~), 18.85.095, and 18.85.215 set forth requirements that applicants for real estate broker's license examinations (~~and/or~~), real estate salesperson's first license, second renewal of real estate salesperson's license(s) or license activation after three or more years of inactive status, furnish proof to the director that they have successfully completed a specified number of clock hours of instruction in real estate education. The course(s) must be approved pursuant to this chapter. The thirty-clock hours for salespersons second renewal must be initiated and completed after the date of first license: PROVIDED, That requirements for salespersons created by section 8, chapter 139, Laws of 1972 ex. sess., shall apply to any person licensed as a salesperson on or after May 23, 1972. The purposes of this chapter are to set forth the conditions under which an applicant may meet these educational requirements and the conditions which must be met and the procedure which must be followed if an educational course is to gain approval.

**AMENDATORY SECTION** (Amending Order 130, filed 8/13/82)

WAC 308-124H-020 ADMINISTRATION. (1) Each application from a private school, individual or agency seeking approval or consideration of courses shall designate one person responsible for administration of the real estate school. The school administrator shall file with the real estate administrator evidence showing previous experience in administration of educational institutions, courses or programs, or previous experience in administration of business activities related to education or to the field of real estate in which instruction will be offered. In the case of a public community college, university, or vocational technical school, the head of the real estate department shall be conclusively presumed to meet the (~~forgoing~~) requirements.

(2) Any school, individual or agency requesting approval or consideration of courses shall not apply to itself, either as part of its name or in any manner, the designation of "college" or "university" unless it, in fact, meets the standards and qualifications of and has been approved by the state agency having jurisdiction.

(3) (~~No person operating a school or acting as an instructor in an approved school shall in any way whatsoever use the school or course, directly or indirectly, to recruit real estate sales staff. Schools shall not use the trade name of any real estate brokerage firm, or any part thereof, nor shall classes be conducted in the offices of any real estate brokerage firm. The intent of this subparagraph is to ensure that no real estate broker or brokerage firm shall gain an unfair advantage over his or her colleagues by conducting a school for salespeople.~~) Course requirements for clock-hour credit from schools in other states may be accepted if in the opinion of the director with the advice of the commission they are similar to requirements in this chapter.

(4) Real estate educational courses offered by national institutions with uniform scope and quality of representation may be approved regardless of the course location and instructors used.

**AMENDATORY SECTION** (Amending Order 130, filed 8/13/82)

WAC 308-124H-030 FILING OF COURSES. Each proprietary school, individual, association or agency seeking approval of courses, shall apply to the administrator on a prescribed form. Courses shall meet the following requirements:

(1) Each course shall include at least one text book that is in general circulation or other instructional materials approved by the commission.

(2) Each course must add to the practical knowledge of the real estate practitioner.

(3) Each course must be supervised or under the direction of at least one natural person who meets the qualifications of WAC 308-124H-060.

(4) Each course must deal with substantive real estate subject matter such as, but not limited to, legal aspects of real estate, real estate principles and practices, real estate finance, appraising, deposit receipts and earnest money agreements. General sales motivation courses will not qualify.

(5) Each course must require a comprehensive examination or examinations and a final grade.

(6) Each course must require a minimum of (~~thirty~~) seven and one-half hours of classroom work for the student; a classroom hour is a period of fifty minutes of actual classroom or workshop instruction. The time allotted for examinations shall not be applicable toward the minimum hours of course study.

**AMENDATORY SECTION** (Amending Order RE 129, filed 2/10/81)

WAC 308-124H-040 APPROVAL OF COURSES. Each proprietary school, individual, association or agency seeking approval of a course or courses shall be required to file an application, on forms provided by the director, with the real estate administrator at least thirty days prior to the date of a regular meeting of the real estate commission. Applications which are completed and filed in a timely manner will be reviewed by the commission for recommendation to the director for consideration of approval or disapproval. The commission may recommend approval of courses solely for the broker requirement or solely for the second renewal requirement.

The director, with the advice of the real estate commission, may deny a course of instruction which, in the opinion of the director, does not meet the requirements of this chapter or meet the needs of the majority of licensees.

Upon approval or disapproval of a course or courses, the applicant will be so advised in writing by the director.

Any changes in (~~course content, material, or~~) the directors or ownership of schools must be submitted to the administrator within twenty days from date of such change for referral to the director and real estate commission for consideration of continued approval.

Any changes in course content or material must be submitted to the administrator no later than twenty days prior to the date of such change for referral to the director and the real estate commission for approval of the change.

Any change in qualified course instructors, or instruction location must be submitted to the administrator (~~prior to~~) for approval by the director before implementing such change(~~for approval by the director~~).

Approval may be withdrawn if the school or course is not conducted in accordance with this chapter or chapter 18.85 RCW, or the school, or its owners, managers or employees, directly or indirectly, solicits information from applicants for a real estate license following the administration of any real estate examination to discover the content of and/or answer to any examination question or questions.

**AMENDATORY SECTION** (Amending Order RE 129, filed 2/10/81)

WAC 308-124H-045 RECORDKEEPING. Upon approval of a course or courses, each proprietary school, individual, association or agency shall, for a period of six years, establish and maintain for each student a complete, accurate and detailed record which shall include the student's attendance, total number of hours of instruction undertaken, and completed areas of study in real estate subjects prescribed by these regulations.

Upon request, a copy of these records shall be made available to the director or student for purposes of determining whether the student has satisfied the provisions of RCW 18.85.090 and/or 18.85.095.

Each approved school shall furnish to the real estate division the date and time of all scheduled offerings, along with a sample of the advertising and promotional materials to be used and a map giving directions to the school. On a monthly basis the school shall submit a schedule of all clock-hour offerings for the next month. In the event of

a cancellation, change in place, time or date, immediate notification shall be made to the real estate division.

Each school conducting an offering shall within the ten days following the end of the month in which they have conducted courses, submit to the real estate division, on a form prescribed by the division a listing of those individuals who were enrolled in the offering, with the grades and other information which may be required.

It shall be the responsibility of the proprietary school, individual, association or agency to furnish each student with a grade report or transcript showing name of course, final grade, number of clock hours earned, and beginning and ending dates of each course attended.

#### AMENDATORY SECTION (Amending Order 130, filed 8/13/82)

**WAC 308-124H-060 TEACHERS AND/OR INSTRUCTORS.** Each course of instruction herein being considered for approval shall be under the supervision of a qualified teacher or instructor who shall be present in the classroom at all sessions: PROVIDED, That if the instructional methods include use of pre-recorded audio and visual instructional materials, presentation shall be under the supervision of a monitor who shall be present in the classroom at all sessions and a qualified teacher or instructor who shall at the minimum be available by telephone to respond to specific questions from students during the time the school is open for instructional purposes.

Each teacher or instructor shall be competent in the field of real estate they propose to teach and in techniques of instruction. Competency shall be evidenced by the following experience or education:

(1) Two years of experience in the area of real estate which that person proposes to teach, or completion of equivalent courses of study in that area of real estate, if approved by the director; and

(2) One year of teaching experience approved by the director or at least eight hours in training in teaching techniques approved by the director.

(3) ~~((This amendment shall take effect on January 1, 1983.))~~ A designated real estate instructor (DREI) shall be deemed to meet the competency requirements of subsections (1) and (2) of this section.

Guest instructors may be used provided that an approved instructor is also present during the classroom sessions. Guest instruction shall not exceed twenty-five percent of the total number of classroom hours.

#### NEW SECTION

**WAC 308-124H-065 INSPECTION OF RECORDS.** A duly authorized designee of the director of the department of licensing may inspect any offering and/or the records of the school at any time during a class presentation or during reasonable office hours.

#### NEW SECTION

**WAC 308-124H-080 COURSES FOR LICENSE ACTIVATION.** The course(s) for renewal of a license that has been inactive for three or more years cannot be the same course(s) used for second renewal requirements.

The course(s) for renewal of a license that has been inactive for three or more years cannot be the same course(s) used for prelicense requirements for broker's examination.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-124H-032 COURSE ELIGIBILITY.

**WSR 85-16-052**  
**EMERGENCY RULES**  
**DEPARTMENT OF LICENSING**  
**(Podiatry Board)**  
[Order PL 543—Filed July 31, 1985]

Be it resolved by the Washington State Podiatry Board, acting at the Department of Licensing, Professional Licensing Division, 1300 Quince Street, Olympia,

WA, that it does adopt the annexed rules relating to the Uniform Disciplinary Act, repealing WAC 308-31-200.

We, the Washington State Podiatry Board, find that an emergency exists and that this 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 the emergency is will take effect August 1, 1985, and the permanent rule, WAC 308-31-200, adopted pursuant to Notice No. WSR 85-12-059, will not take effect until August 19, 1985.

These 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 Washington State Podiatry Board as authorized in RCW 18.22.015(8).

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 24, 1985.

By T. J. Saigo  
Vice-chairman

#### REPEALER

*The following section of the Washington Administrative Code is hereby repealed:*

**WAC 308-31-200 UNIFORM DISCIPLINARY ACT**

**WSR 85-16-053**  
**EMERGENCY RULES**  
**DEPARTMENT OF LICENSING**  
**(Optometry Board)**  
[Order PL 544—Filed July 31, 1985]

Be it resolved by the Washington State Optometry Board, acting at Seattle, Washington, that it does adopt the annexed rules relating to the Uniform Disciplinary Act, repealing WAC 308-53-290.

We, the Washington State Optometry Board, find that an emergency exists and that this 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 the emergency is WAC 308-53-290, which reads as follows:

The Optometry Board elects to adopt the Uniform Disciplinary Act, sections 1 through 24 of chapter 279, Laws of 1984 (chapter 18.130 RCW), in lieu of the disciplinary provisions in chapters 18.53, 18.54 RCW, effective August 1, 1985.

was adopted by the Optometry Board on January 31, 1985, and filed with the code reviser's office on February 11, 1985, (WSR 85-05-009).

WAC 308-53-290 was to go into effect on August 1, 1985, in order to permit the Optometry Board to determine whether concerns about the Uniform Disciplinary Act, chapter 18.130 RCW, would be addressed in the 1985 Washington legislative session. RCW 18.54.075 granted to the board the discretion to determine whether to accept the Uniform Disciplinary Act by rule.

The concerns of the board with the Uniform Disciplinary Act were not addressed in the 1985 legislative session. The Optometry Board, therefore, does not want its current disciplinary provisions replaced by the Uniform Disciplinary Act on August 1, 1985, and has determined that emergency action is required to prevent such from happening.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 18.54.075 and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 18.54.070(5) which directs that the Washington State Optometry Board has authority to implement the provisions of chapters 18.53 and 18.54 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 23, 1985.

By Chuen Y. Wong, O.D.  
Chairman

#### REPEALER

*The following section of the Washington Administrative Code is hereby repealed:*

WAC 308-53-290 **UNIFORM DISCIPLINARY ACT**

**WSR 85-16-054**  
**ADOPTED RULES**  
**DEPARTMENT OF LICENSING**  
**(Optometry Board)**

[Order PL 545—Filed July 31, 1985]

Be it resolved by the Washington State Optometry Board, acting at Seattle, Washington, that it does adopt the annexed rules relating to:

|     |                |   |
|-----|----------------|---|
| Rep | WAC 308-53-160 | Recordation of credit.                  |
| Amd | WAC 308-53-165 | Certification for continuing education. |
| Amd | WAC 308-53-270 | Employed doctors of optometry.          |
| Rep | WAC 308-53-290 | Uniform Disciplinary Act.               |

This action is taken pursuant to Notice No. WSR 85-13-079 filed with the code reviser on June 19, 1985. These rules shall take effect thirty days after they are

filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.54.070(5) and 18.54.075 and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 18.54.070(5) which directs that the Washington State Optometry Board has authority to implement the provisions of chapters 18.53 and 18.54 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 23, 1985.

By Chuen Y. Wong, O.D.  
Chairman

AMENDATORY SECTION (Amending Order PL 326, filed 12/28/79)

WAC 308-53-165 **CERTIFICATION FOR CONTINUING EDUCATION COURSE.** (~~All courses for which continuing education credit is requested shall be accompanied by proof of attendance at such courses and shall include: Date(s), sponsor(s), location(s), subject(s) and hours attended with signed proof of attendance. If this is not possible, for good cause as claimant certifying his attendance at the course(s), the date(s), sponsor(s), location(s), subject(s), and hours attended shall be submitted to the Department of Licensing, Professional Licensing Division, in Olympia.~~) (1) In conjunction with the application for renewal of licensure, a licensee shall submit, on a form provided by the board, an affidavit of compliance with the continuing education requirement of WAC 308-53-100.

(2) Upon request of the board, a licensee shall submit evidence in addition to the affidavit to substantiate compliance with the continuing education requirement. Accordingly, it shall be the responsibility of the licensee to maintain evidence and documentation of such compliance on a form provided by the board.

(3) It is the responsibility of the licensee to seek prior approval of the board for any continuing education credit to be submitted where such credit is granted under the board's discretion on a case by case basis or otherwise, or where the licensee has any doubt as to its acceptability.

**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 PL 326, filed 12/28/79)

WAC 308-53-270 **EMPLOYED DOCTORS OF OPTOMETRY, FRANCHISES AND EQUIPMENT USE AGREEMENTS.** The salary, bonus or other remuneration of a doctor of optometry who is employed for professional optometric services, shall not be dependent upon the percentage or number of patients who obtain visual examinations or who have prescriptions filled.

The employed optometrist, acting in the capacity of consultant, advisor or staff doctor of optometry, the optometrist who has acquired a franchise relating to the practice of optometry, and the optometrist who has a professional equipment use agreement/contract, shall at all times remain cognizant of his or her professional responsibilities and with demeanor, decorum and determination retain his or her right of independent professional judgment and title in all situations and circumstances (~~as he would in his own office~~). If at any time the right of independent professional judgment or title is abridged (~~by the party or parties engaging the optometrist's services~~), it shall be incumbent upon the optometrist to resign or correct his or her position as consultant, advisor or staff doctor of optometry, or to resign from or correct a franchise and/or equipment use agreement/contract relationship.

**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.

### REPEALER

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

WAC 308-53-160 RECORDATION OF CREDIT.

WAC 308-53-290 UNIFORM DISCIPLINARY ACT.

**WSR 85-16-055**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**  
**(Division of Banking)**  
[Filed July 31, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Division of Banking, Department of General Administration, intends to adopt, amend, or repeal rules concerning consumer finance companies, amending WAC 50-16-030 concerning maintenance of certain books and records using electronic display equipment;

that the agency will at 10:00 a.m., Wednesday, September 11, 1985, in the Office of the Supervisor of Banking, Room 219, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 31.08.230, rules and regulations.

The specific statute these rules are intended to implement is RCW 31.08.140, Records—Annual report.

Dated: July 31, 1985

By: L. O. Malmberg  
Acting Supervisor

### STATEMENT OF PURPOSE

Title: WAC 50-16-030 Books, files and accounting records required.

Description and Purpose: Specifies the records that must be kept by a consumer finance company and the manner in which they must be kept.

Statutory Authority: RCW 31.08.230, which empowers the Supervisor of Banking to make such general rules and regulations for the enforcement of chapter 31.

Summary of Rule: Permits certain books and records required to be kept for examination purposes to be kept using electronic display equipment.

Reasons Supporting Proposed Action: To reduce the burden on consumer finance companies of required recordkeeping.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: The supervisor and his staff.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Liaison Committee, a private organization of industry members.

Small Business Economic Impact Statement: This rule as amended will reduce the cost of compliance with recordkeeping requirements for both large and small consumer finance companies if these companies maintain some or all of these records in a form accessible to electronic display methods.

### AMENDATORY SECTION (Amending Order 48, filed 12/1/82)

WAC 50-16-030 BOOKS, FILES AND ACCOUNTING RECORDS REQUIRED. At least the following books, files and accounting records shall be maintained:

- (1) Loan register.
  - (a) Every loan shall be recorded in the loan register, which shall be kept currently in the order made showing the following information:
    - (i) Number of loan
    - (ii) Date of loan
    - (iii) Name of borrower
    - (iv) Amount of loan
  - (b) As an alternative method for maintaining records, the licensee may maintain a copy of the disclosure statement in a separate binder, and in chronological order.
  - (2) Borrowers' individual account cards or looseleaf ledgers. A separate account record shall be maintained for each loan made to any one borrower. Each such account record shall provide space for the proper recording of the following information:
    - (a) Loan register number of loan
    - (b) Date of loan
    - (c) Name and address of borrower
    - (d) Rate at which charges are to be computed or the annual percentage rate (APR), if less than the maximum
    - (e) Terms of repayment
    - (f) Face amount of note
    - (g) If charges are precomputed:
      - (i) Principal amount of loan
      - (ii) Total amount of charges
      - (iii) Amount which may be collected as a default charge
    - (h) Payments received showing:
      - (i) Date of payment
      - (ii) Amount paid on principal or amount paid on note when charges have been precomputed
      - (iii) Remaining principal balance or remaining face amount of note when charges have been precomputed
      - (iv) Amount paid on charges, except when charges are precomputed
      - (v) Date to which charges are paid, except when charges are precomputed
      - (vi) The amount of default and/or deferment charges collected
        - (i) Name and address of co-maker or endorser, if any
        - (j) Date of maturity of loan

(k) Amount of charge for life insurance  
 (l) When a note has been reduced to judgment, the face of the account record must show the following:

- (i) Date of judgment
- (ii) Amount of judgment
- (iii) Court costs

Thereafter, all payments received must be applied on the judgment and properly identified.

(3) Cash book. Acceptable records showing all cash receipts and disbursements.

(4) Alphabetical record of makers, endorsers, co-makers, sureties. Cards or other records of makers, endorsers, co-makers or sureties, showing liability thereof on all loans.

(5) General ledger. The general ledger, which shall be posted at least once as of the close of business on a fixed date (preferably the last business day) of each month, and a trial balance taken therefrom. When the general ledger for the office is maintained elsewhere, a copy of the monthly trial balance shall be forwarded to the consumer finance office, showing the following information as of the end of each month:

- (a) Total number and amount of precomputed loans
- (b) Reserve for unearned precomputed charges
- (c) Total number and amount of nonprecomputed loans
- (d) Total number and amount of contracts outstanding
- (e) Total number and amount of all other loans, being loans not made under the Consumer Finance Act.

(6) Such books, accounts, and records may be maintained in each licensed office by means of electronic display equipment if such equipment is made available to the supervisor of banking or his representatives for purposes of examination in the licensed office. Such books, accounts, and records shall be made available to the supervisor of banking or his representatives in printed form within ten days after a request for such records.

**WSR 85-16-056**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**  
**(Division of Banking)**  
 [Filed July 31, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Division of Banking, Department of General Administration, intends to adopt, amend, or repeal rules concerning industrial loan companies, amending WAC 50-20-010 concerning maintenance of certain books and records using electronic display equipment, WAC 50-20-050 concerning restrictions on charges for open-end loans and appraisals, WAC 50-20-055 concerning computation of simple interest, and creating new section WAC 50-20-090 concerning notice requirements for increases in interest rates on open-end loans;

that the agency will at 10:00 a.m., Wednesday, September 11, 1985, in the Office of the Supervisor of Banking, Room 219, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 31.04.150(2), Examination by supervisor—Rules.

Dated: July 31, 1985

By: L. O. Malmberg  
 Acting Supervisor

## STATEMENT OF PURPOSE

Title: WAC 50-20-010 Books and records.

Description and Purpose: Specifies the records that must be kept by an industrial loan company and the manner in which they must be kept.

Statutory Authority: RCW 31.04.150, which empowers the Supervisor of Banking to make such general rules and regulations as may be necessary for the proper conduct of industrial loan companies.

Summary of Rule: Permits certain books and records required to be kept for examination purposes to be kept using electronic display equipment.

Reasons Supporting Proposed Action: To reduce the burden on industrial loan companies of required recordkeeping.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: The supervisor and his staff.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Liaison Committee, a private organization of industry members.

Small Business Economic Impact Statement: This rule as amended will reduce the cost of compliance with recordkeeping requirements for both large and small industrial loan companies if these companies maintain some or all of these records in a form accessible to electronic display methods.

Title: WAC 50-20-050 Restrictions as to charges.

Description and Purpose: Restricts the types and amounts of charges to borrowers that an industrial loan company may require.

Statutory Authority: RCW 31.04.150, which empowers the Supervisor of Banking to make such general rules and regulations as may be necessary for the proper conduct of industrial loan companies.

Specific Statute Rule is Intended to Implement: Chapter 31.04 RCW as amended by sections 1 and 3, chapter 74, Laws of 1985.

Summary of Rule: Limits and charges that may be made by industrial loan companies to recover the costs of appraising security and servicing and maintaining open-end loan accounts.

Reasons Supporting Proposed Action: To insure that such charges to the consumer will be fair and not disproportionate to the services rendered.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: The supervisor and his staff.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Liaison Committee, a private organization of industry members.

Small Business Economic Impact Statement: This rule limits charges an industrial loan company may require and will not have an adverse economic impact on small businesses nor give an economic advantage to large businesses.

Title: WAC 50-20-055 Simple interest defined.

Description and Purpose: Defines simple interest as charged by industrial loan companies.

Statutory Authority: RCW 31.04.150, which empowers the Supervisor of Banking to make such general rules

and regulations as may be necessary for the proper conduct of industrial loan companies.

**Specific Statute Rule is Intended to Implement:** RCW 31.04.090 as amended by section 1, chapter 74, Laws of 1985.

**Summary of Rule:** Defines the simple interest method that may be used by industrial loan companies.

**Reasons Supporting Proposed Action:** To provide a clear definition of the simple interest method of computing interest as interpreted by the supervisor.

**Agency Personnel Responsible for Drafting, Implementation and Enforcement:** The supervisor and his staff.

**Person or Organization Proposing Rule, and Whether Public, Private, or Governmental:** Liaison Committee, a private organization of industry members.

**Small Business Economic Impact Statement:** This rule will not have an economic impact on more than twenty percent of all financial institutions or more than ten percent of industrial loan companies.

**Title:** WAC 50-20-090 Open-end loans—Increase in interest—Notice to borrower.

**Description and Purpose:** Prescribes the circumstances in which notice to the borrower is not required for increases in interest rates on open-end loans.

**Statutory Authority:** RCW 31.04.150, which empowers the Supervisor of Banking to make such general rules and regulations as may be necessary for the proper conduct of industrial loan companies.

**Specific Statute Rule is Intended to Implement:** Chapter 31.04 RCW as amended by section 3, chapter 74, Laws of 1985.

**Summary of Rule:** Waives the notice requirement for increases in interest rates on open-end loans if the increase results from an increase in an index to which the interest rate is tied when that index is both agreed upon in writing prior to the increase and approved by the supervisor, as provided by chapter 31.04 RCW as amended.

**Reasons Supporting Proposed Action:** To clarify the statute by specifying circumstances in which the notice requirement may be waived.

**Agency Personnel Responsible for Drafting, Implementation and Enforcement:** The supervisor and his staff.

**Person or Organization Proposing Rule, and Whether Public, Private, or Governmental:** Liaison Committee, a private organization of industry members.

**Small Business Economic Impact Statement:** This rule will reduce the cost of compliance with industrial regulations for both large and small industrial loan companies.

#### AMENDATORY SECTION (Amending Order 40, filed 3/23/79)

**WAC 50-20-010 BOOKS AND RECORDS.** (1) The company shall maintain a borrower's individual account card file, income and expense accounts, and have a general ledger readily available, and such other books and records including a monthly trial balance as will enable the supervisor to determine whether such company is complying with the provisions of this act and with the rules and regulations of the supervisor with the result that these books and accounts will fairly reflect the condition of the company independent of other business conducted in the office.

Such books, accounts, and records may be maintained in each industrial loan company office by means of electronic display equipment if such equipment is made available to the supervisor of banking or his representatives for purposes of examination in the industrial loan company office. Such books, accounts, and records shall be made available to the supervisor of banking or his representatives in printed form within ten days after a request for such records.

(2) For a period of not less than two years after the making of the final entry upon its books with respect to any such transaction the company shall preserve the records of original and final entry upon all loans made and upon all transactions pertinent to the sale and issuance of investment certificates.

(3) If the company operates branches, there shall be kept in each branch office such books, accounts and records as will enable the supervisor to determine whether such company is complying with the provisions of this act and with the rules and regulations of the supervisor.

(4) The original application for a loan and all original papers relating thereto, including the note, any instrument held as collateral security, security agreement, salary assignment, etc., shall be available for inspection by the supervisor, or any duly authorized representative. All real estate mortgage loans shall be supported by an appraisal from a qualified appraiser, disclosing all pertinent information, including a detailed schedule of all prior liens.

(5) No (~~licensee~~) corporation shall take any instruments in which blanks are not filled in completely before the proceeds of the loan are delivered.

(6) Fees collected in advance to be subsequently disbursed by the company for recording and releasing collateral instruments or for other similar purposes shall be credited to a suspense account supported by a detailed record of the borrower's name and the respective amount of such fees.

#### AMENDATORY SECTION (Amending Order 59, filed 2/23/84)

**WAC 50-20-050 RESTRICTIONS AS TO CHARGES.** (1) No company shall charge the borrower for notarial fees.

(2) No industrial loan company shall require the purchasing of property insurance from the company or any employee, affiliate or associate of the company or from any agent, broker, or insurance company designated by the company as a condition precedent to the making of a loan nor shall any company decline existing insurance which meets or exceeds the standards set forth in this section.

A company may provide insurance on the life and disability of one borrower and on the life of the spouse of the borrower if both are obligors, provided that such insurance coverage shall not exceed the approximate unpaid balance of the total amount repayable under contract of indebtedness scheduled to be outstanding. The premium or cost for all such insurance when written pursuant to the Washington insurance code and regulations issued thereunder, shall not be deemed interest, charges or consideration in connection with the loan transaction and any gain or advantage to the lender arising out of the premium or cost of the insurance or from its sale shall not be a violation of any provision of chapter 31.04 RCW. The amount of the premium or cost of such insurance may be included in the original loan amount and may be paid from the proceeds of the loan.

If the loan contract is prepaid in full by cash, a new loan, renewal, refinancing, or otherwise, the credit life and/or accident and health insurance coverage shall be cancelled and a portion of the charge made for such insurance shall be rebated as provided by the Washington insurance code and regulations issued thereunder.

(3) No company shall make any charge for the filing, recording or releasing of mortgages or other instruments or for transferring title certificates to automobiles unless such charges are or are in fact to be paid out by the company to the proper officials for such filing, recording, transferring or releasing thereof.

(4) In the event a company makes a new loan where any part of the proceeds is used to pay the amount due it on an existing loan within four months from date of the existing loan, no charge for investigation fee shall be permitted, unless the investigation fee on the existing loan is refunded.

(5) No industrial loan company may charge and collect an annual fee in excess of eighteen dollars payable each year in advance for the privilege of opening and maintaining an open-end loan account.

(6) No industrial loan company may charge and collect an appraisal fee incurred in appraising security offered by the borrower in excess of the actual costs paid to an independent third party professional appraiser. No charge may be made or collected for costs of an appraisal

if the loan application is rejected by the company, or if the appraisal is inadequate to meet reasonable appraisal requirements for comparable loans from other lending institutions.

(7) Any note which is prepaid in full by cash, a new loan, refinancing, or otherwise before the final due date, the unearned portion of the interest shall be refunded using the sum of the digits method commonly known as the "Rule of 78's."

PROVIDED, HOWEVER, That in the case of any loan originally scheduled to be repaid in sixty-one months or more which is secured by an investment certificate, the refund of the unearned portion of the interest shall be computed as follows: Interest shall be considered earned at the single nominal annual percentage rate which if applied to the unpaid amounts of principal outstanding from time to time would produce the same total of interest paid at maturity as originally contracted for, based upon the assumption that all payments were made on the loan according to the schedule of payments due on the certificate and calculations were made according to the actuarial method. Interest earned so calculated up to the scheduled due date nearest the date of prepayment shall be subtracted from the original amount of interest included in the note and the balance of such interest shall be refunded.

For purposes of this calculation only, the original principal amount of the loan shall be deemed to be the amount of the total note less the interest deducted in advance. Actuarial method means the method of allocating payments made between principal and interest whereby a payment is applied first to the interest accumulated to date and the remainder then applied to the unpaid principal amount. In computing an actuarial refund, the lender may round the single annual percentage rate used to the nearest quarter of one percent.

In computing any required refund, any prepayment made on or before the fifteenth day following the scheduled payment date on the investment certificate shall be deemed to have been made on the payment date preceding such prepayment. In the case of prepayment prior to the first installment date, the company may retain an amount not to exceed 1/30 of the first month's interest charge for each date between the origination date of the loan and the actual date of prepayment.

AMENDATORY SECTION (Amending Order 48, filed 12/1/82)

WAC 50-20-055 ((~~ALTERNATE~~)) SIMPLE INTEREST CHARGES DEFINED. (1) ((~~An industrial loan company may contract for and receive charges on a loan of money at an annual percentage rate not in excess of the rate which would produce at the scheduled maturity date of the loan the same total of charges including interest, the two percent initial charge deducted in advance and monthly service charge, as would be received on a loan with an equal net cash advance secured by an installment investment certificate made pursuant to RCW 31.04.090 at the maximum rates permitted, all calculations being based upon the assumption that the loan and purchase of the investment certificate are paid in accordance with their terms:~~

~~in such case;)) For purposes of RCW 31.04.090, simple interest charges shall be computed by applying the annual percentage rate to the unpaid balances of the cash advance of the loan outstanding for the time outstanding. Each payment shall be applied first to accumulated charges and the remainder of the payment shall be applied to the unpaid balance of the cash advance until paid in full. Charges ((~~shall~~)) may not be payable in advance nor compounded; however, if part or all of the consideration for a new loan contract is the unpaid balance of a prior loan, then the original cash advance payable under such new loan contract may include any unpaid charges which have accrued (the unpaid balance of the cash advance of a discounted loan shall be the balance due after giving effect to any required refund or credit of interest charged). ((~~For the purpose of computing charges on this alternative basis;)) The charges for each elapsed day shall be 1/365th of the annual rate. The term "net cash advance" as used herein means the "amount financed" disclosed to the borrower pursuant to the federal Truth-in-Lending Act.~~~~

(2) The provisions of RCW 31.04.090 as they relate to investment certificates are not applicable to loans upon which interest is computed and charged on this basis.

NEW SECTION

WAC 50-20-090 OPEN-END LOANS—INCREASE IN INTEREST—NOTICE TO BORROWER. An industrial loan company

is not required to give thirty days written notice of an increase in the interest rate charged on an open-end loan pursuant to RCW 31.04.—(5) (section 3(5), chapter 74, Laws of 1985), if the following conditions are met:

(1) The interest rate charged on the open-end loan is based upon an index approved by the supervisor; and

(2) The borrower has agreed in writing prior to the increase to base the interest rate on the index.

## WSR 85-16-057

### EMERGENCY RULES

#### BOARD OF

#### PILOTAGE COMMISSIONERS

[Order 85-3, Resolution No. 85-3—Filed August 1, 1985]

Be it resolved by the Board of Pilotage Commissioners, acting at Pier 52, Seattle, Washington 98104, that it does adopt the annexed rules relating to collection of fees, WAC 296-116-070.

We, the Board of Pilotage Commissioners, find that an emergency exists and that this 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 the emergency is due to delay in considering the permanent rule, this emergency rule is necessary to implement an August 1, 1985, effective date for pilots fees.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 88.16.090 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 31, 1985.

By Marjorie T. Smitch  
Assistant Attorney General

AMENDATORY SECTION (Amending Order 84-4, Resolution No. 84-4, filed 5/18/84)

WAC 296-116-070 COLLECTION OF FEES. All pilots shall pay an annual license fee of ((~~eight hundred~~)) one thousand dollars for every year in which they perform any pilotage services. If a licensed pilot does not perform pilotage services during a license year, his fee for that year shall be reduced to ((~~four~~)) five hundred dollars upon application to the board. The board of pilotage commissioners shall receive all fees for licenses or for other purposes and make proper accounting of same and transmit all such funds to the pilotage account.

**WSR 85-16-058**  
**EMERGENCY RULES**  
**DEPARTMENT OF NATURAL RESOURCES**  
 [Order 459—Filed August 1, 1985]

I, Brian J. Boyle, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the amendment of an emergency rule restricting logging, land clearing, and other industrial operations which may cause a fire to start on lands protected by the Department of Natural Resources in Western Washington.

I, Brian J. Boyle, find that an emergency exists and that this 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 the emergency is due to change in fire weather danger in certain shutdown zones in Western Washington logging, land clearing, and other industrial operations and burning restrictions are modified or lifted in specific areas of the state.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 76.04.150 and 76.04.200 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED August 1, 1985.

By Brian J. Boyle  
 Commissioner of Public Lands

AMENDATORY SECTION (Amending Emergency Order 458, filed 7/30/85)

**WAC 332-26-083 HOOT OWL LOGGING RESTRICTIONS ON LANDS PROTECTED BY THE DEPARTMENT OF NATURAL RESOURCES IN WESTERN WASHINGTON.** Effective midnight, Monday, July 29, 1985, through midnight, Monday, August 5, 1985, all logging, land clearing, and other industrial operations which may cause a fire to start are to cease operations during the following times and under the following conditions: 1) All power saws, except those used on landings, to shutdown from 11:00 a.m. to 8:00 p.m. during the shutdown period. Landing saws to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 2) All yarding, skidding, loading, and hauling to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 3) All other operations not specifically listed here will shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 4) Watchperson required for a minimum of one hour following operation of spark emitting equipment.

Affected Areas: Olympic Area - shutdown zones 650, 651L, 653, 654; (~~Central Area - shutdown zones 651L,~~

~~651H, 655, 657, Southwest Area - shutdown zones 651L, 651H, 655, 621 West, 621 East, 660, South Puget Sound Area - shutdown zones 654, 657;)) Northwest Area - shutdown zone(s 653, 656;)) 658. South Puget Sound - shutdown zone 654 in Jefferson County only, and zone 659 in King and Pierce counties.~~

All persons are excluded from logging operating areas and areas of logging slash, except those present in the interest of fire protection, from 1:00 p.m. to 8:00 p.m. during the shutdown period.

All burning permits and burning privileges are cancelled in the affected shutdown zones.

**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 Emergency Order 458, filed 7/30/85)

**WAC 332-26-084 LOGGING RESTRICTIONS ON LANDS PROTECTED BY THE DEPARTMENT OF NATURAL RESOURCES IN WESTERN WASHINGTON.** Effective midnight, Monday, July 29, 1985, through midnight Monday, August 5, 1985, all logging, land clearing, and other industrial operations which may cause a fire to start shall cease operation.

Areas affected by these restrictions are:

~~((1) Shutdown zone 658 lying in the eastern half of Whatcom, Skagit, and Snohomish counties and the northeast portion of King County protected by the Department of Natural Resources Northwest Area;))~~

~~((2) Shutdown zone 652 lying in western Mason County and zone 659 lying in the eastern half of King and Pierce counties protected by the Department of Natural Resources South Puget Sound Area;))~~

~~((3) Shutdown zone 659 lying in the eastern half of Lewis County protected by the Department of Natural Resources Central Area;))~~

~~((4) 1) Shutdown zone 652 lying in the interior of Clallam and Jefferson counties and the northeast portion of Grays Harbor County protected by the Department of Natural Resources Olympic Area.~~

During the shutdown period all persons are excluded from logging operating areas and areas of logging slash except those persons present in the interest of fire protection.

Burning permits and burning privileges are cancelled in the affected area.

**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.

**WSR 85-16-059**  
**EMERGENCY RULES**  
**DEPARTMENT OF GAME**  
**(Game Commission)**  
 [Order 266—Filed August 1, 1985]

Be it resolved by the State Game Commission, acting at Bellingham, Washington, that it does adopt the annexed rules relating to amendment to Washington game fish seasons and catch limits—Heart Lake (Skagit County), adopting WAC 232-28-61413.

We, the State Game Commission, find that an emergency exists and that this 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 the emergency is Heart Lake in Skagit County is scheduled for rehabilitation in October. In order to optimize the catch of remaining trout, the season should be extended 90 days beginning at 12:01 a.m. on August 1, 1985.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 77.12.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 10, 1985.

By Jack S. Wayland  
 for Archie U. Mills  
 Chairman, Game Commission

**NEW SECTION**

*WAC 232-28-61413 AMENDMENT TO WASHINGTON GAME FISH SEASONS AND CATCH LIMITS—HEART LAKE (SKAGIT COUNTY). Notwithstanding the provisions of WAC 232-28-614, Heart Lake (Skagit County) will have a 90-day game fishing season extension beginning at 12:01 a.m. on August 1, 1985.*

**WSR 85-16-060**  
**EMERGENCY RULES**  
**DEPARTMENT OF GAME**  
**(Game Commission)**  
 [Order 271—Filed August 1, 1985]

Be it resolved by the State Game Commission, acting at Bellingham, Washington, that it does adopt the annexed rules relating to amendment to Washington game fish seasons and catch limits—Spectacle Lake (Okanogan County), adopting WAC 232-28-61417.

We, the State Game Commission, find that an emergency exists and that this 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 the emergency is Spectacle Lake in Okanogan County is scheduled for rehabilitation. In order to optimize the catch of remaining trout, the season should be extended 90 days beginning at 12:01 a.m. on August 1, 1985.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 77.12.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 10, 1985.

By Jack S. Wayland  
 for Archie U. Mills  
 Chairman, Game Commission

**NEW SECTION**

*WAC 232-28-61417 AMENDMENT TO WASHINGTON GAME FISH SEASONS AND CATCH LIMITS—SPECTACLE LAKE (OKANOGAN COUNTY). Notwithstanding the provisions of WAC 232-28-614, Spectacle Lake (Okanogana County) will have a 90-day game fishing season extension beginning at 12:01 a.m. on August 1, 1985.*

**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.

**WSR 85-16-061**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 85-89—Filed August 1, 1985]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing rules.

I, William R. Wilkerson, find that an emergency exists and that this 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 the emergency is harvestable numbers of salmon are available under Pacific Fisheries Management Council recommendations.

These 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 the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 31, 1985.

By Russell W. Cahill  
for William R. Wilkerson  
Director

### NEW SECTION

**WAC 220-24-02000H** **LAWFUL ACTS—TROLL FISHERY.** *Notwithstanding the provisions of WAC 220-24-010, 220-24-020, and 220-24-030, effective immediately until further notice it is unlawful to take or possess salmon taken for commercial purposes with troll gear in the waters west of the Bonilla-Tatoosh line, the Pacific Ocean north of the Oregon-Washington boundary, or west of a line drawn true north-south through Buoy 10 at the mouth of the Columbia River except as provided for in this section:*

(1) *Effective 12:01 a.m., August 3, 1985, it is lawful to take and possess salmon in those waters northerly of a line projected due west from Carroll Island.*

(2) *Lawful terminal gear is restricted to unadorned, barbless, bare blued hooks separated from flashers by not less than 12 inches of leader.*

(3) *No chinook salmon less than 28 inches in length nor coho salmon may be retained or possessed.*

(4) *The above waters will close for commercial troll salmon fishing at 11:59 p.m., August 31, 1985, or when the pink salmon harvest ceiling of 200,000 pink salmon is taken, whichever is the earliest.*

(5) *It is unlawful to take or possess salmon taken for commercial purposes with purse seine, drag seine, or gill net gear from Coastal Salmon Management and Catch Reporting Areas 1, 2, 3, or 4.*

(6) *It is unlawful to transport through Coastal Salmon Management and Catch Reporting Areas 1, 2, 3, or 4, or to land in the State of Washington, any salmon taken for commercial purposes contrary to the provisions of Chapter 220-47 WAC relative to seasons and species, and as provided for in Chapter 220-24 WAC.*

**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.

### REPEALER

*The following section of the Washington Administrative Code is repealed:*

**WAC 220-24-02000G** **LAWFUL ACTS—TROLL FISHERY.** (85-83)

**WSR 85-16-062**  
**NOTICE OF PUBLIC MEETINGS**  
**HUMAN RIGHTS COMMISSION**

[Memorandum—July 31, 1985]

The Washington State Human Rights Commission will conduct a special commission meeting on August 23,

1985, at the Madison Hotel, 515 Madison Street, Seattle, beginning at 4:30 p.m. The agenda will include discussion of a proposed reconsideration policy, legislative matters, case closures, an update on the progress of WAHRA (the Washington Association of Human Rights Agencies), a recently formed advisory council, staff reports, and housekeeping business. An executive session will be called, if necessary, to discuss personnel matters and/or legal decisions.

**WSR 85-16-063**  
**ATTORNEY GENERAL OPINION**  
**Cite as: AGO 1985 No. 12**  
[July 31, 1985]

**DISTRICTS—SCHOOLS—FUNDS—INTERFUND TRANSFERS OF FEDERAL FOREST FUNDS BY SCHOOL DISTRICTS**

The provisions of RCW 43.09.210 do not prohibit a school district from transferring to its general operating fund certain federal forest funds initially placed in the district's capital projects fund by the school board but not appropriated by the board for a capital projects purpose.

Requested by:

Honorable Robert K. Leick  
Prosecuting Attorney  
County of Skamania  
Courthouse Building  
Stevenson, Washington 98648

**WSR 85-16-064**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(General Provisions)**  
[Order 2257—Filed August 1, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

|     |                |  |
|-----|----------------|--|
| Amd | WAC 440-44-050 | Radiation machine facility registration fee. |
| Amd | WAC 440-44-060 | Site use permit fee.                         |
| New | WAC 440-44-061 | Radioactive waste site surveillance.         |

I, David A. Hogan, find that an emergency exists and that this 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 the emergency is these rules are necessary to implement chapter 383, Laws of 1985, which became effective on July 28, 1985.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to chapter 383, Laws of 1985, and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED August 1, 1985.

By David A. Hogan, Director  
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2238, filed 6/7/85)

WAC 440-44-050 RADIATION MACHINE FACILITY REGISTRATION FEES. The following biennial fees are required at the time of application or renewal(:(:)). For any facility or group of facilities under one administrative control the maximum fee of three thousand dollars has been established.

(1) For veterinarians, podiatrists: A fifty dollar registration fee plus sixty dollars for the first tube plus twenty-five dollars for each additional tube.

(2) For hospitals, medical and chiropractic: A fifty dollar registration fee plus one hundred seventy-five dollars for the first tube plus fifty dollars for each additional tube.

(3) For industrial, research, and others: A fifty dollar registration fee plus one hundred dollars for the first tube plus fifty dollars for each additional tube.

(4) For dentists: A fifty dollar registration fee plus forty-five dollars for the first tube plus twenty dollars for each additional tube.

AMENDATORY SECTION (Amending Order 1965, filed 6/1/83)

WAC 440-44-060 SITE USE PERMIT FEE. (1) The fees for a site use permit (~~effective October 1, 1983,~~) are:

|                         |   |                      |
|-------------------------|---|----------------------|
| One time shipment       | - | \$50.00 or           |
| (see WAC 440-44-060(2)) |   |                      |
| Site use permit         | - | <del>(\$80.00)</del> |
| continuous services     |   | \$150.00 per year    |

(2) One-time shipment: A generator having radioactive waste for disposal for one time only can obtain a site use permit for such a shipment. This permit terminates upon receipt of the shipment for disposal and cannot be reissued to a generator.

(3) A broker who takes possession of waste from a generator and assumes responsibility for that waste must also assume responsibility for assuring the generator has a current, unencumbered site use permit.

NEW SECTION

WAC 440-44-061 RADIOACTIVE WASTE SITE SURVEILLANCE FEE. The operator of a low-level radioactive waste disposal site in this state shall pay

a surveillance fee to the department as an added charge on each cubic foot of low-level waste disposed at the disposal site. The fee shall be paid to the department quarterly by the site operator, and shall be three percent of the basic minimum fee as defined in RCW 70.98.— (section 3, chapter 383, Laws of 1985), charged by the site operator.

**WSR 85-16-065**  
**PROPOSED RULES**  
**LIBRARY COMMISSION**  
[Filed August 1, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Library intends to adopt, amend, or repeal rules concerning rules and regulations governing the basis on which the State Library develops its practices and its activities, chapter 27.04 RCW, chapter 304-12 WAC;

that the agency will at 10:00 a.m., Thursday, September 12, 1985, in the Public Meeting Room of the Goldendale Free Public Library, Goldendale, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 27.04.030(7).

The specific statute these rules are intended to implement is RCW 27.04.045(8).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 12, 1985.

Dated: August 1, 1985  
By: Roderick G. Swartz  
State Librarian

STATEMENT OF PURPOSE

Title and Purpose: Chapter 304-12 WAC, rules and regulations. Washington State Library. The main purpose of these sections is to meet the changes in expressed needs of the state in terms of statewide library and information policy development. The State Library needs to change the basis on which it develops its practices and its activities.

Statutory Authority: Chapter 27.04 RCW.

Summary of the Rules: Revise the section on the principles of other services grant programs, delete sections which are no longer applicable, and update the application form requesting a grant.

Agency Personnel for Drafting, Implementation and Enforcement: Roderick G. Swartz, State Librarian, Washington State Library, Mailstop AJ-11, Olympia, WA 98504, (206) 753-2915.

Proponents of the Rule: These proposed WAC changes were drafted by the Washington State Library staff with the concurrence of the Washington State Advisory Council on Libraries and the Washington State Library Commission.

AMENDATORY SECTION (Amending Order 1-75, filed 7/21/75)

WAC 304-12-140 OTHER SERVICES GRANT PROGRAMS-PRINCIPLES. (1) Basic to Washington's program of library development are the following elements:

- (a) Encouragement of cooperation among all types of libraries, and between libraries and other agencies.
(b) Improvement and extension of service to the physically handicapped, non-English speaking and disadvantaged persons.
(c) Programs which will provide impetus to the "right to read" effort.
(d) Merging of units of service into an effective system.
(e) Local efforts to achieve establishment of logical library units without the demonstration process.
(f) Recruiting of qualified professional librarians to the state as well as alert, intelligent people into the profession without regard to race, color, sex, religion or national origin.
(g) Improving and strengthening all levels of education for librarianship.
(h) Encouragement of in-service training programs for both professional and clerical employees.
(i) Initiation and encouragement of library research and planning.
(j) Stimulation of citizen interest in the improvement and extension of library services.
(k) Support of professional library and related associations as agencies which can assist in the development of Washington's program of library service to all citizens.
Providing trustees of public libraries with awareness and leadership skills.
(b) Merging of and expanding units and/or systems of service.
(c) Providing, improving, and strengthening all levels of continuing education and staff development for library service providers.
(d) Initiating and encouraging library planning and research.
(e) Stimulating citizen interest in improvement and outreach of library services.
(f) Assisting in community efforts to overcome adult illiteracy.
(g) Advancing and developing library-related automation and technology.
(h) Improving document delivery methods.
(i) Providing services geared specifically to special age groups.
(2) The Washington state library commission is receptive to request which may include areas not yet specifically stated as eligible.

AMENDATORY SECTION (Amending Order, filed 6/22/71)

WAC 304-12-350 FORMS-APPLICATION FOR A GRANT.

APPLICATION FOR A GRANT

((from

Washington State Library
Olympia, Washington))

Library Services and Construction Act

TITLE 1

Name of library
((Date of formation
Library Director Telephone
(Method
Project Director Telephone
(Address
Librarian
Date of appointment
Estimated)) Amount of grant requested \$.

LIBRARY BOARD MEMBERS

Table with columns: Name, Address, Date Appointed, ((Length of Appointment)) Number of Years Served

Are all persons holding professional positions certified under Washington law?

(Notary Seal) STATE OF WASHINGTON }
County } ss.

I, ... swear that the above information is, to the best of my knowledge, a true statement of facts.

(Signature) Chairman, Library Board

Sworn to before me this ... day of ..., 19((7))8...

My commission expires (Signature) Notary Public

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 304-12-155 EVOLUTIONARY GRANTS.
WAC 304-12-170 MERGER GRANTS.
WAC 304-12-180 ESTABLISHMENT GRANTS.
WAC 304-12-190 EXTENDED SERVICE GRANTS.
WAC 304-12-191 NETWORK GRANTS.
WAC 304-12-192 EDUCATION AND TRAINING GRANTS.
WAC 304-12-220 RESEARCH AND PLANNING GRANTS.
WAC 304-12-225 DURATION.
WAC 304-12-300 STATE OPERATIONAL GRANTS-PRINCIPLES.
WAC 304-12-305 STATE OPERATIONAL GRANTS-RULES AND REGULATIONS FOR ALLOCATION OF OPERATIONAL GRANTS.
WAC 304-12-310 STATE OPERATIONAL GRANTS-DEFINITIONS.

WSR 85-16-066
PROPOSED RULES
LIBRARY COMMISSION
[Filed August 1, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Library intends to adopt, amend, or repeal rules concerning rules and regulations for operating the Western Library Network, SSB 3047, chapter 21, Laws of 1985, chapter 304-25 WAC, Western Library Network Computer Service;

that the agency will at 10:00 a.m., Thursday, September 12, 1985, in the Public Meeting Room of the Goldendale Free Public Library, Goldendale, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is chapter 27.26 RCW.

The specific statute these rules are intended to implement is chapter 21, Laws of 1985.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 12, 1985.

Dated: August 1, 1985

By: Roderick G. Swartz  
State Librarian

### STATEMENT OF PURPOSE

Title and Purpose: Chapter 304-25 WAC, rules and regulations. Western Library Network Computer Service. The purpose of these sections is to reflect the recently enacted WLN legislation, eliminate references to organizations which are no longer Computer Service Council representatives, and to clarify ambiguous language.

Statutory Authority: Chapter 27.26 RCW.

Summary of the Rules: These revisions will change all references to Washington Library Network to Western Library Network; will identify the term for Washington Computer Service Council members and alternates; will provide for other states to determine the term and method of selecting representatives and alternates; will delete organizations which no longer exist from Computer Service Council representation; will eliminate the executive officer of the Washington Data Processing Authority as an ex officio and nonvoting status Computer Service Council member; and will provide for Washington members of the council to designate which alternate will be appointed to the council in the event of a vacancy.

Agency Personnel for Drafting, Implementation and Enforcement: Roderick G. Swartz, State Librarian, Washington State Library, Mailstop AJ-11, Olympia, WA 98504, (206) 753-2915.

Proponents of the Rule: These proposed WAC changes were drafted by the Western Library Network staff with the concurrence of the Western Library Network Computer Service Council and the Washington State Library Commission.

Chapter 304-25 WAC

~~((WASHINGTON)) WESTERN LIBRARY NETWORK—~~  
~~((WASHINGTON)) WESTERN LIBRARY NETWORK COM-~~  
PUTER SERVICE

~~((WASHINGTON)) WESTERN LIBRARY NETWORK~~

AMENDATORY SECTION (Amending Order 1-80, filed 1/11/80)

WAC 304-25-010 GENERAL DESCRIPTION OF THE ~~((WASHINGTON)) WESTERN LIBRARY NETWORK (WLN)~~. (1) The ~~((Washington)) western~~ library network, hereinafter referred to as the network, consists of four components: An interlibrary system, a reference/referral system, a telecommunications system, and the use of the WLN computer service, which facilitates resource sharing.

(2) The Washington state library commission is responsible for the network and exercises general supervision and control consistent with the enacting legislation and RCW 27.04.010 through 27.04.080.

(3) The executive officer of the network is the Washington state librarian who is in charge of the offices of the network, and exercises all

powers and duties delegated by the Washington state library commission.

(4) The Washington state library commission adopts as the rules of practice for the network uniform procedural rules codified in the Washington Administrative Code, WAC 1-08-005 through 1-08-590, as now or hereafter amended, except as otherwise provided in WAC 304-12-010 through 304-20-100, subject to amendments by the Washington state library commission from time to time by a majority vote thereof.

~~((WASHINGTON)) WESTERN LIBRARY NETWORK~~  
COMPUTER SERVICE

AMENDATORY SECTION (Amending Order 1-80, filed 1/11/80)

WAC 304-25-510 GENERAL DESCRIPTION OF THE ~~((WASHINGTON)) WESTERN LIBRARY NETWORK COM-~~PUTER SERVICE. (1) The ~~((Washington)) western~~ library network computer service, hereinafter referred to as the computer service, consists of the communication facilities, computers, peripheral computer devices and software supporting the automated library system and resource sharing network developed by the state of Washington, which was designed to support and facilitate resource sharing.

(2) The Washington state library commission is responsible for the computer service and exercises general supervision and control consistent with the enacting legislation and RCW 27.04.010 through 27.04.080.

(3) The executive officer of the computer service is the Washington state librarian who is in charge of the offices of the computer service, and exercises all powers and duties delegated by the Washington state library commission.

(4) The Washington state library commission adopts as the rules of practice for the computer service uniform procedural rules codified in the Washington Administrative Code, WAC 1-08-005 through 1-08-590, as now or hereafter amended, except as otherwise provided in WAC 304-12-010 through 304-12-100, subject to amendments by the Washington state library commission from time to time by a majority vote thereof.

AMENDATORY SECTION (Amending Order 83-2, filed 3/23/83)

WAC 304-25-560 COMPUTER SERVICE COUNCIL. (1) The WLN computer service council hereinafter referred to as the computer service council shall have an upper limit of eleven representatives elected from and by the members in participating states. ~~((For the initial establishment, the Washington state library commission shall appoint a committee composed of current computer service members of Washington state to nominate candidates for the positions designated for Washington participants. Initially, their terms shall be staggered. Thereafter, all terms))~~ The term for Washington computer service council members shall be ~~((for))~~ three years except when resignation, withdrawal from membership, or other factors ~~((may))~~ limit the term of service. Two Washington state alternates will also be selected ~~((at each election))~~ for a one-year term. Washington representatives shall be elected by principal members in Washington state. Other states will determine the term and method of selecting representatives and alternates.

(2) The computer service council shall have the following representation: Four members representing libraries within Washington state, three of whom shall be from principal member libraries; one member representing each of the other states where at least three libraries participate in the computer service. The executive officer of the computer service ~~((and a representative of the Washington library network executive council))~~ shall have ex officio and voting status. ~~((The executive officer of the Washington data processing authority and a representative of the pacific northwest bibliographic center shall have ex officio and nonvoting status.))~~

(3) Elected representatives on the computer service council shall serve no more than two consecutive full terms. Former representatives, after an interval of at least one year, may be reelected.

(4) Any vacancy which occurs among Washington representatives during an unexpired term shall be filled by appointment from the alternate positions as designated by the Washington members of the computer service council.

(5) Officers of the computer service council shall be the chairperson and vice chairperson who shall be elected from and by the computer service council for a one-year term. The executive officer of the computer service, or designee, shall serve as secretary.

(6) The computer service council shall develop and establish procedures or bylaws for the conduct of meetings and transaction of business.

**AMENDATORY SECTION** (Amending Order 1-80, filed 1/11/80)

**WAC 304-25-570 COMPUTER SERVICE COUNCIL—RESPONSIBILITIES AND RIGHTS.** (1) The computer service council has the responsibility to develop policy recommendations. The recommendations shall be presented by the executive officer of the computer service to the Washington state library commission for its consideration.

(2) The computer service council shall develop, adopt, and/or maintain, protocols and standards, promote and support cooperative programs, services, and activities; review and evaluate the effectiveness of computer service services; appoint committees and task forces; recommend performance criteria, responsibilities, and terms of contracts; and identify other concerns and responsibilities for the improvement of computer service efficacy and services.

(3) The council shall continually evaluate the progress of the operation, including the use of consultants, committees, audits and questionnaires and focus on performance, financial status, internal and external inter-relationships, and governance.

(4) The council shall maintain on-going communication with appropriate units.

(5) In appointing committees and task forces, the computer service council shall consider the inclusion of users of libraries in order to include the point of view of the ultimate consumer, where appropriate, and/or incorporate special skills and expertise which would enhance the overall capabilities of the working group.

(6) The computer service council shall encourage the coordination of activities with ((Washington)) western library network and with other multistate resource sharing networks.

(7) The computer service council shall receive from the executive officer of the computer service and shall review and transmit to the Washington state data processing authority and the Washington state library commission long range plans, an annual report, a preliminary annual budget, and shall annually review and recommend adjustments in service rates and marketing patterns as appropriate.

(8) The computer service shall meet at least quarterly consistent with chapters 42.30 and 42.32 RCW.

(9) The computer service council shall not be compensated for service but shall be reimbursed from computer service revenue for subsistence, lodging, and travel expenses for meetings and approved business as provided in chapter 43.03 RCW as now or hereafter amended.

**WSR 85-16-067**

**EMERGENCY RULES**

**CHIROPRACTIC DISCIPLINARY BOARD**

[Order PL 546—Filed August 1, 1985]

Be it resolved by the Chiropractic Disciplinary Board, acting at Renton, Washington, that it does adopt the annexed rules relating to the Uniform Disciplinary Act, repealing WAC 113-12-005.

We, the Chiropractic Disciplinary Board, find that an emergency exists and that this 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 the emergency is remedial legislation was not adopted in the 1985 legislative session.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 18.26.027 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 31, 1985.

By Leslie B. White, D.C.  
Chairman

**REPEALER**

*The following section of the Washington Administrative Code is repealed:*

**WAC 113-12-005 UNIFORM DISCIPLINARY ACT.**

**WSR 85-16-068**

**ADOPTED RULES**

**DEPARTMENT OF LICENSING**

**(Securities Division)**

[Order SDO-128-85—Filed August 1, 1985]

I, Theresa A. Aragon, director of the Department of Licensing, do promulgate and adopt at 1800 Quince Street, Building 4, Olympia, WA 98504, the annexed rules relating to the registration of broker-dealers, salespersons, investment advisors and investment advisor.

This action is taken pursuant to Notice No. WSR 85-13-022 filed with the code reviser on June 11, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 21.20.450 and is intended to administratively implement that statute.

These rules are promulgated pursuant to RCW 21.20.450 which directs that the director of the Department of Licensing has authority to implement the provisions of chapter 21.20 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED July 30, 1985.

By Theresa A. Aragon  
Director

**AMENDATORY SECTION** (Amending Order 304, filed 2/28/75)

**WAC 460-20A-210 NOTICE OF CHANGES BY BROKER-DEALERS.** (1) Each licensed broker-dealer shall, upon any change in the information contained in its application for a certificate (other than financial information contained therein) promptly file an amendment to such application setting forth the changed information (and in any event within 30 days after the change occurs).

(2) Each licensed broker-dealer shall notify the Administrator of the employment of any new agent in Washington by submitting a completed NASD Form U-4 to the Administrator or the Administrator's designee, within ~~((10))~~ (21) days after the event occurs.

(3) Each licensed broker-dealer shall notify the Administrator of the termination of employment of any agent in Washington by submitting a completed NASD Form U-5 to the Administrator or the Administrator's designee, within 30 days after the event occurs.

~~((3))~~ (4) With respect to any broker-dealer registered under the Securities Exchange Act of 1934, it shall be sufficient compliance with Subsection (1) of this Section if a copy of an amendment to Form BD of the Securities And Exchange Commission containing the required information, or transmitted for filing to, the Administrator not later than the date on which such amendment is required to be filed with the Securities and Exchange Commission.

**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 SDO-128-81 [SDO-149-81], filed 11/18/81 [12/31/81])

WAC 460-20A-220 SALESPERSON REGISTRATION AND EXAMINATION. (1) Every applicant for registration as a securities salesperson, unless exempt as provided herein, shall pass the following examinations with a score of 70% or better and complete the NASD Form U-4.

(a) For a salesperson's license to effect or attempt to effect sales of general securities, the individual shall pass the NASD Uniform Securities Agent State Law Examination and either the SECO/NASD Non-Member General Securities Representative Examination or the General Securities Representative Examination, provided that any applicant taking the SECO/NASD Non-Member General Securities Representative Examination or the NASD General Securities Representative Examination after August 19, 1981 but prior to February 19, 1982 shall not be required to complete the NASD Uniform Securities Agent State Law Exam.

(b) For a limited salesperson's license to effect or to attempt to effect sales of investment company securities, variable contracts or mutual funds, the individual shall pass the NASD Investment Company Products/Variable Contracts Representative Examination and the Uniform Securities Agent State Law examination.

(c) For a limited salesperson's license to effect or to attempt to effect sales of limited partnership interests and interests in tax shelters, the individual shall pass the NASD Direct Participation Program Representative Examination and the Uniform Securities Agent State Law Examination.

(d) For a limited salesperson's license to effect or to attempt to effect sales of municipal bonds, the individual

shall pass the NASD Municipal Securities Representative Examination and the Uniform Securities Agent State Law Examination.

(e) For a limited salesperson's license to effect or to attempt to effect sales of real estate program offerings, the individual shall pass the Uniform Real Estate Securities Examination and the Uniform Securities Agent State Law Exam.

(2) Any individual out of the business of effecting transactions in securities for less than two years and who has previously passed the required examinations in (a), (b), (c), ~~((or))~~ (d) or (e) above or the Washington State Securities Examination shall not be required to retake the examination(s) to be eligible to be relicensed upon application.

(3) Upon written application and approval, the director may exempt the following persons from the testing requirements in Subsection (1) above:

(a) For a particular original offering of an issuer's securities, not more than two officers of an issuer or corporate general partner or two individual general partners. No such person may again register within five years as a salesperson without passing the written examinations.

(b) A salesperson engaged exclusively in the sale of condominium securities provided that written notice is given to the director five days prior to the exercise of the exemption and that such salesperson submit his/her current Washington real estate license to the director. If that license is cancelled, suspended or revoked, the exemption will not apply to any further transaction.

(4) The licenses in Section (1) shall be effective until December 31 of the year of passage at which time it shall be renewed or delinquent. The renewal fee for 1981 shall be \$12.50. For all years thereafter, the renewal fee shall be \$15.00. For any renewal application postmarked after December 31 but before March 1, the fee shall be \$25.00. No renewal applications will be accepted after March 1. Such licensees must submit a new application and filing fee. The fee for transfers shall be \$25.00. For reinstatements prior to December 1, the fee shall be \$35.00 and shall be valid until December 31 of the year of reinstatement. Thereafter effectiveness shall run through the next renewal period.

(5) Any applicant not completing the salesperson application in full shall be issued a deficiency letter. The deficiency must be corrected within the subsequent six-month period. If not so completed, one-half the filing fee shall be returned to the applicant. A new application and filing fee must then be filed in order to initiate application.

(6) Any salesperson registered prior to August 15, 1981, and who was registered with the Washington State Securities Division as of the date of the adoption of these regulations and registered thereafter, shall be subject to the regulation in effect at the time of the original application.

**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.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**AMENDATORY SECTION** (Amending Order SDO-128-81 [SDO-149-81], filed 11/18/81 [12/31/81])

WAC 460-20A-230 **BROKER-DEALER REGISTRATION AND EXAMINATION.** (1) In order to be licensed in this state as a broker-dealer the individual applicant, an officer if the applicant is a corporation, or a general partner if the applicant is a partnership shall pass the following examination with a score of 70% or better and complete the ((NASD)) SEC Form B/D ((including Schedule F as it pertains to Washington State.)) and complete the state of Washington Registration Check Sheet.

(a) For a broker-dealers license to effect transactions in general securities one individual, officer or general partner shall pass the NASD General Securities Principal Examination, the Uniform Securities Agent State Law Examination, and the Financial and Operations Principal Examination.

(b) For a limited broker-dealer license to effect transactions in investment company securities, variable contracts or mutual funds one individual, officer of general partner shall pass the NASD Investment Company Products/Variable Contracts Principal Examination and the Uniform Securities Agent State Law Examination.

(c) For a limited broker-dealers license to effect transactions in limited partnership interests and interests in tax shelters one individual, officer or general partner shall pass the NASD Direct Participation Programs Principal Examination and the Uniform Securities Agent State Law Examination.

(d) For a limited broker-dealer's license to effect transactions in municipal bonds, one individual, officer or general partner shall pass the NASD Municipal Securities Principal Examination and the Uniform Securities Agent State Law Examination.

(2) The director may upon application waive the Financial and Operations Examination required in (a) above for brokerage firms ((using another broker-dealer as a clearing agent, provided that the broker-dealer acting as the clearing agent has passed the examination.)) which do not hold funds or securities for, or owe money or securities to customers and do not carry accounts of or for customers.

(3) If the individual officer who takes the examination on behalf of a corporate applicant or the individual general partner who takes the examination on behalf of a partnership ceases to be an officer or general partner, then the broker-dealer must notify the Securities Division of a substitute officer or general partner who has passed ((must pass)) the same category of examination specified in (a), (b), (c) or (d) above within two months in order to maintain the broker-dealers license.

**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.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**AMENDATORY SECTION** (Amending Order 342, filed 9/29/75)

WAC 460-20A-400 **DUAL REPRESENTATION AND AFFILIATION.** (1) A person may be registered simultaneously in Washington as a security sales((man)) person with more than one broker-dealer, issuer, or owner of securities, ((if an undertaking in a form acceptable to the administrator is entered into in writing between all employers.

(2) A person)) may be registered simultaneously in Washington as an investment adviser sales((man)) person with more than one investment adviser or may be registered simultaneously in Washington as a securities salesperson and an investment advisor salesperson if an undertaking in a form acceptable to the administrator is entered into in writing between all employers.

(2) The undertaking((s)) for (1) ((and (2))) shall contain the following provisions:

(a) The effective date of the dual employment with the respective employers;

(b) Consent by each employer to the employment of the sales((man)) person by all other employers; and

(c) An agreement by each employer to assume joint and several liability with all other employers for any act or omission of the sales((man)) person in violation of the Washington Securities Law during his period of employment and continuing until written notice is given to the administrator of the termination of the employment relationship.

(d) An agreement that each employer will register the sales((man)) person with the Securities Division and pay the applicable registration fee.

((4)) (3) A separate application for registration or renewal shall be made by each employer desiring to employ the sales((man)) person. An executed copy of the undertaking required by subsection (1) (((2))) shall accompany the application. The application shall be filed with the Administrator and shall contain such exhibits and information as may be required by the Administrator, together with the fees required by RCW 21.20.340.

**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:** 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 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 SDO-128-81 [SDO-6-83], filed 11/18/81 [1/13/83])

WAC 460-24A-050 **INVESTMENT ADVISOR & INVESTMENT ADVISOR SALESPERSON**

(REPRESENTATIVE) REGISTRATION & EXAMINATIONS. (1) In order to be licensed in this state as an investment advisor the individual applicant, the officer if the applicant is a corporation or a general partner if the applicant is a partnership shall complete the Uniform Securities Agent State Law Examination with a score of seventy percent (70%) or better and complete one of the following with a score of seventy percent (70%) or better:

(a) NASD General Securities Principal Examination (Series 24) or

(b) NASD Investment Company Products/Variable Contracts Principal Examination (Series 26).

The applicant must also complete a form ADV for the state of Washington.

(2) An individual applicant, an officer if the applicant is a corporation or a general partner if the applicant is a partnership any one of which has completed the Uniform Securities Agent State Law Examination with a score of seventy percent (70%) or better and which holds one of the following designations, shall not be required to complete the exams designated in subsection (1)(a) and (b) in order to apply for an investment advisors license:

(a) Chartered Investment Counselor, or

(b) Chartered Financial Analyst, or

(c) Certified Financial Planner which designation is completed on or after the effective date of these rules.

The applicant must also complete a form ADV for the state of Washington.

(3) If the individual officer who takes the examination on behalf of a corporate applicant or the individual general partner who takes the examination on behalf of a partnership ceases to be an officer or general partner, then the investment advisor must notify the Securities Division of a substitute officer or general partner who has passed ((must pass)) the examinations required in (1) above within two months in order to maintain the investment advisor license.

(4) In order to be licensed in this state as an investment advisor salesperson (representative) the individual applicant shall complete the Uniform Securities Agent State Law Examination with a score of seventy percent (70%) or better and complete one of the following with a score of seventy percent (70%) or better unless Section (6) applies:

(a) NASD General Securities Representative Examination (Series 7), or

(b) NASD Investment Company Products/Variable Contracts Limited Representative Qualifications Examination (Series 6).

The applicant must also complete the form U-4 for the state of Washington.

(5) An individual who has completed the Uniform Securities Agent State Law Examination with a score of seventy percent (70%) or better and who holds one of the following designations shall not be required to complete the exams designated in subsection (4) in order to apply for an investment advisor salesperson (representative) license.

(a) Chartered Investment Counselor

(b) Chartered Financial Analyst

(c) Certified Financial Planner whose designation is completed on or after the effective date of these rules.

The applicant must also complete the form U-4 for the state of Washington.

(6) The Administrator may waive the testing requirements in Section (5) for an investment advisor representative whose activities will be limited to supervising the firm's investment advisory activities in Washington, provided that the applicant has been employed for five years preceding the filing of the application in a supervisory capacity, or as a portfolio manager, by an investment advisor registered under the Investment Advisors Act of 1940 for at least five years and the investment advisor has been engaged in rendering "investment supervisory services" as defined in Section 202(a)(13) of the Investment Advisors Act of 1940.

(7) Any individual who has been retained or employed by an investment advisor to solicit clients or offer the services of the investment advisor or manage the accounts of said clients any time during the two years prior to application and who has previously passed the Washington State Investment Advisors Examination shall not be required to retake the examination(s) to be eligible to be relicensed as an investment advisor salesperson (representative) upon application.

(8) Any investment advisor or investment advisor salesperson registered prior to August 15, 1981, and who was registered with the Washington State Securities Division as of the date of the adoption of these regulations and remained registered thereafter shall be subject to the regulations in effect at the time of the original application.

**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.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

#### AMENDATORY SECTION (Amending Order 304, filed 2/28/75)

WAC 460-24A-060 FINANCIAL STATEMENTS REQUIRED ON INVESTMENT ADVISERS. Every investment adviser shall file with the director a statement of financial condition in such detail as will disclose generally the nature and amount of assets and liabilities and the net worth of such investment adviser as of a date within ninety days prior to the date on which it is filed. Such reports shall be filed annually with the director not more than ninety days after the end of the investment advisor's fiscal year-end (unless extension of time is granted by the director).

**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 304, filed 2/28/75)

WAC 460-24A-205 NOTICE OF CHANGES BY INVESTMENT ADVISER. (1) Each licensed investment adviser shall, upon any change in the information contained in its application for a certificate (other than financial information contained therein) promptly file an amendment to such application setting forth the changed information (and in any event within 30 days after the change occurs).

(2) With respect to any investment adviser registered under the Investment Advisers Act of 1940, it shall be a sufficient compliance with Subsection (1) of this Section if a copy of an amendment to Form ADV, of the Securities and Exchange Commission containing the required information, or transmitted for filing to, the Administrator not later than the date on which such amendment is required to be filed with the Securities and Exchange Commission.

(3) Each licensed investment adviser shall notify the administrator of the employment of any new representative in Washington by submitting a completed NASD Form U-4 to the Administrator or the Administrator's designee, within 10 days after the event occurs.

(4) Each licensed investment adviser shall notify the Administrator of the termination of employment of any representative in Washington, by submitting a complete NASD Form U-5 to the Administrator or the Administrator's designee, within 30 days after the event occurs.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.50.140.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before Thursday, August 29, 1985.

Dated: July 16, 1985

By: C. Nelson Grote  
Chief Executive Officer

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 28B.50.140.

Amend chapter 132Q-04 WAC, Rules of student conduct and procedures of enforcement.

Purpose: To include computer trespass.

Statutory Authority: RCW 28B.50.140.

Person Responsible for the Drafting, Implementation and Enforcement of this Rule: Dr. C. Nelson Grote, Chief Executive Officer, Washington Community College District 17, North 2000 Greene Street, Spokane, WA 99207.

These rules are not necessary as a result of federal laws, federal court decisions, or state court decisions.

**NEW SECTION**

WAC 132Q-04-095 COMPUTER TRESPASS. Any student who, without authorization, intentionally gains access to a computer system or electronic data owned or operated by The Community Colleges of Spokane (Washington Community College District 17) shall be subject both to disciplinary action pursuant to Chapter 132Q-04 WAC and to criminal prosecution pursuant to Chapter 273, Washington Laws of 1984 and any or all other statutory law or regulations pertaining thereto.

**WSR 85-16-069****NOTICE OF PUBLIC MEETINGS  
URBAN ARTERIAL BOARD**

[Memorandum—August 2, 1985]

MEETING NOTICE  
URBAN ARTERIAL BOARD  
TRANSPORTATION BUILDING  
OLYMPIA, WASHINGTON 98504  
(Transportation Board Room)

Beginning at 9:30 a.m., Friday, August 16, 1985.

Note: Persons wishing to testify at this meeting will be required to contact the UAB in writing prior to August 12, 1985.

**WSR 85-16-070****PROPOSED RULES  
SPOKANE COMMUNITY COLLEGES**

[Filed August 2, 1985]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the board of trustees of Washington Community College District 17 intends to adopt, amend, or repeal rules concerning student conduct to include computer trespass;

that the institution will at 1:30 p.m., Tuesday, September 10, 1985, in the District Office Board Room, North 2000 Greene Street, Spokane, WA 99207, conduct a public hearing on the proposed rules.

**WSR 85-16-071****NOTICE OF PUBLIC MEETINGS  
CONSERVATION COMMISSION**

[Memorandum—July 30, 1985]

The regular Conservation Commission meeting scheduled for "the third Thursday" (WAC 135-04-020) of September 1985 will be rescheduled to: September 12, 1985, Red Lion Motor Inn, Veradale (Spokane), WA, 8:30 a.m.

Please contact Shirley Casebier, Conservation Commission, Olympia, Washington 98504, phone 459-6226, for further information.

Dates and places for other forthcoming meetings are yet to be determined.

**WSR 85-16-072****PROPOSED RULES  
DEPARTMENT OF ECOLOGY**

[Filed August 2, 1985]

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 Seattle, city of, amending WAC 173-19-2521;

that the agency will at 7:00 p.m., Thursday, September 12, 1985, in the Office of the Hearing Examiner Hearings Room, 5th Floor, 400 Yesler Building, 400 Yesler Way, Seattle, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on October 1, 1985.

The authority under which these rules are proposed is chapters 43.21A and 34.04 RCW.

The specific statute these rules are intended to implement 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 by September 16, 1985.

Dated: July 29, 1985

By: Glen H. Fiedler  
Deputy Director

#### STATEMENT OF PURPOSE

Title: Amending WAC 173-19-2521 Seattle, city of.

Description of Purpose: Adoption for revised shoreline master program into the state master program, chapter 173-19 WAC.

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendment adopts revisions to the shoreline master program for the city of Seattle.

Reasons Supporting Proposed Action: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lisa Randlette, WDOE, Mailstop PV-11, Olympia, WA 98504, (206) 459-6762.

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.

Small Business Economic Impact Statement: Not required.

AMENDATORY SECTION (Amending Order DE 85-16 [DE 83-27], filed 8/7/85 [10/19/83])

WAC 173-19-2521 SEATTLE, CITY OF. City of Seattle master program approved June 30, 1976. Revision approved March 11, 1977. Revision approved September 10, 1980. Revision approved February 24, 1981. Revision approved May 14, 1981. Revision approved October 1, 1981. Revision approved January 5, 1982. Revision approved February 24, 1983. Revision approved June 7, 1983. Revision approved July 12, 1983. Revision approved October 13, 1983. Revision approved October 1, 1985.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**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 85-16-073**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
[Filed August 2, 1985]

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 Nooksack, city of, amending WAC 173-19-4506;

that the agency will at 2:00 p.m., Wednesday, September 11, 1985, in Room 123, Department of Ecology Headquarter's Office, St. Martin's College Campus, Lacey, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on October 1, 1985.

The authority under which these rules are proposed is chapters 43.21A and 34.94 [34.04] RCW.

The specific statute these rules are intended to implement 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 by September 16, 1985.

Dated: July 29, 1985

By: Glen H. Fiedler  
Deputy Director

#### STATEMENT OF PURPOSE

Title: Amending WAC 173-19-4506 Nooksack, city of.

Description of Purpose: Adoption for 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 amendment adopts revisions to the shoreline master program for the city of Nooksack.

Reasons Supporting Proposed Action: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lisa Randlette, WDOE, Mailstop PV-11, Olympia, WA 98504, (206) 459-6762.

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.

Small Business Economic Impact Statement: Not required.

AMENDATORY SECTION (Amending Order DE 85-16 [DE 79-34], filed 8/7/85 [1/30/80])

WAC 173-19-4506 NOOKSACK, CITY OF. City of Nooksack master program approved September 29, 1975. Revision approved October 1, 1985.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**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 85-16-074**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed August 2, 1985]

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 the administration of vocational rehabilitation services pursuant to RCW 51.32.095.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 8, 1985.

The authority under which these rules are proposed is RCW 51.04.020.

The specific statute these rules are intended to implement is RCW 51.32.095.

This notice is connected to and continues the matter in Notice No. WSR 85-13-082 filed with the code reviser's office on June 19, 1985.

Dated: August 1, 1985

By: Richard A. Davis  
 Director

**WSR 85-16-075**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Filed August 2, 1985]

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 use of endrin on orchards, chapter 16-228 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 15, 1985.

The authority under which these rules are proposed is chapter 17.21 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 15, 1985.

This notice is connected to and continues the matter in Notice No. WSR 85-13-052 filed with the code reviser's office on June 18, 1985.

Dated: August 2, 1985

By: Art G. Losey  
 Assistant Director

**WSR 85-16-076**  
**EXECUTIVE ORDER**  
**OFFICE OF THE GOVERNOR**  
 [EO 85-06]

SUPERSEDING EO 84-07

**ESTABLISHMENT OF BOUNDARIES, ENTRY  
 AND OCCUPANCY RULES, AND THE  
 ADMINISTRATION OF A RESTRICTED ZONE  
 SURROUNDING MOUNT ST. HELENS**

The potential for major eruptions, earthquakes, ashfall, and flash flooding associated with Mount St. Helens continues to exist, threatening more destruction of life, health, and property. These volcanic and flash flood hazards necessitate the establishment of restricted areas surrounding Mount St. Helens that can be implemented by order of the Governor as the level of hazard increases or decreases.

NOW, THEREFORE, I, BOOTH GARDNER, Governor of the state of Washington, by virtue of the power vested in me under the provisions of chapter 43.06 RCW and chapter 38.52 RCW, in order to help preserve and maintain the life, health, and property of persons within the area described in the Proclamation of a State of Emergency dated April 3, 1980, do take the following action:

I. Declaration of Mount St. Helens Hazard Zone 1 as a Restricted Zone

Based on currently available scientific evidence and opinions, effective August 1, 1985, the area identified herein as Mount St. Helens Hazard Zone 1 is declared a Restricted Zone. Entry into or occupancy of the area designated as Mount St. Helens Hazard Zone 1 by any person is prohibited except as provided in Section II of this Order.

II. Limited Exceptions to Prohibition of Entry or Occupancy

The following categories of persons, under the conditions specified below, are subject to limited exceptions to the prohibition against entry or occupancy in the Restricted Zone:

- (A) U.S. Geological Survey personnel who are performing official duties related to scientific evaluation and hazard assessments that require their presence in the Restricted Zone;
- (B) U.S. Forest Service personnel who are performing official duties that require entry into the Restricted Zone;
- (C) U.S. Army Corps of Engineers personnel who are performing official duties that require their presence in the Restricted Zone;
- (D) 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 designees shall have the authority to approve entry and/or occupation by search and rescue personnel;

- (E) Federal, state, county, and local law-enforcement and firefighting personnel whose jurisdictions are within the Restricted Zone and who are on official business within the Restricted Zone;
- (F) Federal, state, county, or local administrative personnel on official business within the Restricted Zone;
- (G) Individual(s) with a legitimate business reason for being within the Restricted Zone, as determined by the Director, Department of Emergency Services, or his designee(s).

During especially dangerous episodes of volcanic activity, these exceptions may be further limited by the Director, Department of Emergency Management, or his designee(s).

Those persons excepted above shall abide by such administrative rules for entry and occupancy as may have been developed by the Department of Emergency Management in cooperation with the U.S. Forest Service. Such rules for entry and occupancy shall be included in the Washington Administrative Code.

### III. Administration

Pursuant to RCW 38.52.050 (3)(f), I hereby delegate to the Director, Department of Emergency Management, or his designee(s), the administrative authority vested in me by chapter 38.52 RCW. I further direct the Director, Department of Emergency Management, to execute an interagency agreement with the U.S. Forest Service, setting up procedures and rules of entry and occupancy to administer the Restricted Zone.

This agreement will include the provision of a Waiver of Liability Agreement which each individual, prior to entry and/or occupancy of the Restricted Zone, shall sign releasing the Federal Government, the state of Washington and all its political subdivisions, their officers, agents and employees from all liability for damages or losses due to natural volcanic or flash flood causes incurred while that individual is within the Mount St. Helens Restricted Zone or as a result of entering or occupying that zone.

The Department of Licensing will prepare and maintain a plan to implement a permit process at such time of increased volcanic hazard when it is necessary to expand the Restricted Zone to areas outside of U.S. Forest Service lands and the National Volcanic Monument.

All persons are advised of potential criminal penalties for violation of this Order, pursuant to RCW 43.06.220 and RCW 38.52.150.

### IV. Description of Mount St. Helens Hazard Zones

The following zones are established for the purpose of identifying boundaries within which restrictions

by this Order are, or by subsequent orders may be, implemented as volcanic and/or flash flood hazards around Mount St. Helens increase or decrease.

#### MOUNT ST HELENS HAZARD ZONE 1

Mount St. Helens Hazard Zone 1 is described as follows:

The area enclosed within the following boundary starting at the southeast corner of the southwest 1/4 corner of Section 31, T10N, R6E; then west along south section line of Section 31 to the shoreline of Spirit Lake in Section 6, T9N, R6E; then westerly along the north shoreline of Spirit Lake to intersection with section line between Section 2 and 3, T9N, R5E; then 750 feet westerly along the shoreline to the intersection with a stream flowing from the west; then westerly along stream to a saddle located in northwest 1/4 of Section 10, T9N, R5E; then southerly along ridgeline to ridgetop in southwest 1/4 of Section 10, T9N, R5E; then westerly along ridgeline to ridgetop in northwest 1/4 of Section 9, T9N, R5E; then westerly along the ridgeline to ridgetop in northwest 1/4 of Section 8, T9N, R5E; then westerly along the ridge to the section line between sections 7 and 8, T9N, R4E; the northwesterly along western edge of Project Road to intersection with Coldwater Creek bridge in southwest 1/4 of Section 2, T9N, R4E; then down western edge of Coldwater Creek to its intersection with the North Fork Toutle River in southeast 1/4 of Section 3, T9N, R4E; then downstream on north edge of river to intersection with Castle Creek in the southeast 1/4 of Section 3, T9N, R4E; then southeasterly along Castle Creek to the northwest corner of Section 31, T9N, R5E; then east along section line to intersection with Studebaker Creek in northeast 1/4 of Section 31, T9N, R5E; then southerly along Studebaker Creek to the 4800 foot contour line in Section 32, T9N, R5E; then southerly along the 4800 foot contour line to its intersection with Ape Canyon in Section 11, T8N, R5E; then easterly along Ape Canyon to its intersection with Forest Service trail #216 in Section 12, T8N, R5E; then northerly along the western edge of trail #216 to its intersection with Forest Service Road #99 in Section 26, T9N, R5E; northerly along the western edge of Road #99 to a ridgeline located in the southwest 1/4 of Section 7, T9N, R6E; then northeasterly along ridgeline to the south 1/4 corner of Section 31, T10N, R6E, Willamette Meridian, Skamania County, state of Washington.

#### MOUNT ST. HELENS HAZARD ZONE 2

Mount St. Helens Hazard Zone 2 is described as follows:

Beginning at the southeast corner of the southwest 1/4 of the southeast 1/4 of Section 31, T 10N, R6E; thence west along the south line of Section 31 to the shoreline of Spirit Lake in Section 6, T9N, R6E, thence westerly along the north shoreline of Spirit Lake to the intersection with the east section line of Section 3, T9N, R5E; thence 750 feet westerly along the shoreline to the intersection with a stream flowing from the west; thence westerly along said stream course to a saddle located in

the northwest 1/4 of Section 10, T9N, R5E; thence southerly along the ridgeline to the ridgetop in the southwest 1/4 of Section 10, T9N, R5E; thence westerly along the ridgeline to the ridgetop in the southwest 1/4 of Section 9, T9N, R5E; thence westerly along the ridgeline to the ridgetop in the northwest 1/4 of Section 8, T9N, R5E; thence westerly to the ridgetop in the southwest 1/4 of Section 7, T9N, R5E; thence westerly along said ridgetop to the Cowlitz-Skamania County line; thence north to the south high water line of Coldwater Lake, thence southwest along the south high water line of Coldwater Lake to the outlet constructed by the U.S. Army Corps of Engineers, thence across the outlet to the north high water line of Coldwater Lake, thence northeast along the high water line of Coldwater Lake to south line of section 36 T10N, R4E, thence west along section lines to the east side of Weyerhaeuser 3540 Road, thence northwest along the east side of the Weyerhaeuser 3540 Road to its intersection with the Weyerhaeuser 3545 Road, thence across the Weyerhaeuser 3540 Road to the south side of said 3540 Road thence westerly along said Weyerhaeuser 3540 Road to Elk Rock in Section 32, T10N, R4E; thence along the west side of Weyerhaeuser 3540 Road to the south side of Weyerhaeuser 3346 Road; thence northwesterly along the south side of Weyerhaeuser 3346 Road in said Section 31 to its intersection with the Weyerhaeuser 3381 Road; thence westerly along the south side of said 3381 Road to its intersection with the Weyerhaeuser 3208 Road in Section 25, T10N, R3E; thence westerly along the south side of said Weyerhaeuser 3208 Road to its intersection with the Weyerhaeuser 3200 Road in Section 26, T10N, R3E; thence westerly along the south side of said Weyerhaeuser 3200 Road to its intersection with the Weyerhaeuser 3100 Road in Section 27, T10N, R3E; thence northerly along the west side of said Weyerhaeuser 3100 Road to its intersection with the north line of section 27; T10N, R3E; thence westerly along the north line of sections 27 and 28 T10N R3E to the intersection with Hoffstadt Creek; thence westerly along the north bank of Hoffstadt Creek to the north highwater 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 of Section 29, T10N, R3E; thence southwest along the west fill base of the northerly segment of the N-1 debris dam to its intersection with the natural high ground; thence southwest 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 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 with the north section line of Section 35, T9N, R4E;

thence east along the north section lines of Section 35 and 36, T9N, R4E and Section 31, T9N, R5E to the intersection with Studebaker Creek on the north line of said Section 31, T9N, R5E; thence southerly along the westerly side of Studebaker Creek to the 4800 foot contour line of Mt. St. Helens in Section 32, T9N, R5E; thence southerly and easterly and then northerly along the 4800 foot contour line to its intersection with Smith Creek in Section 35, T9N, R5E; thence easterly along north side of Smith Creek to its intersection with an easterly flowing stream in Section 25, T9N, R5E; thence northwesterly along the stream to intersection with Forest Service Road 99 in Section 26, T9N, R5E; thence northerly along the west side of Road 99 to a ridgeline located in the southwest 1/4 of Section 7, T9N, R6E; thence northeasterly along ridgeline to the southeast corner of the southwest 1/4 of the southeast 1/4 of Section 31, T10N, R6E, Willamette Meridian, Skamania County, state of Washington and the point of beginning.

### MOUNT ST. HELENS HAZARD ZONE 3

The Mount St. Helens Hazard Zone 3 is described as follows:

Beginning on the southerly side of the Weyerhaeuser 2500 Road where it intersects the Gifford Pinchot National Forest Boundary on the east line of Section 36, T11N, R4E (Cowlitz/Skamania County lines); thence west along the southerly side of Weyerhaeuser Road 2500 to its intersection with north line of Section 14, T10N, R2E; thence westerly along the north line of Section 14 to the northwest corner; thence northwesterly to the northwest corner of Section 10, T10N, R2E; thence west along section lines to the northwest corner of Section 8 T10N, R2E; thence south along section lines to north edge of Weyerhaeuser 2410 Road (Section 17, T10N, R2E); thence southeasterly along the north edge of Weyerhaeuser 2410 Road to the intersection with the east edge of the Weyerhaeuser 2400 Road (Section 15, T10N, R2E); thence southerly along the east edge of the Weyerhaeuser 2400 Road to where it becomes the Weyerhaeuser 4200 Road (Section 4, T9N, R2E); thence southwest along the east edge of the 4200 Road to its intersection with the northeast edge of the Weyerhaeuser 4600 Road (Section 7, T9N, R2E); thence southerly along the northeast edge of the Weyerhaeuser 4600 Road to the Weyerhaeuser 4640 Road; thence across the Weyerhaeuser 4600 Road to the east edge of the Weyerhaeuser 4640 Road (Section 16, T9N, R2E); thence southerly along the east edge of Weyerhaeuser 4640 Road to its intersection with the north edge of the Weyerhaeuser 4100 Road (Section 17, T9N, R2E); thence easterly along the north edge of the 4100 Road to a point opposite the east edge of the Weyerhaeuser 5500 Road (Section 29, T9N, R3E); thence south and east along the east edge of the Weyerhaeuser 5500 Road to its intersection with the south line of Section 14, T8N, R3E; thence east along section lines to the southeast corner of Section 13, T8N, R3E; thence south along section lines to the intersection with FDR 8117060 (Section 30, T8N, R4E); thence easterly along the northerly side of FDR 8117060 to its intersection with FDR 8117; thence across FDR 8117 to

its easterly side; thence southerly along the easterly side of said FDR 8117 to its intersection with FDR 81 (Section 32, T8N, R4E); thence easterly along the northern edge of FDR 81 to its intersection with FDR 83 in Section 5, T7N, R5E; thence easterly along the northern edge of FDR 83 to its intersection with the south line of Section 9, T8N, R6E; then easterly along section lines to the southeast corner of Section 10, T8N, R6E; thence northerly along section lines to the northeast corner of Section 3, T8N, R6E; thence west to the southwest corner of Section 34, T9N, R6E; thence northerly along section lines to the southeast corner of Section 16, T10N, R6E; thence west along section lines to the intersection with the southern edge of the Green River with the south section line of Section 13, T10N, R5E; thence westerly along the southern edge of the Green River to its intersection with the Forest Service Boundary on the east section line of Section 1, T10N, R4E (Cowlitz/Skamania County line); thence north along section lines to its intersection with the southern side of Weyerhaeuser 2500 Road and the point of beginning.

#### MOUNT ST. HELENS HAZARD ZONE 4

The Mount St. Helens Hazard Zone 4 is described as follows:

Beginning at the southwest corner of Section 31, Township 11 North, Range 2 East, just north of Kid Valley, Cowlitz County; thence east to the northwest corner of Section 5, T10N, R2E; thence south along section lines to the southwest corner of Section 8, T10N, R2E; thence west to the northwest corner of Section 18, T10N, R2E; thence south along the west boundary of R2E to T7N, R2E, Kalama River Road (Weyerhaeuser 6000 Line); thence easterly along said road to a point opposite the mouth of Arnold Creek; thence southeasterly along Arnold Creek to its intersection with the south line of Section 32, T7N, R2E; thence east along the south boundary of T7N to the south one-fourth corner of Section 33, T7N, R4E; thence north to the north one-fourth corner of said Section 33; thence east to the southeast corner of Section 28, T7N, R4E; thence north to the east one-fourth corner of said Section 28; thence east to the east one-fourth corner of Section 27, T7N, R4E; thence north to the northeast corner of said Section 27; thence east along section lines to the Skamania/Cowlitz County line; thence south along the Skamania/Cowlitz County line to the high-water line of the north shore of the Lewis River; thence northwesterly along said high-water line to the high-water line of Yale Reservoir; thence westerly along said high-water line to Cougar Creek; thence south to the southerly high-water line of Yale Reservoir; thence northeasterly along said high-water line to the south high-water line of the Lewis River; thence easterly along the high-water line of the Lewis River to Swift Reservoir Dam; then easterly along the south high-water line of Swift Reservoir to the center of Section 35, T7N, R6E; thence northeasterly through the southwest corner of Section 25, T7N, R6E to Forest Service Development Road (FDR) N90; thence northeasterly along the north edge of said FDR N90 to its intersection with Quartz Creek in Section 18, T8N, R8E; thence northerly upstream along Quartz

Creek to its intersection with Straight Creek; thence northerly along Straight Creek to its intersection with U.S. Forest Service Boundary Trail No. One (1) located in the southwest quarter of Section 17, T9N, R8E; thence southwest, northerly and westerly along said U.S. Forest Service Boundary Trail No. One (1) to its intersection with the east line of Section 32, T10N, R7E; thence north along section lines to FDR 119, located in Section 17, T11N, R7E; thence west along the south edge of said FDR 119 to its intersection with FDR 125, located in the west half (W-1/2) of Section 19, T11N, R7E; thence southerly along the south edge of said FDR 125 to its intersection with FDR 115, located in the west half (W-1/2) of Section 24, T11N, R7E; thence northwesterly along the south edge of said FDR 115 to its intersection with the north line of Section 23, T11N, R6E; thence west along the section lines to the northwest corner of Section 19, T11N, R5E, (Wakeawasis Creek area); thence north to the northeast corner of Section 13, T11N, R4E; thence west along section lines to the northwest corner of Section 18, T11N, R3E; thence south to the northwest corner of Section 19, T11N, R3E; thence west along section lines to the northwest corner of Section 19, T11N, R2E; thence south along section lines to the southwest corner of Section 31, T11N, R2E and the point of beginning.

#### V. Coordination with the U.S. Forest Service (National Volcanic Monument)

The state of Washington acknowledges the U.S. Forest Service authority under Federal statute to impose its own restrictions within the areas of the Mount St. Helens National Volcanic Monument as established by PL 97-243. The U.S. Forest Service may impose closures of U.S. Forest Service lands within the restricted areas described in Section IV without concurrent closure by the state of Washington.

#### Prior Orders Superseded

This Executive Order shall supersede all prior Executive Orders pertaining to Mount St. Helens restricted zones.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia this 31st day of July, A.D., nineteen hundred and eighty-five.

Booth Gardner

Governor of Washington

BY THE GOVERNOR:

Laura Eckert

Assistant Secretary of State

Reviser's note: The typographical errors in the above material appeared in the original copy of the executive order and appear herein pursuant to the requirements of RCW 34.08.040.

**WSR 85-16-077**  
**PROPOSED RULES**  
**COUNCIL FOR**  
**POSTSECONDARY EDUCATION**  
 [Filed August 2, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Council for Postsecondary Education intends to adopt, amend, or repeal rules concerning state work study program, WAC 250-40-070;

that the agency will at 9:30 a.m., Thursday, September 19, 1985, in the Madison Hotel, 515 Madison Street, Seattle, WA 98104, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 19, 1985.

The authority under which these rules are proposed is RCW 28B.12.060.

The specific statute these rules are intended to implement is RCW 28B.12.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 29, 1985.

This notice is connected to and continues the matter in Notice No. WSR 85-14-057 filed with the code reviser's office on June 28, 1985.

Dated: August 2, 1985  
 By: Carl A. Trendler  
 Executive Coordinator

**WSR 85-16-078**  
**PROPOSED RULES**  
**COUNCIL FOR**  
**POSTSECONDARY EDUCATION**  
 [Filed August 2, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Council for Postsecondary Education intends to adopt, amend, or repeal rules concerning residency status for higher education, chapter 37, Laws of 1982 1st ex. sess.;

that the agency will at 9:30 a.m., Thursday, September 19, 1985, in the Madison Hotel, 515 Madison Street, Seattle, WA 98104, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 19, 1985.

The authority under which these rules are proposed is section 4, chapter 37, Laws of 1982 1st ex. sess.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 30, 1985.

Dated: August 2, 1985  
 By: Carl A. Trendler  
 Executive Coordinator

**STATEMENT OF PURPOSE**

Re: Residency status for higher education.

This statement of purpose is written in compliance with section 23, chapter 186, Laws of 1980, and to accompany the notice of intention to adopt, amend, or repeal rules by the Council for Postsecondary Education.

Title: Amendments modifying sections dealing with establishing residency status for higher education.

Summary: Provide exemptions from nonresident tuition and fees for active duty military, their spouses and dependents, as specified in chapter 362, Laws of 1985.

Institution Personnel Responsible for Drafting, Implementation and Enforcement of Rules: Jackie M. Johnson, Council for Postsecondary Education, 908 East Fifth Avenue, EW-11, Olympia, WA 98504.

Governmental Organization Proposing the Rule: Council for Postsecondary Education.

Institutional Comments Regarding Statutory Matters: Not applicable.

Rule is not necessary as a result of federal law or court action.

**AMENDATORY SECTION** (Amending Order 10-82 [3-84], Resolution No. 83-1 [84-75], filed 9/8/82 [6/26/84])

**WAC 250-18-060 EXEMPTIONS FROM NONRESIDENT STATUS** In accordance with RCW 28B.15.014, certain nonresidents shall be exempt from paying the nonresident tuition and fee differential. Exemption from the nonresident tuition and fee differential shall apply only during the term(s) such persons shall hold such appointments or be so employed. To be eligible for such an exemption, a nonresident student must provide documented evidence that he or she does reside in the state of Washington, and:

(1) Holds a graduate service appointment designated as such by an institution involving not less than twenty hours per week;

(2) Is employed for an academic department in support of the instructional or research programs involving not less than twenty hours per week;

(3) Is a faculty member, classified staff member, or administratively exempt employee holding not less than a half-time appointment, or the spouse or dependent child of such a person;

(4) Is an active duty military personnel (~~(of field grade or lower rank;)~~ stationed in the state of Washington or the spouse or dependent child of such person(~~;~~ for the first twelve months stationed in the state of Washington)); or

(5) Is an immigrant having refugee classification from the U.S. Immigration and Naturalization Service or the spouse or dependent child or such refugee, if the refugee (a) is on parole status, or (b) has received an immigrant visa, or (c) has applied for United States citizenship.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**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 85-16-079**  
**NOTICE OF PUBLIC MEETINGS**  
**SEATTLE COMMUNITY**  
**COLLEGE DISTRICT**  
 [Memorandum—August 1, 1985]

There will be a special meeting of the board of trustees of Seattle Community College District, to be held Tuesday, August 6, 1985, at 4:00 p.m., in the District

Office Board Room, 300 Elliott Avenue West, Seattle, WA 98119.

**WSR 85-16-080**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 85-90—Filed August 2, 1985]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use rules.

I, William R. Wilkerson, find that an emergency exists and that this 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 the emergency is harvestable numbers of salmon are available.

These 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 the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED August 2, 1985.

By Russell W. Cahill  
for William R. Wilkerson  
Director

NEW SECTION

*WAC 220-57-42500F SKAGIT RIVER. Notwithstanding the provisions of WAC 220-57-425, effective immediately until further notice, in those waters of the Skagit River downstream from Gilligan Creek - Special bag limit: 6 salmon per day not less than 10 inches in length, not more than 2 of which may be chinook salmon over 24 inches in length or chum salmon. All coho salmon greater than 20 inches in length must be released immediately.*

REPEALER

*The following section of the Washington Administrative Code is repealed:*

*WAC 220-57-42500E SKAGIT RIVER. (85-86)*

**WSR 85-16-081**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 85-91—Filed August 2, 1985]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia,

Washington, the annexed rules relating to commercial fishing regulations.

I, William R. Wilkerson, find that an emergency exists and that this 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 the emergency is restrictions in Areas 4B, 5, 6C provide protection for Puget Sound and Canadian chinook stocks while allowing a limited effort, limited impact immobile set net fishery. Restrictions in Areas 6, 6A, 7, 7A provide protection for Puget Sound and Canadian chinook stocks. Restrictions in Areas 6B, 9, 10A, 10C, 10D, 10G, and the Cedar River protect Lake Washington sockeye. Restrictions in Area 10 protect Lake Washington sockeye and chinook returning to Suquamish Hatchery. Restrictions in 10F protect Lake Washington sockeye while allowing limited harvest of Lake Washington chinook. Restrictions in Areas 13A, Nooksack, Skokomish, Quilcene and White rivers and Minter Creek provide protection for Puget Sound spring chinook stocks. Restrictions in Area 8 and Skagit River protect Baker River sockeye. Restrictions in Area 7C and Samish River provide protection for chinook returning to the Samish Hatchery. Restrictions in Area 6D, Elwha and Dungeness rivers protect local summer/fall chinook and pink salmon stocks. Restrictions in Area 8A and the Stillaguamish River protect local summer/fall chinook stocks. Restrictions in Area 12C protect chinook returning to Hoodspout and Enetai hatcheries.

These 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 the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED August 2, 1985.

By Russell W. Cahill  
for William R. Wilkerson  
Director

NEW SECTION

*WAC 220-28-507 PUGET SOUND COMMERCIAL SALMON FISHERY RESTRICTIONS. Effective immediately, it is unlawful for treaty Indian fishermen to take, fish for, or possess salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following restrictions:*

*Areas 4B, 5, 6C - Drift gill net gear restricted to 5-7/8-inch maximum mesh when open.*

*Areas 6B, 9 - Effective through August 3, gill net gear restricted to 6-1/2-inch minimum mesh, and other gear must release sockeye when open.*

Area 6D, Dungeness and Elwha Rivers – Closed to all commercial fishing through September 21.

Areas 6, 6A, 7, 7A – Gill net gear restricted to 5-7/8-inch maximum mesh when open.

Area 7C – Closed to all commercial fishing southeasterly of a line from the mouth of Oyster Creek 237° true to a fishing boundary marker on Samish Island.

Area 8 and Skagit River downstream of the Baker River – Effective through August 3, gill net gear restricted to 6-1/2-inch minimum mesh, and other gear must release sockeye when open.

Area 8A – Closed to all commercial fishing in that portion north of a line from Camano Head to the northern boundary of Area 8D.

Area 10 – (1) Gill net gear restricted to 6-1/2-inch minimum mesh, and other gear must release sockeye when open through August 3. (2) Closed to all commercial fishing in that portion northwest of a line from the flashing buoy at the entrance to Agate Passage to the flashing light at the end of the Indianola dock.

Area 10A – Effective through August 3, gill net gear restricted to 6-1/2-inch minimum mesh, and other gear must release sockeye when open.

Area 10C and Cedar River – Closed to all commercial fishing until further notice.

Areas 10D and 10G – Closed to all commercial fishing through August 3.

Area 10F – (1) Gill net gear restricted to 6-1/2-inch minimum mesh and other gear must release sockeye through August 3 when open. (2) Closed to all commercial fishing in that portion east of the Burlington Northern Railroad Bridge.

Area 12C – Closed to all commercial fishing in that portion within 1,000 feet of the western shoreline between Glen Ayr Trailer Park and Hoodsport Marina dock and in that portion within 1,000 feet of the western shoreline between Potlatch State Park and the mouth of Nalley's Slough – Closed to all commercial fishing through September 7.

\*Area 13A – Closed to all commercial net fishing until further notice in that portion north of a line from Allen Point to the southernmost point of land on the eastern shore of Glen Cove.

Nooksack (upstream of the confluence of the forks) and Samish Rivers – Closed to all commercial fishing through October 15.

Skagit River upstream of Baker River – Closed to all commercial fishing until further notice.

Stillaguamish River – Closed to all commercial fishing through August 10. Effective August 11 until further notice, gill net gear

restricted to 6-inch maximum mesh when open.

Skokomish River – Closed to all commercial fishing through July 26.

Quilcene River – Closed to all commercial fishing through August 31.

Minter Creek and White River – Closed to all commercial fishing through September 28.

### REPEALER

The following of the Washington Administrative Code is repealed effective immediately:

WAC 220-28-506 PUGET SOUND COMMERCIAL SALMON FISHERY RESTRICTIONS (85-84)

### WSR 85-16-082 EMERGENCY RULES DEPARTMENT OF FISHERIES

[Order 85-93—Filed August 2, 1985]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, William R. Wilkerson, find that an emergency exists and that this 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 the emergency is net restrictions in Areas 4B, 5, 6, 6A, 6C, 7 and 7A provide protection for Canadian and Puget Sound chinook during sockeye fisheries under the direction of IPSFC. Troll fishery in Areas 5 and 6C provided for in chapter 220-47 WAC. Openings in Areas 7B and 7C provide opportunity to harvest non-Indian chinook and pink allocations. Opening in Area 8 provides opportunity to harvest non-Indian allocation of chinook. Opening in Area 12C provides opportunity to harvest non-Indian chinook and coho allocations. All other marine and freshwater areas are closed to prevent overharvest.

These 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 the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED August 2, 1985.

By Russell W. Cahill  
for William R. Wilkerson  
Director

NEW SECTION

**WAC 220-47-602 PUGET SOUND ALL-CITIZEN COMMERCIAL SALMON FISHERY.** Notwithstanding the provisions of Chapter 220-47 WAC, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following restrictions:

*Area 4B – Under control of International Pacific Salmon Fisheries Commission. Drift gill net gear restricted to 5-7/8-inch maximum mesh when open.*

*\*Areas 5, 6C – Under control of International Pacific Salmon Fisheries Commission. Drift gill net gear restricted to 5-7/8-inch maximum mesh when open. Open to trolling from 5:00 AM to 9:30 PM daily, August 6 and August 7. Waters noted in WAC 220-47-266 are closed to all commercial fishing. Area 6, 6A, 7, 7A – Under control of International Pacific Salmon Fisheries Commission. Gill net gear restricted to 5-7/8-inch maximum mesh when open.*

*\*Areas 7B, 7C – Closed except gill nets using 5-inch minimum mesh may fish from 7:00 PM to 9:30 AM nightly, August 5 through the morning of August 8. Fishery exclusion zones applicable to Areas 7B and 7C commercial fisheries are described in WAC 220-47-307.*

*\*Area 8 – Closed except gill nets using 7-1/2-inch minimum mesh may fish from 7:00 PM the night of August 5 through 9:30 AM the morning of August 6. Fishery exclusion zones applicable to Area 8 commercial fisheries are described in WAC 220-47-307.*

*\*Area 12C (excluding that portion south of a line projected from Lake Cushman powerhouse to the public boat ramp at Union) – Closed except gill nets using 5-inch minimum mesh may fish from 7:00 PM to 9:30 AM nightly August 5 through the morning of August 8, and purse seines using the 5-inch strip may fish from 5:00 AM to 9:00 PM daily August 5 through August 7. Additional fishery exclusion zones applicable to Area 12C commercial fisheries are described in WAC 220-47-307.*

*\*Areas 6B, 6D, 7D, 7E, 8A, 8D, 9, 9A, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12, 12A, 12B, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K and all freshwater areas – Closed.*

REPEALER

The following section of the Washington Administrative Code is repealed.

**WAC 220-47-601 PUGET SOUND COMMERCIAL FISHERY RESTRICTIONS (85-87)**

**WSR 85-16-083****EMERGENCY RULES****DEPARTMENT OF FISHERIES**

[Order 85-92—Filed August 2, 1985]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, William R. Wilkerson, find that an emergency exists and that this 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 the emergency is restrictions in Areas 4B, 5, 6C provide protection for Puget Sound and Canadian chinook stocks while allowing a limited effort, limited impact immobile set net fishery. Restrictions in Areas 6, 6A, 7, 7A provide protection for Puget Sound and Canadian chinook stocks. Restrictions in Areas 6B and 9 protect Nisqually and Hood Canal pink stocks. Restrictions in Area 10 protect chinook returning to Suquamish Hatchery. Restrictions in Area 10C and the Cedar River protect Lake Washington sockeye and chinook. Restrictions in Areas 10D and 10G protect Lake Washington sockeye while allowing harvest of chinook. Restrictions in Areas 12 and 12B protect natural Hood Canal pink stocks while allowing harvest of Hood Canal chinook. Restrictions in Area 13A, Nooksack, Quilcene, and White rivers and Minter Creek protect Puget Sound spring chinook. Restrictions in the Skagit River protect spawning salmon stocks. Restrictions in Area 7C and the Samish River provide protection for chinook returning to Samish Hatchery. Restrictions in Area 6D, Elwha and Dungeness rivers protect local summer/fall chinook and pink salmon stocks. Restrictions in Area 8A and the Stillaguamish River protect local summer/fall chinook. Restrictions in Area 12C protect chinook returning to Hoodsport and Enetai hatcheries.

These 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 the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED August 2, 1985.

By Russell W. Cahill  
for William R. Wilkerson  
Director

NEW SECTION

**WAC 220-28-508 PUGET SOUND COMMERCIAL SALMON FISHERY RESTRICTIONS.** Effective August 4, 1985, it is unlawful for treaty Indian fishermen to take, fish for, or possess salmon for commercial purposes taken from the following Puget Sound

*Salmon Management and Catch Reporting Areas except in accordance with the following restrictions:*

*Areas 4B, 5, 6C – Drift gill net gear restricted to 5-7/8-inch maximum mesh when open.*

*\*Areas 6B, 9 – Effective through September 14, gill net gear restricted to 7-inch minimum mesh, and other gear must release pink salmon when open.*

*Area 6D, Dungeness and Elwha Rivers – Closed to all commercial fishing through September 21.*

*Areas 6, 6A, 7, 7A – Gill net gear restricted to 5-7/8-inch maximum mesh when open.*

*Area 7C – Closed to all commercial fishing southeasterly of a line from the mouth of Oyster Creek 237° true to a fishing boundary marker on Samish Island.*

*Area 8A – Closed to all commercial fishing in that portion north of a line from Camano Head to the northern boundary of Area 8D.*

*Area 10 – Closed to all commercial fishing in that portion northwest of a line from the flashing buoy at the entrance to Agate Passage to the flashing light at the end of the Indianola dock.*

*Area 10C and Cedar River – Closed to all commercial fishing until further notice.*

*\*Area 10D – (1) Effective through October 5, gill net gear restricted to 6-1/2-inch minimum mesh and all other gear must release sockeye. (2) Effective until further notice, closed to all commercial fishing in that portion within 250 yards of the eastern and northern shoreline of Lake Sammamish between the Sammamish River and Issaquah Creek.*

*\*Area 10G – Effective through September 28, gill net gear restricted to 6-1/2-inch minimum mesh and all other gear must release sockeye when open.*

*\*Areas 12, 12B – Effective through August 24, commercial gill net gear restricted to 7-inch minimum and all other gear must release pink salmon when open.*

*Area 12C – Effective through September 7, closed to all commercial fishing in that portion within 1,000 feet of the western shoreline between Glen Ayr Trailer Park and Hoodspout Marina dock and in that portion within 1,000 feet of the western shoreline between Potlatch State Park and the mouth of Nalley's Slough.*

*Area 13A – Closed to all commercial net fishing until further notice in that portion north of a line from Allen Point to the southernmost point of land on the eastern shore of Glen Cove.*

*Nooksack (upstream of the confluence of the forks) and Samish Rivers – Closed to all commercial fishing through October 15.*

*Skagit River upstream of Baker River – Closed to all commercial fishing until further notice.*

*Stillaguamish River – Closed to all commercial fishing through August 10. Effective August 11 until further notice, gill net gear restricted to 6-inch maximum mesh when open.*

*Quilcene River – Closed to all commercial fishing through August 31.*

*Minter Creek and White River – Closed to all commercial fishing through September 28.*

#### REPEALER

*The following of the Washington Administrative Code is repealed effective August 4, 1985:*

**WAC 220-28-507 PUGET SOUND COMMERCIAL SALMON FISHERY RESTRICTIONS (85- )**

**Reviser's note:** The typographical errors in the above repealer occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

#### **WSR 85-16-084**

#### **REVIEW OF RULES**

#### **DEPARTMENT OF TRANSPORTATION**

[Filed August 5, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.230, that the Department of Transportation intends to review the following rules:

- ch. 468-14 WAC Small business and minority contractors (highway division).
- ch. 468-30 WAC Highway property (highway division).
- ch. 468-34 WAC Utility lines—Franchises and permits (highway division).
- ch. 468-54 WAC Limited access hearings (highway division).
- ch. 468-58 WAC Limited access highways (highway division).

The agency will at 10:00 a.m., Monday, September 16, 1985, in the Board Room, 1D 2, Transportation Building, Olympia, Washington, conduct a public hearing on the rules.

This administrative review of rules is a result of SSB 3386, chapter 324, Laws of 1981. As a result, the Department of Transportation has outlined a schedule for reviewing all of its rules once every four years.

Dated: August 1, 1985

By: A. D. Andreas  
Deputy Secretary

#### **WSR 85-16-085**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF NATURAL RESOURCES**

[Order 460—Filed August 5, 1985]

I, Brian J. Boyle, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the amendment of an emergency

rule restricting logging, land clearing, and other industrial operations which may cause a fire to start on lands protected by the Department of Natural Resources in Western Washington and Eastern Washington.

I, Brian J. Boyle, find that an emergency exists and that this 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 the emergency is due to change in fire weather danger in certain shutdown zones in Western Washington and counties in Eastern Washington, logging, land clearing, and other industrial operations and burning restrictions are modified or lifted in specific areas of the state.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 76.04.150, 76.04.190 and 76.04.200 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED August 5, 1985.

By Brian J. Boyle  
Commissioner of Public Lands

AMENDATORY SECTION (Amending Emergency Order 459, filed 8/1/85)

WAC 332-26-083 HOOT OWL LOGGING RESTRICTIONS ON LANDS PROTECTED BY THE DEPARTMENT OF NATURAL RESOURCES IN WESTERN WASHINGTON. Effective midnight, (~~Monday, July 29, 1985, through midnight, Monday, August 5, 1985.~~) Monday, August 5, 1985, through midnight, Monday, August 12, 1985, all logging, land clearing, and other industrial operations which may cause a fire to start are to cease operations during the following times and under the following conditions: 1) All power saws, except those used on landings, to shutdown from 11:00 a.m. to 8:00 p.m. during the shutdown period. Landing saws to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 2) All yarding, skidding, loading, and hauling to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 3) All other operations not specifically listed here will shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 4) Watchperson required for a minimum of one hour following operation of spark emitting equipment.

Affected Areas: Olympic Area - shutdown zones 650, 651L, 652, 653, 654. Northwest Area - shutdown zones 658. South Puget Sound - shutdown zone 654 in Jefferson County only, 652, and zone 659 in King and Pierce counties.

All persons are excluded from logging operating areas and areas of logging slash, except those present in the interest of fire protection, from 1:00 p.m. to 8:00 p.m. during the shutdown period.

All burning permits and burning privileges are cancelled in the affected shutdown zones.

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 Emergency Order 456, filed 7/29/85)

WAC 332-26-086 MODIFIED LOGGING OPERATIONS ON LANDS PROTECTED BY THE DEPARTMENT OF NATURAL RESOURCES NORTHEAST AREA. Effective midnight, (~~Monday, July 29, 1985, through midnight, Monday, August 5, 1985.~~) Monday, August 5, 1985, through midnight, Monday, August 12, 1985, all logging, land clearing, and other industrial operations which may cause a fire to start are to cease operations during the following times and under the following conditions: 1) All power saws, except those used on landings, to shutdown from 11:00 a.m. to 8:00 p.m. during the shutdown period. Landing saws to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 2) Yarding, skidding, loading, and hauling to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 3) All other operations not specifically listed here will shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 4) Watchperson required for a minimum of one hour following operation of spark emitting equipment.

All persons are excluded from areas of logging slash, except those involved in the actual commercial operations of loading and hauling and those present in the interest of fire protection, from 1:00 p.m. to 8:00 p.m. during the shutdown period.

Areas affected by these restrictions are all private and state lands protected by the Department of Natural Resources Northeast Area in Pend Oreille, Spokane, Lincoln, Stevens, Ferry, and Okanogan counties.

All (~~burning permits and~~) burning privileges, including burning barrels and fires in organized campgrounds, are suspended on lands protected by the Department of Natural Resources Northeast Area in the affected counties.

Firewood cutting privileges on forest lands are suspended due to fire danger in the affected counties.

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 Emergency Order 457, filed 7/30/85)

WAC 332-26-087 MODIFIED LOGGING OPERATIONS ON LANDS PROTECTED BY THE DEPARTMENT OF NATURAL RESOURCES SOUTHEAST AREA. Effective midnight, (~~Monday, July 29, 1985, through midnight, Monday, August 5, 1985.~~) Monday, August 5, 1985, through midnight, Monday, August 12, 1985, all logging, land clearing, and other industrial operations which may cause a fire to start are to cease operations during the following times and under the following conditions: 1) All power saws, except those used on landings, to shutdown from 11:00 a.m. to 8:00 p.m. during the shutdown period. Landing

saws to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 2) All yarding, skidding, loading, and hauling to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 3) All other operations not specifically listed here will shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 4) Watchperson required for a minimum of one hour following operation of spark emitting equipment.

Areas affected by these restrictions are all private and state lands protected by the Department of Natural Resources Southeast Area in Klickitat, Yakima, Kittitas, and Chelan counties. (~~(, Walla Walla, Columbia, Garfield, and Asotin counties.)~~)

All persons are excluded from logging operating areas and areas of logging slash, except those present in the interest of fire protection, from 1:00 p.m. to 8:00 p.m. during the shutdown period.

All (~~burning permits and~~) burning privileges, including burning barrels and fires in organized campgrounds, are suspended on lands protected by the Department of Natural Resources in the affected counties.

Firewood cutting privileges on forest lands are suspended due to fire danger in the affected counties.

**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 85-16-086

#### NOTICE OF PUBLIC MEETINGS HUMAN RIGHTS COMMISSION

[Memorandum—August 2, 1985]

The Washington State Human Rights Commission will conduct a special meeting of the Washington Association of Human Rights Agencies on Tuesday, August 27, 1985, at the Doubletree Plaza Hotel, Room 1202, 16500 Southcenter Parkway, Seattle, Washington, beginning at 7:00 p.m. The agenda will include discussion of a proposed charter and/or bylaws. Further discussion will include goals planning for the advisory council.

### WSR 85-16-087

#### PROPOSED RULES COMMUNITY COLLEGE DISTRICT TWELVE

[Filed August 5, 1985]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Community College District Twelve board of trustees intends to adopt, amend, or repeal rules concerning parking and traffic regulations, Olympia Technical Community College, amending chapter 132L-30 WAC;

that the institution will at 7:00 p.m., Tuesday, September 24, 1985, in the Board Room, Centralia College, 600 West Locust, Centralia, WA 98531, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is chapters 28B.10, 28B.19 and 28B.50 RCW.

Dated: July 30, 1985

By: Dale A. Miller

District President

Community College District 12

Secretary, Board of Trustees

#### STATEMENT OF PURPOSE

Rule: Amending chapter 132L-30 WAC, Parking and traffic regulations, Olympia Technical Community College.

Statutory Authority: Chapters 28B.10, 28B.15, 28B.19 and 28B.50 RCW, including but not limited to RCW 28B.10.170, 28B.15.031, 28B.19.020 and 28B.50.140.

Purpose of the Rule(s): Will allow the district to update parking and traffic regulations to reflect a college name change, a new responsible authority, changes in parking sticker placement, and changes to fine enforcement.

Summary of the New Rule(s) and/or Amendments: To reflect name change, responsible official, parking sticker placement, and fine enforcement.

Reasons Which Support the Proposed Action(s): To be updated to reflect the current names of the college and administrative structure change that have taken place since the rules were originally adopted. Additionally, parking sticker placement and fine enforcement regulations need to be updated.

Person or Organization Proposing the Rule(s): Board of Trustees, Community College District Twelve, government.

Agency Personnel Responsible for Drafting: John A. Hurley, Jr., District Personnel Office, Centralia College, (206) 736-9391, Ext. 213; Implementation and Enforcement: Dale A. Miller, District President's Office, Centralia College, (206) 736-9391, Ext. 200.

The rule(s) is not necessary as the result of federal law, federal court action, or state court action.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matter Pertaining to the Rule(s): None.

#### Chapter 132L-30 WAC

#### PARKING AND TRAFFIC REGULATIONS ((~~OLYMPIA TECHNICAL~~)) SOUTH PUGET SOUND COMMUNITY COLLEGE

#### AMENDATORY SECTION (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-010 PURPOSE FOR ADOPTING PARKING AND TRAFFIC REGULATIONS. Pursuant to the authority granted RCW 28B.50.140(10), the board of trustees of Community College District 12, on behalf of ((~~Olympia Technical~~)) South Puget Sound Community College is granted authority to adopt rules and regulations for pedestrian and vehicular traffic upon public lands devoted to, operated by or maintained by the college district. The objectives of these regulations are:

- (1) To protect and control pedestrian and vehicular traffic.
- (2) To assure access at all times for emergency traffic.
- (3) To minimize traffic disturbances during class hours.
- (4) To facilitate the work of the college by assuring access to its vehicles and by assigning limited parking space for the most efficient use by all.

- (5) To regulate the use of parking spaces.  
 (6) To protect state owned property.

**AMENDATORY SECTION** (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-020 APPLICABLE PARKING AND TRAFFIC REGULATIONS. The other rules and regulations which are also applicable upon the campus include:

(1) The motor vehicle and traffic laws of the state of Washington. These shall be applicable upon all lands located within the state of Washington.

(2) The traffic code of the city of Olympia (~~(-This code applies)~~) shall apply upon ~~((all lands located within))~~ the campus located within the city of Olympia.

(3) The ~~((OTCE))~~ South Puget Sound Community College parking and traffic regulations. These shall be applicable to all state lands which are or may hereafter be devoted mainly to educational, recreational, or parking activities of the college. In case of conflict between the provisions of the motor vehicle and other traffic laws of the state of Washington and ~~((OTCE))~~ South Puget Sound Community College parking and traffic regulations, the provisions of the state of Washington motor vehicle laws shall govern.

**AMENDATORY SECTION** (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-030 DEFINITIONS. As used in this chapter, the following words and phrases shall mean:

(1) "Administration" shall mean those employees whose job duties are administrative by job description and who exercise supervisory or other managerial responsibilities over other employees.

(2) "Board" shall mean the board of trustees of Community College District 12.

(3) "Campus" shall mean any or all lands and buildings devoted to, operated by, or maintained by ~~((Olympia Technical))~~ South Puget Sound Community College, District 12, state of Washington.

(4) ~~((Campus patrolman))~~ Chief of security shall mean ~~((a contracted or salaried))~~ the employee of the college ~~((who is))~~ responsible ~~((to))~~ for supervising the ~~((dean of administrative services))~~ campus security department and for campus traffic control, parking and security.

(5) "College" shall mean ~~((Olympia Technical))~~ South Puget Sound Community College, District 12, state of Washington and the personnel thereof.

(6) ~~((Dean of administrative services))~~ Campus security department shall mean the ~~((dean of administrative services for Olympia Technical Community College, District 12, state of Washington))~~ campus security department of the college.

(7) "Faculty members" or academic employees shall mean any employee of ~~((Olympia Technical))~~ South Puget Sound Community College, District 12, state of Washington, who has employment as a teacher, counselor, librarian, or other position where the training, experience, and responsibilities are comparable as determined by the appointing authority, except administrative appointments.

(8) "Guests/visitors" shall mean any person or persons who come upon the campus as guests and person or persons who lawfully visit the campus.

(9) "Annual permits" shall mean permits which are valid for twelve months, from September 15 through September 14 the following year. Annual permits are sold ~~((through the first ten days of))~~ prior to and during fall quarter.

(10) "Quarterly permits" shall mean permits which are valid for a specified college calendar quarter. Quarterly permits are sold prior to and during the specified quarter.

(11) "Staff" shall mean the contracted or classified employees of ~~((Olympia Technical))~~ South Puget Sound Community College, District 12, state of Washington.

~~((+))~~ (12) "Temporary permits" shall mean permits which are valid for a specific period designated on the permit.

~~((+2))~~ (13) "Vehicle" shall mean an automobile, truck, motor-driven cycle, scooter or any vehicle otherwise powered.

~~((+3))~~ (14) "Full time student" shall mean any person who is enrolled for 10 credit hours or more in any community college operated by Community College District 12.

~~((+4))~~ (15) "Part time student" shall mean any person who is enrolled for 9 credit hours or less in any community college operated by Community College District 12.

~~((+5))~~ (16) "Full time employee" shall mean any administrator, classified staff, faculty, counselor, librarian, or District 12 officer employed 20 hours or more per week on a permanent regular basis.

~~((+6))~~ (17) "Part time employee" shall mean any administrator, classified staff, faculty, counselor, librarian, or District 12 officer employed 19 hours or less per week.

**AMENDATORY SECTION** (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-040 AUTHORIZATION FOR ISSUANCE AND SALE OF PARKING PERMITS. The ~~((dean of administrative services, or designee, is))~~ chief of security or subordinates are authorized to issue or sell parking permits to students, administrators, ~~((faculty))~~ faculty, staff, guests and visitors to the college, pursuant to the following regulations:

(1) A person may be issued a parking permit upon the proper registration of his/her vehicle with the college.

(2) The ~~((dean of administrative services, or designee,))~~ chief of security or subordinates may issue temporary, permanent or special parking permits when such permits are necessary to enhance the business or operation of the college.

(3) Additional permits are available at the current fee schedule to individuals who may be registered to drive any one of several vehicles. Only one vehicle registered to an individual under one permit fee shall be permitted to park on campus at any one time.

(4) Persons who pay the current fee for parking permits and who later request a refund shall receive refunds according to the refund policy published in the college catalogues and bulletins.

**AMENDATORY SECTION** (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-050 PARKING FEES FOR VEHICLE PERMITS. All part time and full time employees and district officers of Community College District 12 shall obtain and display valid parking permits on all vehicles driven or parked upon the ~~((Olympia Technical))~~ South Puget Sound Community College campus in accordance with WAC 132L-30-040.

All part time and full time students of Community College District 12 shall obtain and display a valid parking permit on all vehicles driven or parked upon the ~~((Olympia Technical))~~ South Puget Sound Community College campus in accordance with WAC 132L-30-040.

All persons parking on the campus shall secure and display a valid parking permit within five academic days from date of registration.

**AMENDATORY SECTION** (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-060 PARKING FEE EXCEPTIONS. All guests/visitors (including salespersons, maintenance or service personnel) will park in designated parking areas without paying a fee. These include but are not limited to:

(1) Federal, state, county, city, school district and similar governmental personnel on official business in vehicles with tax exempt licenses.

(2) Vehicles owned by contractors and their employees working on campus construction may be parked within available construction sites or areas.

(3) Members of the press, television, radio and wire services, on official business.

(4) Taxis and commercial delivery vehicles for the pick up and delivery of passengers, supplies and equipment.

(5) Persons attending special college events.

(6) Guests/visitors invited to the campus for the purpose of rendering services to the college.

(7) Persons holding emeritus or similar appointments shall park in designated areas.

(8) Students and faculty participating in Friday evening (after 4:30 P.M.) and/or for weekend classes ~~((only))~~.

**AMENDATORY SECTION** (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-080 DISPLAY OF PERMITS. The ~~((vehicle))~~ permit ~~((issued by the college))~~ shall be permanently ~~((and visibly))~~ affixed ~~((on))~~ to the ~~((left rear bumper of the vehicle))~~ outside of the lower left-hand corner of the rear window as viewed from the rear of the vehicle. On vehicles that do not have a rear window, the permit

shall be displayed on the rear bumper, driver side. Permits not displayed in accordance with provisions of this section shall not be valid and vehicles displaying an improperly placed permit shall be subject to citation. Permits will be displayed on the front forks of a motorcycle.

AMENDATORY SECTION (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-110 RIGHT TO REFUSE PERMIT. The college ~~((dean of administrative services or designee))~~ chief of security reserves the right to refuse the issuance of a parking permit to anyone who has had a previous permit revoked or refused or to anyone whose driving or parking record indicates a disregard for the rights or safety of others.

AMENDATORY SECTION (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-120 RIGHT TO APPEAL PERMIT REVOCATION/REFUSAL. When a parking permit has been recalled pursuant to WAC 132L-30-100 or has been refused in accordance with WAC 132L-30-110 or when a fine or penalty has been levied against a violator of the rules and regulations set forth in this chapter, such action by the ~~((dean of administrative services, or designee;))~~ chief of security may be appealed in accordance with WAC 132L-30-180.

AMENDATORY SECTION (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-130 DELEGATION OF AUTHORITY. The authority and powers conferred upon the ~~((dean of administrative services))~~ chief of security by these regulations ~~((shall))~~ may be ~~((subject to delegation))~~ delegated to ~~((that individual's))~~ chief of security subordinates.

AMENDATORY SECTION (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-140 ENFORCEMENT. (1) ~~((OFCC))~~ South Puget Sound Community College parking and traffic regulations will be enforced throughout the calendar year on a 24 hour basis.

(2) The ~~((dean of administrative services or designee))~~ chief of security shall be responsible for the enforcement of the regulations contained in this chapter.

AMENDATORY SECTION (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-150 VIOLATION OF PARKING AND TRAFFIC REGULATIONS. (1) Operators of illegally operated or parked vehicles which are not subject to impounding under these policies, shall ~~((be warned through an appropriate means))~~ receive a warning and/or parking citation that they are in violation of these regulations.

(2) In instances where violations are repeated, and in the judgment of the ~~((dean of administrative services;))~~ chief of security or subordinates with appropriate documented evidence, said vehicle(s) may be impounded and/or operator fined in accordance with the approved fees and fines schedule. All fines are payable at the cashier's office.

AMENDATORY SECTION (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-160 ISSUANCE OF TRAFFIC TICKETS OR SUMMONS. (1) Upon probable cause to believe that a violation of these regulations has occurred the ~~((dean of administrative services or designee(s;))~~ chief of security or subordinates may issue a signed summons or citation setting forth the date, the approximate time, permit number, license information and nature of violation.

(2) Such summons or traffic citation may be served by attaching or affixing a copy thereof in some prominent place outside such vehicle or by personally serving the operator.

AMENDATORY SECTION (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-170 FINES ~~((AND))~~, PENALTIES AND ENFORCEMENT. The ~~((dean of administrative services, or designee, is))~~ chief of security or subordinates are authorized to impose the following fines and penalties for violation of the regulations contained in this chapter:

(1) Fines may be levied for all violations of the regulations contained in this chapter.

(2) Vehicles parking in a manner so as to obstruct traffic, blocking another vehicle including access to and from parking spaces and areas may be subject to a fine and may be impounded and taken to such place for storage as the ~~((dean of administrative services, or designee;))~~ chief of security or subordinates selects without warning. The expenses of such impounding and storage shall be the responsibility of the registered owner or driver of the vehicle.

(3) Vehicles impounded by means of an immobilizing device shall be charged a service fee according to the current fee schedule and payment of fines for all unpaid citations outstanding for that vehicle.

(4) The college shall not be liable for loss or damage of any kind resulting from impounding and storage of vehicles.

(5) At the discretion of the ~~((dean of administrative services;))~~ chief of security an accumulation of traffic/parking citations by a student, staff, administrator or faculty member may be turned over to a private collection agency for the collection of past due fines. Other appropriate collection procedures may be initiated as deemed necessary.

(6) Vehicles involved in violations of these regulations may be impounded as provided for in these regulations.

(7) A schedule of fines shall be set and reviewed annually by the board of trustees. The schedule shall be published in the ~~((OFCC))~~ South Puget Sound Community College parking and traffic regulations and on the traffic citation form. Upon paying the fine, the violation shall be removed from the violator's campus driving record.

(8) ~~((In the event a person fails or refuses to pay an uncontested fine which has been outstanding in excess of five school days;))~~ Upon receiving a fourth parking citation with three previous unpaid parking citations outstanding, the owner or operator of a vehicle which is in violation of the college's parking regulations may be subject to the following actions. The ((dean of administrative services)) college may ((initiate the following actions):

(a) ~~((Student may not be able to obtain transcript of credits))~~ Withhold the student's record or any information based upon the record.

(b) ~~((Student may not receive a degree/certificate until all fines are paid))~~ Withhold the student's transcripts.

(c) ~~((Impounding of vehicle))~~ Deny registration for a subsequent quarter as well as graduation from the college.

(d) Impound the vehicle or impound by means of an immobilizing device.

(9) The following violations will be assessed in accordance with the fees and fines schedules as established by the board of trustees:

- (a) Permit not displayed
- (b) Occupying more than one parking space
- (c) Occupying space not designated for parking
- (d) Parking in area not authorized by permit
- (e) Parking in reserved staff ~~((after warnings may be towed))~~
- (f) Blocking or obstructing traffic ~~((after warnings may be towed))~~ (may be impounded without warning)
- (g) Parking adjacent to fire hydrant ~~((after warnings may be towed))~~
- (h) Parking in fire lane ~~((after warnings may be towed))~~
- (i) Parking in zone or area marked no parking
- (j) Failure to yield right-of-way
- (k) Failure to stop at sign or signal
- (l) Reckless or negligent driving
- (m) Other violations of college parking regulations and its objectives
- (n) Removal of immobilizing device
- (o) Speeding
- (p) Improper lane change
- (q) Driving wrong way on a one-way roadway.

AMENDATORY SECTION (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-180 GRIEVANCE PROCEEDINGS—APPEAL OF FINES AND PENALTIES. The alleged violator may contact the campus security department after receiving the citation to appeal a citation. If this appeal is not resolved to the satisfaction of the alleged violator they may appeal before the parking advisory committee.

(1) The alleged violator must submit the grievance in writing, giving full particulars, listing witnesses, evidence, etc.

(2) Grievance must be submitted to the dean of students within five school days from date of citation.

(3) If grievance is not resolved to the satisfaction of the alleged violator, he/she shall have five additional school days from receipt of decision by the dean of students to appeal to the parking advisory committee.

AMENDATORY SECTION (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-190 PARKING ADVISORY COMMITTEE. The parking advisory committee shall be structured and responsible for the following purposes:

(1) To review and recommend necessary changes to the ~~((Olympia Technical))~~ South Puget Sound Community College parking and traffic regulations annually.

(2) To receive and hear appeals related to parking grievances. All decisions made by the parking advisory committee relative to traffic appeals shall be final.

(3) Membership shall consist of:  
Four student representatives (two in student senate) appointed by the ~~((ASB))~~ Associated Student Body President  
Two faculty representatives - appointed by faculty president of ~~((FCC))~~ South Puget Sound Community College  
One classified representative - elected by simple majority of voting classified staff

~~((Dean of administrative services - ex officio))~~ One administrator appointed by the college president.

AMENDATORY SECTION (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-200 LIABILITY OF COLLEGE. The college assumes no liability under any circumstances for vehicles parked on campus. The college rents space to individuals who wish to park on campus and who purchase a permit. No bailment of any sort is created by the purchase of a parking permit.

AMENDATORY SECTION (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-210 DESIGNATION OF PARKING. The parking space available on campus may be allocated and designated ~~((by the dean of administrative services))~~ in such a manner as will best achieve the objectives of these rules and regulations.

(1) ~~((Faculty, staff and student parking shall be limited to spaces so designated.~~

~~((2)))~~ Special provisions shall be made for physically handicapped students or their designee. Permanently handicapped individuals must display the handicapped sticker, place card, or handicapped license plate issued by the department of ~~((motor vehicles;))~~ licensing for disabled parking. Temporarily handicapped permits will be issued on a quarterly basis by the ~~((dean of administrative services))~~ chief of security.

~~((3)))~~ (2) Visitors parking shall be limited to spaces so designated.  
~~((4)))~~ (3) Parking spaces shall be designated for special purposes as deemed necessary.

AMENDATORY SECTION (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-230 REGULATORY SIGNS, MARKINGS, BARRICADES, ETC. The ~~((dean of administrative services))~~ college is authorized to make and erect signs, barricades, and other structures and to paint marks and other directions upon the streets, entry/exits, and roadways for the regulation of traffic and parking upon the various public lands devoted to, operated by, or maintained by the college. Drivers or vehicles shall observe and obey all the signs, barricades, structures, markings and directions given them by the campus patrolman in the control and regulation of traffic. Failure to obey the commands of chief of security or subordinates could result in a citation being issued.

AMENDATORY SECTION (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-260 TWO-WHEELED MOTORBIKES OR BICYCLES. (1) All two-wheeled vehicles powered by an engine ~~((may))~~ shall park in areas designated for motorcycles only.

(2) Bicycles and other nonengine powered cycles shall ~~((be subject to posted or published regulations as established in this policy))~~ not be

parked inside any building on this campus. No person shall park a bicycle on a campus path, sidewalk, walkway, or in such a manner as to block a building exit or entrance.

(3) Bicycles may be impounded for illegal parking if parked in buildings or parked so as to block paths, walkways or building exits.

(4) Bicycles will be released upon presentation of proof of ownership.

AMENDATORY SECTION (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-270 REPORT OF ACCIDENTS. (1) The operator of any vehicle involved in an accident on campus resulting in injury or death of any person or claimed damage to either or both vehicles exceeding ~~(((\$100))~~ three hundred dollars or any hit and run shall ((immediately)) report such accident to the ((dean of administrative services or designee. Operator shall within twenty-four hours after such accident file a State of Washington Motor Vehicle Report)) campus security department.

(2) Other minor accidents may be reported to the ~~((office of))~~ campus ((parking and)) security department for insurance record purposes.

AMENDATORY SECTION (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-280 DISABLED AND INOPERATIVE VEHICLES-IMPOUNDING. (1) Disabled or inoperative vehicles shall not be parked on the campus for a period exceeding ~~((72))~~ twenty-four hours, without authorization from the ((dean of administrative services)) campus security department.

(2) Vehicles parked over ~~((72))~~ twenty-four hours without authorization may be impounded and stored at the expense of either or both the owner and operator thereof.

(3) Notice of intent to impound will be posted on the vehicle and sent by registered mail to the legal owner 48 hours prior to ~~((impound))~~ impoundment.

AMENDATORY SECTION (Amending Order 80-20, Resolution No. 80-20, filed 3/24/80)

WAC 132L-30-290 AUTHORITY TO ESTABLISH PARKING FEE. The board of trustees for Community College District 12 shall set and review as necessary parking permit fees ~~((in accordance with WAC 132L-30-300))~~ and a schedule of fines and penalties ~~((in accordance with WAC 132L-30-170)).~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132L-30-300 PARKING PERMIT FEES.

**WSR 85-16-088**

**ADOPTED RULES**

**DEPARTMENT OF LICENSING**

[Order TL-RG-15-Filed August 6, 1985]

Be it resolved by the Department of Licensing, acting at Olympia, Washington, that it does adopt the annexed rules relating to:

New WAC 308-89-030 Nonresident.  
New WAC 308-89-040 For hire vehicle registration.  
New WAC 308-89-050 Permits.

This action is taken pursuant to Notice No. WSR 85-10-070 filed with the code reviser on May 1, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 46.72.120 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED August 2, 1985.

By Theresa Anna Aragon  
Director

NEW SECTION

WAC 308-89-030 NONRESIDENT. A nonresident owner/operator of for hire vehicle(s) is one whose place of residence state does not participate in a reciprocal agreement with Washington state. Nonresident owner/operators are subject to any and all requirements and restrictions which apply to the resident owner/operators. Nonresident vehicle registrations will not be accepted as insurance proof. Nonresident insurance certificates will not be accepted with any limiting clause or statement which may invalidate the coverage upon entrance into the state of Washington.

NEW SECTION

WAC 308-89-040 FOR HIRE VEHICLE REGISTRATION. A for hire operator shall file an application for vehicle license for each vehicle intended to be operated as a for hire vehicle. In addition to the licensing requirements of motor vehicles, the following shall apply on for hire vehicles: (a) the name of the owner of the vehicle shall be displayed on the vehicle registration in the same name as recorded on the bond or insurance policy, the for hire permit, and the for hire certificates; (b) the purpose for which the vehicle is to be used shall be recorded as either "CAB" or "F/H"; (c) an annual license expiration of June 30.

NEW SECTION

WAC 308-89-050 PERMITS. Each for hire owner/operator may operate under only one dba (doing business as) name per each permit issued. No company may have numerous dba's or operating names under one permit.

Each permit will be issued in the operating name of the for hire company(ies) as recorded on the bond or insurance policy.

**WSR 85-16-089**  
**PROPOSED RULES**  
**CHIROPRACTIC DISCIPLINARY BOARD**  
[Filed August 6, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Chiropractic Disciplinary Board intends to adopt, amend, or repeal rules concerning the Uniform Disciplinary Act, repealing WAC 113-12-005;

that the agency will at 9:30 a.m., Thursday, September 26, 1985, in Kit Carson's Restaurant, Banquet

Room No. 2, 570 S.W. Pacific Avenue, Chehalis, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.26.027.

The specific statute these rules are intended to implement is RCW 18.26.027.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 23, 1985.

Dated: August 2, 1985

By: Delores E. Spice  
Executive Secretary

**STATEMENT OF PURPOSE**

Name of Agency: Washington State Chiropractic Disciplinary Board.

Purpose and Reason Proposed: To repeal the adoption of the Uniform Disciplinary Act.

Summary: WAC 113-12-005 Uniform Disciplinary Act adoption.

Statutory Authority: RCW 18.26.027.

Reason Proposed: Remedial legislation was not adopted regarding the implementation of chapter 18.130 RCW.

Responsible Departmental Personnel: In addition to the board, the following Department of Licensing personnel have knowledge of the responsibility for drafting this repeal: Delores Spice, Executive Secretary, Chiropractic Disciplinary Board, 1300 Quince Street S.E., Olympia, Washington 98504, phone (206) 235-1931 scan, (206) 754-1931 comm.

Proponents: The subject matter of this rule hearing has been proposed at the request of the Department of Licensing.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as that term is defined by RCW 43.31.920.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 113-12-005 UNIFORM DISCIPLINARY ACT.

**WSR 85-16-090**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
[Filed August 6, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the director of the Department of Licensing intends to adopt, amend, or repeal rules concerning dental hygiene and the repeal of WAC 308-25-200, Uniform Disciplinary Act;

that the agency will at 1:30 p.m., Wednesday, September 11, 1985, in the 4th Floor Conference Room, Highways-Licenses Building, 12th and Franklin Streets, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.29.075.

The specific statute these rules are intended to implement is RCW 18.29.075.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 10, 1985.

Dated: August 1, 1985

By: John H. Keith  
Assistant Attorney General

**STATEMENT OF PURPOSE**

Name of Agency: Department of Licensing.

Purpose and Reason Proposed: To repeal the adoption of the Uniform Disciplinary Act.

Summary: WAC 308-25-200 Uniform Disciplinary Act adoption.

Statutory Authority: RCW 18.29.075.

Reason Proposed: Remedial legislation was not adopted regarding the implementation of chapter 18.130 RCW.

Responsible Departmental Personnel: In addition to the director, the following Department of Licensing personnel have knowledge of the responsibility for drafting this repeal: Chris Robert Rose, Assistant Administrator, Department of Licensing, 1300 Quince Street S.E., Olympia, Washington 98504, phone (206) 234-1150 scan, (206) 753-1150 comm.

Proponents: The subject matter of this rule hearing has been proposed at the request of the Department of Licensing.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as that term is defined by RCW 43.31.920.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 308-25-200 UNIFORM DISCIPLINARY ACT

**WSR 85-16-091  
PROPOSED RULES  
DEPARTMENT OF LICENSING  
[Filed August 6, 1985]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the director of the Department of Licensing intends to adopt, amend, or repeal rules concerning dispensing opticians and the repeal of WAC 308-26-030, Uniform Disciplinary Act;

that the agency will at 1:30 p.m., Wednesday, September 11, 1985, in the 4th Floor Conference Room, Highways-Licenses Building, 12th and Franklin Streets, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.34.135.

The specific statute these rules are intended to implement is RCW 18.34.135.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 10, 1985.

Dated: August 1, 1985

By: John H. Keith  
Assistant Attorney General

**STATEMENT OF PURPOSE**

Name of Agency: Department of Licensing.

Purpose and Reason Proposed: To repeal the adoption of the Uniform Disciplinary Act.

Summary: WAC 308-26-030 Uniform Disciplinary Act adoption.

Statutory Authority: RCW 18.34.135.

Reason Proposed: Remedial legislation was not adopted regarding the implementation of chapter 18.130 RCW.

Responsible Departmental Personnel: In addition to the director, the following Department of Licensing personnel have knowledge of the responsibility for drafting this repeal: Chris Robert Rose, Assistant Administrator, Department of Licensing, 1300 Quince Street S.E., Olympia, Washington 98504, phone (206) 234-1150 scan, (206) 753-1150 comm.

Proponents: The subject matter of this rule hearing has been proposed at the request of the Department of Licensing.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as that term is defined by RCW 43.31.920.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 308-26-030 UNIFORM DISCIPLINARY ACT.

**WSR 85-16-092  
PROPOSED RULES  
DEPARTMENT OF LICENSING  
[Filed August 6, 1985]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the director of the Department of Licensing intends to adopt, amend, or repeal rules concerning drugless healing and the repeal of WAC 308-34-100, Uniform Disciplinary Act;

that the agency will at 1:30 p.m., Wednesday, September 11, 1985, in the 4th Floor Conference Room, Highways-Licenses Building, 12th and Franklin Streets, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.36.135.

The specific statute these rules are intended to implement is RCW 18.36.135.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 10, 1985.

Dated: August 1, 1985

By: John H. Keith  
Assistant Attorney General

#### STATEMENT OF PURPOSE

Name of Agency: Department of Licensing.

Purpose and Reason Proposed: To repeal the adoption of the Uniform Disciplinary Act.

Summary: WAC 308-34-100 Uniform Disciplinary Act adoption.

Statutory Authority: RCW 18.36.135.

Reason Proposed: Remedial legislation was not adopted regarding the implementation of chapter 18.130 RCW.

Responsible Departmental Personnel: In addition to the director, the following Department of Licensing personnel have knowledge of the responsibility for drafting this repeal: Chris Robert Rose, Assistant Administrator, Department of Licensing, 1300 Quince Street S.E., Olympia, Washington 98504, phone (206) 234-1150 scan, (206) 753-1150 comm.

Proponents: The subject matter of this rule hearing has been proposed at the request of the Department of Licensing.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as that term is defined by RCW 43.31.920.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-34-100 UNIFORM DISCIPLINARY ACT.

**WSR 85-16-093**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
[Filed August 6, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the director of the Department of Licensing intends to adopt, amend, or repeal rules concerning massage operators and business and the repeal of WAC 308-51-190, Uniform Disciplinary Act;

that the agency will at 1:30 p.m., Wednesday, September 11, 1985, in the 4th Floor Conference Room, Highways-Licenses Building, 12th and Franklin Streets, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.108.075.

The specific statute these rules are intended to implement is RCW 18.108.075.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 10, 1985.

Dated: August 1, 1985

By: John H. Keith  
Assistant Attorney General

#### STATEMENT OF PURPOSE

Name of Agency: Department of Licensing.

Purpose and Reason Proposed: To repeal the adoption of the Uniform Disciplinary Act.

Summary: WAC 308-51-190 Uniform Disciplinary Act adoption.

Statutory Authority: RCW 18.108.075.

Reason Proposed: Remedial legislation was not adopted regarding the implementation of chapter 18.130 RCW.

Responsible Departmental Personnel: In addition to the director, the following Department of Licensing personnel have knowledge of the responsibility for drafting this repeal: Chris Robert Rose, Assistant Administrator, Department of Licensing, 1300 Quince Street S.E., Olympia, Washington 98504, phone (206) 234-1150 scan, (206) 753-1150 comm.

Proponents: The subject matter of this rule hearing has been proposed at the request of the Department of Licensing.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as that term is defined by RCW 43.31.920.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-51-190 UNIFORM DISCIPLINARY ACT.

**WSR 85-16-094**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
[Filed August 6, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the director of the Department of Licensing intends to adopt, amend, or repeal rules concerning ocularists and the repeal of WAC 308-55-005, Uniform Disciplinary Act;

that the agency will at 1:30 p.m., Wednesday, September 11, 1985, in the 4th Floor Conference Room, Highways-Licenses Building, 12th and Franklin Streets, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.55.065.

The specific statute these rules are intended to implement is RCW 18.55.065.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 10, 1985.

Dated: August 1, 1985  
 By: John H. Keith  
 Assistant Attorney General

### STATEMENT OF PURPOSE

Name of Agency: Department of Licensing.

Purpose and Reason Proposed: To repeal the adoption of the Uniform Disciplinary Act.

Summary: WAC 308-55-005 Uniform Disciplinary Act adoption.

Statutory Authority: RCW 18.55.065.

Reason Proposed: Remedial legislation was not adopted regarding the implementation of chapter 18.130 RCW.

Responsible Departmental Personnel: In addition to the director, the following Department of Licensing personnel have knowledge of the responsibility for drafting this repeal: Chris Robert Rose, Assistant Administrator, Department of Licensing, 1300 Quince Street S.E., Olympia, Washington 98504, phone (206) 234-1150 scan, (206) 753-1150 comm.

Proponents: The subject matter of this rule hearing has been proposed at the request of the Department of Licensing.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as that term is defined by RCW 43.31.920.

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-55-005 UNIFORM DISCIPLINARY ACT.

**WSR 85-16-095**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed August 6, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Licensing intends to adopt, amend, or repeal rules concerning vessel titling, registration and excise tax, amending WAC 308-93-010, 308-93-050, 308-93-060, 308-93-070, 308-93-075, 308-93-135, 308-93-190, 308-93-210, 308-93-360, 308-93-450, 308-93-620, 308-93-650, repealing WAC 308-93-260, new sections WAC 308-93-071, 308-93-072, 308-93-073, 308-93-074, 308-93-076 and 308-93-077;

that the agency will at 10:00 a.m., Tuesday, September 17, 1985, in the 4th Floor Conference Room, Highways-Licenses Building, 12th and Franklin Streets, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is chapter 258, Laws of 1985.

The specific statute these rules are intended to implement is chapter 258, Laws of 1985.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 10, 1985.

Dated: August 1, 1985  
 By: Sandra L. Brooks, Administrator  
 Title and Registration Control

### STATEMENT OF PURPOSE

Title: New sections WAC 308-93-071 Class "A" and class "B" titles; 308-93-072 UCC search requirements; 308-93-073 New vessels; 308-93-074 Circumstances for issuance of class "A" titles; 308-93-076 Vessels from out of state; 308-93-077 UCC search—Multiple legal owners; amendatory sections WAC 308-93-010 Definitions; 308-93-050 Vessels exempted from registration, excise tax and titling; 308-93-060 Registration period; 308-93-070 Application for title/registration; 308-93-075 Inspection of certificate; 308-93-135 Vessel number required; 308-93-190 Prerequisite to issuance of vessel registration and of decals; 308-93-210 Procedure when department unsatisfied as to ownership; 308-93-360 Application for title required; 308-93-450 Signature of registered owner on application; 308-93-620 Hull identification number required; 308-93-650 Title purpose only; and repealing WAC 308-93-260 State or director not liable for acts in administering chapter.

Description of Purpose: WAC 308-93-071 establishes a dual titling system for certain vessels in the state of Washington; 308-93-072 establishes a requirement for a Uniform Commercial Code security interest search before issuance of certain vessel titles; 308-93-073 establishes procedures for titling newly manufactured vessels; 308-93-074 establishes requirements for issuance of a "class A" certificate of title; 308-93-076 establishes procedures for titling vessels from foreign states and jurisdictions; 308-93-077 establishes procedures for titling vessels which are subject to multiple security interests; 308-93-010 deletes definition of "secured party," adds definitions for "UCC" and "UCC search"; 308-93-050 clarifies which vessels may be exempt from registration, excise tax and/or titling requirements; 308-93-060 clarifies the circumstances when vessels must be registered and when excise tax will be assessed; 308-93-070 establishes new requirements for information on applications for certificates of title for vessels; 308-93-075 deletes reference to chapter 250, Laws of 1984; 308-93-135 deletes reference to chapter 350 [250], Laws of 1984; 308-93-190 adds "valid marine document"; 308-93-210 eliminates concerns regarding "undisclosed security interests" because other rules require UCC search for security interests; 308-93-360 establishes an exemption for vessels having a "valid marine document" from United States government; 308-93-450 changes procedure for application for certificate of title in regard to situations when ownership changes by way of repossession of the vessel; 308-93-620 allows operation of vessels when application for hull number has been made; 308-93-650 changes reference from "Title 82" to chapter 88.02 RCW; and 308-93-260 repeals immunity rules because immunity is now codified by chapter 258, Laws of 1985.

Statutory Authority: Chapter 258, Laws of 1985.

Summary of Proposed Rules and Reasons Supporting Action: WAC 308-93-071 establishes a dual titling system for certain vessels in the state of Washington; 308-93-072 establishes a requirement for a Uniform Commercial Code security interest search before issuance of certain vessel titles; 308-93-073 establishes procedures for titling newly manufactured vessels; 308-93-074 establishes requirements for issuance of a "class A" certificate of title; 308-93-076 establishes procedures for titling vessels from foreign states and jurisdictions; 308-93-077 establishes procedures for titling vessels which are subject to multiple security interests. Sets forth how titles will be issued; 308-93-010 deletes definition of "secured party," adds definitions for "UCC" and "UCC search"; 308-93-050 clarifies which vessels may be exempt from registration, excise tax and/or titling requirements; 308-93-060 clarifies the circumstances when vessels must be registered and when excise tax will be assessed; 308-93-070 establishes new requirements for information on applications for certificates of title for vessels; 308-93-075 deletes reference to chapter 250, Laws of 1984; 308-93-135 deletes reference to chapter 350 [250], Laws of 1984; 308-93-190 adds "valid marine document"; 308-93-210 eliminates concerns regarding "undisclosed security interests" because other rules require UCC search for security interests; 308-93-360 establishes an exemption for vessels having a "valid marine document" from United States government; 308-93-450 changes procedure for application for certificate of title in regard to situations when ownership changes by way of repossession of the vessel; 308-93-620 allows operation of vessels when application for hull number has been made; 308-93-650 changes reference from "Title 82" to chapter 88.02 RCW; and 308-93-260 repeals immunity rules because immunity is now codified by chapter 258, Laws of 1985.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Donna M. Stringer, Assistant Director, Vehicle Services Department, Fourth Floor, Highways-Licenses Building, Olympia, Washington 98504, phone (206) 234-6914 scan, (206) 753-6914 comm, and Sandra Brooks, Administrator, Title and Registration Control, Department of Licensing, Fourth Floor, Highways-Licenses Building, Olympia, Washington 98504, phone (206) 234-6920 scan, (206) 753-6920 comm.

Proponents and Opponents: These rules are proposed by the Department of Licensing.

Agency Comments: These rules are promulgated pursuant to the authority granted the Department of Licensing in chapter 258, Laws of 1985.

These rules were not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: Not required and has not been filed since these rules do not impact any small business as that term is defined by RCW 43.31.920.

#### NEW SECTION

WAC 308-93-071 CLASS "A" AND CLASS "B" TITLES. From June 30, 1985 until June 30, 1990 there will be two classes of vessel titles: class "A" and class "B".

(1) All vessel titles issued prior to June 30, 1985 are class "B" title certificates. Class B certificates show ownership of a vessel, but the vessel may be subject to a security interest not reflected on the title.

(2) Class A title certificates will be issued to purchasers of new vessels with appropriate documentation, or to owners of used vessels who have undergone a UCC search and obtained appropriate releases to ensure that there are no existing liens or claims against the vessel.

#### NEW SECTION

WAC 308-93-072 UCC SEARCH REQUIREMENTS. After June 30, 1985 a class "A" title certificate may be issued when an owner presents evidence of ownership of the vessel in the registered owner's name, and evidence of the absence of security interests or claims, except those to be shown on the new title certificate. The absence of outstanding security interests may be evidenced by a completed UCC search with appropriate releases from all named secured parties on forms provided by the department.

The name(s) on the UCC search must be in exact agreement with the name(s) of the vessel owner(s) as shown on the title application, bill of sale, Washington class "B" title, Washington Coast Guard Registration, or other document approved by the department, subject to the following conditions:

(1) If the applicant for certificate of title obtained ownership of the vessel between July 1, 1982 and July 1, 1985, a UCC search must be completed for the registered owner on the current application and for the immediate previous owner(s).

(2) If the applicant for certificate of title owned the vessel from July 1, 1982 to July 1, 1985 inclusive, the UCC search must be done in the name of the registered owner on the application.

(3) If the applicant for certificate of title obtained ownership of the vessel on or after July 1, 1985, the UCC search must be made in the name of the previous owner.

#### NEW SECTION

WAC 308-93-073 NEW VESSELS. Application for certificate of title to a new vessel never before licensed or titled or sold by an in-state or out-of-state dealer or manufacturer must be accompanied by a manufacturer's statement of origin, carpenters certificate, or a copy of the factory invoice.

If the date of sale shown on the manufacturer's statement of origin, carpenters certificate, or factory invoice was prior to July 1, 1985, a UCC search with appropriate releases must also accompany the application.

The manufacturer's statement of origin, carpenters certificate, or factory invoice must reflect the model year, make and hull identification number of the vessel.

(1) No manufacturers statement of origin or other similar document can be accepted for the issuance of a title unless all persons named, including dealers, on the manufacturers statement of origin have released or assigned their interest thereon, or on a department release of interest form.

(2) Dealer to dealer transfers may be accomplished either by appropriate endorsement of the manufacturers statement of origin or other similar document, or by a department release of interest form. A complete chain of ownership must be reflected from the original dealer named on the manufacturers statement of origin to the retail selling dealer making the application.

#### NEW SECTION

WAC 308-93-074 CIRCUMSTANCES FOR ISSUANCE OF CLASS "A" TITLES. The department may issue a class "A" certificate of title to a vessel upon presentation of one or more of the following:

(1) A manufacturer's statement of origin, carpenter certificate, or factory invoice, provided that the date of sale is on or after July 1, 1985. If the date of sale is prior to July 1, 1985, a UCC search with proper releases will also be required.

(2) A previously issued and properly released Washington class "A" title for the vessel.

(3) A class "B" title accompanied by UCC search and proper releases.

#### NEW SECTION

WAC 308-93-076 VESSELS FROM OUT OF STATE. Vessels with a title or registration issued by a foreign state or jurisdiction will

be issued a class "B" title only. Out of state filing searches similar to UCC in Washington will not be accepted as proof of clear ownership for class "A" title.

#### NEW SECTION

WAC 308-93-077 UCC SEARCH—MULTIPLE LEGAL OWNERS. When an application for title is presented with the UCC filing search indicating one or two secured parties that have an interest in the vessel, the earliest filing date and time would be listed as the primary legal owner with the other listed as second legal owner. This application will be issued a class "A" title.

#### AMENDATORY SECTION (Amending Order TL-RG 8, filed 9/13/84)

WAC 308-93-010 DEFINITIONS. Unless the context clearly provides otherwise, the following definitions apply to the rules in this chapter:

(1) "Alien vessel" means a vessel owned by a resident of a country other than the United States.

(2) "Carpenter certificate" means a certificate issued by a manufacturer describing the vessel for which such certificate is issued and certifying the first conveyance of said vessel after its manufacture.

(3) "Commercial fishing" means operating under a currently valid commercial or charter fishing license issued by the department of fisheries.

(4) "Declaration of value form" means the department of revenue form used when a vessel is acquired by lease or gift, homemade or the most recent purchase price is not known to declare the value for purposes of assessing excise tax.

(5) "Director" means the director of the department of licensing.

(6) "Documented vessel" means a vessel that is documented by the United States Coast Guard and is issued a valid marine certificate.

(7) "Exclusively" means solely and without exception.

(8) "Foreign vessel" means a vessel owned by a resident of another state registered in accordance with the laws of the state in which the owner resides.

(9) "Legal owner" means a person, business, or institution having a security interest in a vessel perfected in accordance with RCW 46.12-.095 or the registered owner of a vessel unencumbered by a security interest or the lessor of a vessel unencumbered by a security interest.

(10) "Lifeboat" means craft used exclusively for lifesaving purposes.

(11) "Manufacturer's ~~((certificate))~~ statement of origin" (MSO) means a certificate issued by a manufacturer describing the vessel for which such certificate is issued and certifying the first conveyance of said vessel after its manufacture.

(12) "Overall length" means a straight line measurement of the overall distance from the foremost point of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow sprits, bumpkins or boomkins, rudders, outboard motor brackets, outdrive units, propellers, and similar fittings or attachments are not included in the measurement.

(13) "Prebill" means the notice to renew a vessel registration that is mailed by the department to the registered owner.

(14) "Previous ownership document" means the last issued certificate of title and/or registration.

(15) "Primarily" means the principal purpose for which a vessel is used when considered in conjunction with all of its uses.

(16) "Propulsion machinery" means any device providing motion to a vessel through such means as combustion, steam, or electric machinery.

(17) "Registered owner, owner," synonymous terms used interchangeably, mean a person who has a lawful right to possession of a vessel, whether or not the vessel is subject to a security interest.

(18) ~~((<sup>18</sup>Secured party~~ means a tender, seller, or other person in whose favor there is a security interest, including a person to whom accounts, contacts rights, or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party.

~~((19))~~ "Tender" means a craft used exclusively to furnish transportation for a larger vessel to shore and return.

~~((20))~~ (19) "Use of waters" means to navigate, operate, employ, or moor any vessel upon the waters.

~~((21))~~ (20) "Valid marine document" means a document issued by the United States federal government which declares a vessel to be a documented vessel of the United States.

~~((22))~~ (21) "Vessel data form" means the information application completed by the applicant showing all required description data for the vessel registration and title.

~~((23))~~ (22) "Waters of this state" means any waters within the territorial limits of this state.

~~((24))~~ (23) "Time share" charters means leased vessels where none of the parties leasing the vessel under a "time share" option agreement are acquiring an equity in the vessel and there is no option to buy.

~~((25))~~ (24) "Houseboat" means any vessel as defined in RCW 88.02.010(1) and does not mean any building on a float used in whole or in part for human habitation as a single-family dwelling which is not designed for self propulsion by mechanical means, or for propulsion by means of wind, nor propelled by mechanical means or wind.

(25) "UCC" means Uniform Commercial Code.

(26) "UCC search" means a Uniform Commercial Code financing statement search pursuant to RCW 62A.9-407(2).

#### AMENDATORY SECTION (Amending Order TL-RG 8, filed 9/13/84)

WAC 308-93-050 VESSELS EXEMPTED FROM REGISTRATION, EXCISE TAX AND TITLING. The following vessels are exempt from registration, titling, and the assessment of excise tax:

(1) Military or public vessels of the United States, except recreational-type public vessels;

(2) Vessels owned by a state or subdivision thereof, used principally for governmental purposes and clearly identifiable as such;

(3) Vessels owned by a resident of a country other than the United States if the vessel is not physically located upon the waters of this state for a period of more than sixty days;

(4) Vessels owned by a resident of another state if the vessel is registered in accordance with the laws of the state in which the owner resides, but only to the extent that a similar exemption or privilege is granted under the laws of that state for vessels registered in this state: PROVIDED, That any vessel which is validly registered in another state and which is physically located in this state for a period of more than sixty days is subject to registration under this chapter;

(5) A ship's lifeboat used solely for lifesaving purposes;

(6) All vessels under sixteen feet in overall length which have no propulsion machinery of any type or which are not used on waters subject to the jurisdiction of the United States or on the high seas beyond the territorial seas for vessels owned in the United States and are powered by propulsion machinery of ten or less horsepower;

(7) Vessels equipped with propulsion machinery of less than ten horsepower that:

(a) Are owned by the owner of a vessel for which a valid vessel number has been issued;

(b) Display the number of that numbered vessel followed by the suffix "1" in the manner prescribed by the department; and

(c) Are used as a tender for direct transportation between that vessel and the shore and for no other purpose;

(8) Vessels with no propulsion machinery of any type for which the primary mode of propulsion is human power;

(9) Vessels which are temporarily in this state undergoing repair or alteration;

(10) Vessels primarily engaged in commerce which have or are required to have a valid marine document as a vessel of the United States, including but not limited to:

(a) Commercial fishing vessels;

(b) Barges;

(c) Charter vessels, including, bare boat and time share charters.

(11) Vessels primarily engaged in commerce which are owned by a resident of a country other than the United States;

(12) A vessel not using the waters of this state;

(13) Any vessel validly registered in any state and displaying the number issued by that state when the vessel is physically located in this state for a period of less than sixty days.

#### AMENDATORY SECTION (Amending Order TL-RG 8, filed 9/13/84)

WAC 308-93-060 REGISTRATION PERIOD. The registration period for the state will be July 1 of the current year through June 30 of the following year for purposes of implementing chapter 88.02 RCW (~~and chapter 250, Laws of 1984~~). A vessel numbered in this state under the Federal Boat Safety Act need not register under chapter 88.02 RCW until ~~((the earlier of one year from the date this state's~~

vessel numbering system is approved under the Federal Boat Safety Act, or the expiration date of the certificate of number issued for the vessel under the Federal Boat Safety Act)) July 1, 1985.

Any vessels registered for the first time in Washington will be assessed the registration fee for the registration period in which the vessel is registered. In addition, excise tax in the amount prescribed by statute will be assessed for the period beginning July 1, 1983 through the current registration period in which the vessel is registered: PROVIDED, That if the owner can verify that the vessel was acquired or brought into Washington after July 31, 1983, the excise tax will be assessed from the date of acquisition or entry into the state: PROVIDED FURTHER, That if the owner certifies that the vessel was not on the waters of this state at any time during any prior registration year, excise tax will not be assessed for that registration year.

Vessels being registered in Washington for the first time and assigned a registration period of eleven months or less shall have the annual excise tax reduced by one-twelfth for each full month of the registration period which has passed by the date when the vessel is registered in Washington. The registration fee will not be abated for the registration period in which the vessel is registered.

When a transfer of ownership occurs on a vessel previously registered in this state and whose registration has expired, there will be assessed a registration fee of six dollars for the current registration period and excise tax due from the expiration date of the previous registration: PROVIDED, That if the person seeking registration can verify that the vessel was acquired subsequent to expiration of the previous registration, excise tax will be assessed from the date of acquisition through the current registration period in which the vessel is being registered: PROVIDED FURTHER, That if the owner certifies that the vessel was not on the waters of this state at any time during any prior registration year, excise tax will not be assessed for that registration year.

AMENDATORY SECTION (Amending Order TL-RG-2, filed 6/21/84)

WAC 308-93-070 APPLICATION FOR TITLE/REGISTRATION. (1) An application for certificate of title or registration of a vessel shall be completed and shall include:

- (a) The names, addresses and ZIP codes of all owners of the vessel being registered including a lessor if applicable.
  - (b) Make, model year and length of vessel.
  - (c) Type of power (gasoline, diesel, propane, etc.).
  - (d) Primary use.
  - (e) Primary method of propulsion (inboard, outboard, inboard/outboard, jet, sail, etc.).
  - (f) Type of vessel (open, cabin, house, or other).
  - (g) Primary vessel construction (fiberglass, wood, aluminum, etc.).
  - (h) County of moorage.
  - (i) Coast guard number, if any.
  - (j) Purchase cost and purchase year of vessel or declared value and year of declaration.
  - (k) Hull identification number.
  - (l) The number previously issued by an issuing authority for the vessel, if any.
  - (m) That the application is for a new number, renewal or transfer of ownership.
  - (n) State in which vessel is or will be principally used.
  - (o) Federal document number, if applicable.
- (2) Name and address of the legal owner or a statement of fact by the registered owner that the vessel is free of all liens other than those shown on the application.
- (3) In the event a vessel is homemade, the owner must complete and sign a declaration of value form. The signature of the registered owner of a homemade vessel must be notarized by a notary public.
- (4) The names of all owners will appear on the application for registration and title. The application must be signed by all owners. This signature must be notarized or certified by an authorized registration agent.
- (5) The application for certificate of title or registration shall be accompanied by the following where applicable:
- (a) A copy of the bill of sale or sales agreement.
  - (b) Vessel data form.
  - (c) Declaration of value form.
  - (d) All proper fees and excise tax.
  - (e) Previous ownership document properly released.
  - (f) Excise exemption affidavit.
  - (g) Proof of sales tax paid.

(h) Proof of personal property tax paid.

(i) Manufacturer's (~~certificate~~) statement of origin or original factory invoice.

(j) Copy of carpenter certificate.

(k) Copy of any filing pursuant to Article 62A.9 RCW, Uniform commercial code-secured transactions.

(l) Release of interest form.

(m) Verification of ownership.

(n) Copy of certificate of ownership of vessel issued by United States Coast Guard.

(o) Additional documentation for issuance of class "A" title as described in WAC 308-93-074.

(6) An application made by a manufacturer or dealer for a number that is to be temporarily affixed to a vessel for demonstration or test purposes may omit subsection (1)(b), (c), (e), (f), (g), and (k) of this section.

(7) An application made by a person who intends to lease or rent the vessel without propulsion machinery may omit subsection (1)(c) and (e) of this section.

AMENDATORY SECTION (Amending Order TL-RG-2, filed 6/21/84)

WAC 308-93-075 INSPECTION OF CERTIFICATE. Each person using a vessel required to be registered under chapter 88.02 RCW (~~and chapter 250, Laws of 1984~~) shall present the certificate or lease or rental agreement required by WAC 308-93-080 and 308-93-100 to any federal, state, or local law enforcement officer for inspection at his request.

AMENDATORY SECTION (Amending Order TL-RG-2, filed 6/21/84)

WAC 308-93-135 VESSEL NUMBER REQUIRED. Except as provided in chapter 88.02 RCW (~~and chapter 250, Laws of 1984~~), no person may use a vessel on the waters of this state unless:

- (1) It has a number issued on a certificate of registration by the issuing authority in the state in which the vessel is principally used; and
- (2) The number is displayed as described in WAC 308-93-145.

AMENDATORY SECTION (Amending Order 736-DOL, filed 11/18/83)

WAC 308-93-190 PREREQUISITE TO ISSUANCE OF VESSEL REGISTRATION AND DECALS. No decals or vessel registration, whether original issues or duplicates, shall be issued or furnished by the department unless the applicant therefor shall at the same time make satisfactory application for a certificate of title or shall present satisfactory evidence that such a certificate of title or valid marine document covering such vessel has been previously issued.

AMENDATORY SECTION (Amending Order 736-DOL, filed 11/18/83)

WAC 308-93-210 PROCEDURE WHEN DEPARTMENT UNSATISFIED AS TO OWNERSHIP (~~AND SECURITY INTERESTS~~). If the department is not satisfied as to the ownership of the vessel (~~or that there are no undisclosed security interests in it~~), the department may register the vessel but shall either:

(1) Withhold issuance of a certificate of title until the applicant presents documents reasonably sufficient to satisfy the department as to the applicant's ownership of the vessel (~~and that there are no undisclosed security interests in it~~); or

(2) As a condition of issuing a certificate of title, require the applicant to file with the department a bond in the form prescribed by the department and executed by the applicant, or in lieu thereof a deposit of cash in like amount. The bond shall be in an amount equal to one and one-half times the value of the vessel as determined by the department and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vessel or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of title of the vessel or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vessel. Any such person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, or any cash deposit shall be returned at the end of three years or prior thereto if the vessel

is no longer registered in this state and the currently valid certificate of title is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

**AMENDATORY SECTION** (Amending Order TL-RG-2, filed 6/21/84)

WAC 308-93-360 APPLICATION FOR TITLE REQUIRED. An application for certificate of title is required:

- (1) Whenever the ownership of a vessel changes;
- (2) When there is a legal change of name of the registered or legal owner of a vessel;
- (3) When there is a change of name of a business entity owning a vessel;
- (4) When a proprietorship or partnership forms a corporation whether or not a business name is changed;
- (5) When a proprietorship or partnership purchases a corporation which will no longer be operated as a corporation whether or not the business name is changed;
- (6) Whenever there is no outstanding secured obligation and no commitment to make advances and incur obligations or otherwise give value in the case of reissue applications;
- (7) Whenever the hull identification number is changed;
- (8) Whenever a second legal owner is to be added to the certificate of title. The application shall show the address of only the first named legal owner;
- (9) Whenever a vessel is to be registered for the first time as required by chapter 88.02 RCW, except for a vessel having a valid marine document as a vessel of the United States.

**AMENDATORY SECTION** (Amending Order 736-DOL, filed 11/18/83)

WAC 308-93-450 SIGNATURE OF REGISTERED OWNER ON APPLICATION—EXCEPTIONS. On an application for an original, reissue, or transfer of certificate of title, the signature of each and every name registered owner is required except:

- (1) When the application is for the sole purpose of removing a legal owner of record from the certificate of title when that legal owner's security interest has been satisfied in the vessel;
- (2) When authorized supportive documentation is used in lieu of the signature or signatures;
- (3) When the legal owner applies for a duplicate title;
- (4) When there is a change in the secured party;
- (5) When ~~((the legal))~~ ownership is transferred with an affidavit of repossession.

**AMENDATORY SECTION** (Amending Order 736-DOL, filed 11/18/83)

WAC 308-93-620 HULL IDENTIFICATION NUMBER REQUIRED. No person shall operate a boat on the waters of this state for which registration and titling is required unless such boat has a hull identification number or application for such number has been made. Hull identification numbers must be ~~((carved, burned, stamped, embossed;))~~ clearly imprinted, or otherwise permanently affixed to the outboard side of the transom, or if there is no transom, to the outermost starboard side at the end of the hull that bears the rudder or other steering mechanism above the waterline of the boat in such a way that alteration, removal or replacement would be obvious or evident. No person, firm, association or corporation shall destroy, remove, alter, cover, or deface the hull identification number.

**AMENDATORY SECTION** (Amending Order TL/RG-1, filed 5/18/84)

WAC 308-93-650 TITLE PURPOSE ONLY. Nothing in ~~((Title 82))~~ chapter 88.02 RCW or chapter 308-93 WAC shall be construed to prevent any person entitled thereto from securing a certificate of title upon a vessel without securing a certificate of registration and vessel decal when, in the judgment of the director of licensing, it is proper to do so.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 308-93-260 STATE OR DIRECTOR NOT LIABLE FOR ACTS IN ADMINISTERING CHAPTER.

**WSR 85-16-096**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
[Filed August 6, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the director of the Department of Licensing intends to adopt, amend, or repeal rules concerning midwifery and the repeal of WAC 308-115-300, Uniform Disciplinary Act;

that the agency will at 1:30 p.m., Wednesday, September 11, 1985, in the 4th Floor Conference Room, Highways-Licenses Building, 12th and Franklin Streets, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.50.125.

The specific statute these rules are intended to implement is RCW 18.50.125.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 10, 1985.

Dated: August 1, 1985

By: John H. Keith  
Assistant Attorney General

**STATEMENT OF PURPOSE**

Name of Agency: Department of Licensing.

Purpose and Reason Proposed: To repeal the adoption of the Uniform Disciplinary Act.

Summary: WAC 308-115-300 Uniform Disciplinary Act adoption.

Statutory Authority: RCW 18.50.125.

Reason Proposed: Remedial legislation was not adopted regarding the implementation of chapter 18.130 RCW.

Responsible Departmental Personnel: In addition to the director, the following Department of Licensing personnel have knowledge of the responsibility for drafting this repeal: Chris Robert Rose, Assistant Administrator, Department of Licensing, 1300 Quince Street S.E., Olympia, Washington 98504, phone (206) 234-1150 scan, (206) 753-1150 comm.

Proponents: The subject matter of this rule hearing has been proposed at the request of the Department of Licensing.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as that term is defined by RCW 43.31.920.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 308-115-300 UNIFORM DISCIPLINARY ACT.

**WSR 85-16-097**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF NATURAL RESOURCES**  
**(Forest Fire Advisory Board)**  
 [Memorandum—August 5, 1985]

The next meeting of the Forest Fire Advisory Board has been scheduled for Wednesday, September 11, 1985. It will begin at 9:00 a.m. in the DNR Geology and Earth Resources Conference Room, Building 1, Rowsix, 4224 S.E. 6th Avenue, Lacey.

If you have any questions or agenda items, please let me know. An agenda and map to the meeting location will follow. (Ken Hoover, Manager, Fire Control Division)

**WSR 85-16-098**  
**PROPOSED RULES**  
**PERSONNEL APPEALS BOARD**  
 [Filed August 6, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Personnel Appeals Board intends to adopt, amend, or repeal rules concerning WAC 358-30-030, 358-30-210 and 358-30-220, concerning charges to be made for providing transcripts, and for the requirement that the Personnel Appeals Board will pay for transcripts on cases appealed to superior court;

that the agency will at 1:15 p.m., Wednesday, September 18, 1985, in the Hearing Room, 2828 Capitol Boulevard, Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is chapter 41.64 RCW.

The specific statute these rules are intended to implement is RCW 41.64.110.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before 1:15 p.m., September 18, 1985.

Dated: August 6, 1985

By: K. W. Elfbrandt  
 Executive Secretary

**STATEMENT OF PURPOSE**

Name of Agency: Personnel Appeals Board.

Purpose of Rules: Provide procedures by which parties may obtain copies of transcript of hearings and provide procedures for filing transcripts upon appeal to superior court required by chapter 461, Laws of 1985.

Statutory Authority: Chapter 461, Laws of 1985.

Summary of Rule: WAC 358-30-030 establishes rates to be charged for transcript of hearings when no appeal to the superior court has been filed; 358-30-210 and 358-30-220 provide for the Personnel Appeals Board to pay for the transcripts filed with the superior court and fees to be charged parties desiring copies.

Reasons for Proposed Rules: To comply with statutory change.

Who is Responsible for Drafting and Enforcing of Rule: Executive secretary.

What Agency Proposed Rules: Personnel Appeals Board.

Agency Comments: None.

Federal or State Court Requirements: None.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

WAC 358-30-030 HEARINGS. (1) Hearings on all appeals shall be open to the public unless the personnel appeals board or hearings examiner determines there is substantial reason for not having an open hearing, or the employee so requests.

(2) The hearing shall be informal. Technical rules of evidence shall not apply to the proceedings, except for the rules of privilege recognized by law.

(3) All parties may select representatives of their choosing, present and cross-examine witnesses, and give evidence before the personnel appeals board or hearings examiner.

(4) All testimony shall be on oath administered by a member of the personnel appeals board or hearings examiner.

(5) One member of the personnel appeals board may hold a hearing and take testimony to be reported for action by the board. Any such hearing shall be done only at the direction of the chairperson of the board or as provided in these rules.

(6) The personnel appeals board or hearings examiner shall prepare an official record of the hearing, including all testimony recorded manually or by mechanical device, and exhibits.

(7) The personnel appeals board or hearings examiner shall not be required to transcribe such record unless requested by the ~~((employee or agency who shall be furnished with a complete transcript upon payment of a reasonable charge therefor))~~ parties. A transcript can be obtained:

(a) If the proceedings before the hearings examiner or board were recorded by a court reporter, a transcript can be ordered from the court reporter.

(b) If the proceedings were recorded mechanically, a copy of transcript can be ordered from the board for \$2.50 a page. Copies of cassettes may be obtained for \$5.00 for the first tape and \$3.00 for each additional tape.

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 81-4, filed 12/16/81)

WAC 358-30-210 APPEALS TO SUPERIOR COURT. Within 30 calendar days after the recording and mailing of a personnel appeals board order in appeal cases provided for in RCW 41.06.170(2), the employee may appeal to the Thurston county superior court as provided in RCW 41.64.130. The grounds for the appeal shall be stated in a written notice of appeal filed with the court, with copies thereof served on a member of the board or the executive secretary and on the employing agency, all within the appeal period.

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 82-1, filed 6/25/82)

WAC 358-30-220 ~~((APPEALS TO SUPERIOR COURT. (1) Within 30 calendar days after the mailing of a personnel appeals board order in appeal cases provided for in RCW 41.06.170(2), the employee may appeal to the Thurston county superior court as provided in RCW 41.64.130.~~

(2) The grounds for the appeal shall be stated in a written notice of appeal filed with the court, with copies thereof served on a member of the board or the executive secretary and on the employing agency, all within the appeal period.)) Record for the court. Transcripts on appeal.

((3)) (1) By stipulation the parties may agree to shorten the record to be filed with the court. The appellant shall contact counsel for the respondent to discuss stipulating to a shortened record. Either

party unreasonably refusing to stipulate to such a limitation may be ordered by the court to pay the additional costs involved.

~~((+))~~ (2) Within ~~((+5))~~ 10 days after ~~((service of))~~ filing the notice of appeal, the appellant will notify the board in writing of the portion of the record to be filed.

(3) The transcript certified to the court will be paid for by the Board.

(4) The parties may obtain a copy of a transcript to be used on appeal:

(a) If the proceedings before the hearings examiner or board were recorded by a court reporter, ~~((order a transcript of proceedings))~~ a copy of the transcript can be ordered from the court reporter. ~~((and direct that the original be transmitted to the principal office of the personnel appeals board for inclusion in the certified record; and))~~

(b) If the proceedings were recorded mechanically, ~~((post a deposit with the personnel appeals board in an amount sufficient to cover the reasonable costs of transcription as determined by the personnel appeals board. Prior to transmitting the transcript to court, final adjustment reflecting the actual cost of preparation of the transcript will be made:))~~ a copy can be ordered from the board for 35 cents a page.

~~((+))~~ (4) The board shall transmit to the court a certified ~~((record))~~ transcript of the hearing with exhibits.

~~((6))~~ If the employee prevails before the court, he/she shall be reimbursed by the employing agency for the cost of a transcript.)

**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 85-16-099**  
**NOTICE OF PUBLIC MEETINGS**  
**PUGET SOUND**  
**WATER QUALITY AUTHORITY**  
[Memorandum—August 2, 1985]

The Puget Sound Water Quality Authority will meet every month at 9:30 a.m. on the third Wednesday.

The meeting on August 21, 1985, will be held at the Authority Office, 217 Pine Street, Suite 1100, Seattle, Washington. Subsequent meetings will be held in various locations in each of the 12 counties surrounding Puget Sound.

We will notify the code reviser's office as soon as locations for future meetings are established. Questions regarding meeting locations and agendas may be directed to James Abernathy.

**WSR 85-16-100**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**  
[Filed August 6, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Revenue intends to adopt, amend, or repeal rules concerning uniform procedural rules for the conduct of contested cases before the Department of Revenue, new sections WAC 458-08-010 through 458-08-250 inclusive;

that the agency will at 10:00 a.m., Tuesday, September 10, 1985, in the 4th Floor Conference Room, 415 General Administration Building, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 17, 1985.

The authority under which these rules are proposed is RCW 82.01.060(2).

The specific statute these rules are intended to implement is chapter 34.12 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 10, 1985.

Dated: August 6, 1985

By: Matthew J. Coyle  
Acting Director

**STATEMENT OF PURPOSE**

This statement of purpose is submitted in compliance with RCW 34.04.045, as follows:

**Title:** Uniform procedural rules for the conduct of contested cases, new sections WAC 458-08-010 through 458-08-250 inclusive.

**Purpose:** Will constitute new chapter 458-08 WAC to provide procedural rules for the conduct of contested cases which the department is authorized and required either by statute or as a matter of constitutional law to conduct.

**Statutory Authority:** In accordance with the authority granted in RCW 34.04.020 and 34.04.022 as qualified by RCW 34.12.080 and in accordance with the general rule-making authority accorded to the Department of Revenue by RCW 82.01.060(2).

**Summary and Reasons for the Rules:** Pursuant to the authority granted in RCW 34.12.080 the Office of Administrative Hearings has promulgated rules governing the procedural conduct of hearings. The rules in chapter 10-08 WAC provide that there is a demonstrable need for variation in rules by agencies with respect to (a) qualifications of persons appearing before an agency in a representative capacity and (b) procedures for discovery. Such rules also recognize that other matters dealing with the conduct of contested cases may be prescribed by an individual agency. These matters include: Form and content of pleadings, procedures for settlement or disposition without hearing, and procedures for obtaining review by the agency of proposed and initial decisions and reconsideration of final decisions. See WAC 10-08-020. The Department of Revenue is authorized and required by law to conduct contested case hearings in certain areas which include matters relating to the department's supervisory responsibilities under Title 84 RCW, its enforcement responsibilities under chapter 19.91 RCW "Unfair Cigarette Sales Below Cost Act," and its authority for revoking certificates of registration. See RCW 82.32.215. The procedures incorporated in these proposed rules will apply to hearings conducted in regard to these matters and to other hearings that may be required by law.

**Drafters of the Rule:** Leland T. Johnson, 415 General Administration Building, Mailstop AX-02, Olympia, WA 98504, (206) 753-5528; Rule Implementation and Enforcement: Matthew J. Coyle, Deputy Director, Washington State Department of Revenue, 415 General Administration Building, Mailstop AX-02, Olympia,

WA 98504, (206) 753-4196, Trevor W. Thompson, Assistant Director, Property Tax Division, 6004 South Capitol Boulevard, Tumwater, WA 98501, (206) 753-5503, and Steve Frisch, Chief, Compliance Procedures and Review, Department of Revenue, 301 Evergreen Plaza, Olympia, WA 98504, (206) 753-1610.

Proposer of the Rule: Department of Revenue, General Administration Building, Olympia, WA 98504.

Comments and Recommendations: None.

Federal Law or Court Action: Not proposed because of any requirement of federal law or as the result of action or decision by any federal or state court.

Regulatory Fairness Act (chapter 19.85 RCW): In the department's judgment the provisions of the Regulatory Fairness Act do not require the submission of a small business economic impact statement. Hearings which the Department of Revenue may conduct pursuant to these proposed rules relate to the department's enforcement and compliance responsibilities where it appears persons may be in violation of existing statutory requirements. Such matters may include violations of the Unfair Cigarette Sales Below Cost Act or failures either to pay outstanding tax warrants or to transmit retail sales taxes collected by such persons. Based on prior experience the department estimates that less than ten percent of taxpayers or other persons in an industry subject to these hearings constitute less than ten percent of the number in such groups. Thus, without regard to such other exemptions, as may apply under chapter 19.85 RCW, the department believes that these circumstances do not require the inclusion of the small business economic impact statement with respect to these proposed rules.

Chapter 458-08 WAC  
UNIFORM PROCEDURAL RULES FOR THE CONDUCT OF  
CONTESTED CASES

WAC

- 458-08-010 Application and scope of chapter 458-08 WAC.
- 458-08-020 Definitions.
- 458-08-030 Appearance and practice before agency—Who may appear.
- 458-08-040 Appearance and practice before agency—Standards of ethical conduct.
- 458-08-050 Appearance and practice before agency—Appearance by former employee of agency or former member of attorney general's staff.
- 458-08-060 Appearance and practice before agency—Former employee as expert witness.
- 458-08-070 Pleadings.
- 458-08-080 Depositions and interrogatories in contested cases—Right to take.
- 458-08-090 Depositions and interrogatories in contested cases—Scope.
- 458-08-100 Depositions and interrogatories in contested cases—Officer before whom taken.
- 458-08-110 Depositions and interrogatories in contested cases—Authorization.
- 458-08-120 Depositions and interrogatories in contested cases—Protection of parties and deponents.
- 458-08-130 Deposition and interrogatories in contested cases—Oral examination and cross-examination.
- 458-08-140 Depositions and interrogatories in contested cases—Recordation.
- 458-08-150 Depositions and interrogatories in contested cases—Signing attestation and return.
- 458-08-160 Depositions and interrogatories in contested cases—Use and effect.

- 458-08-170 Depositions and interrogatories in contested cases—Fees of officers and deponents.
- 458-08-180 Depositions upon interrogatories—Submission of interrogatories.
- 458-08-190 Depositions upon interrogatories—Interrogation.
- 458-08-200 Depositions upon interrogatories—Attestation and return.
- 458-08-210 Depositions upon interrogatories—Provisions of deposition rule.
- 458-08-220 Subpoenas.
- 458-08-230 Settlement.
- 458-08-240 Decision procedure.
- 458-08-250 Review procedures.

NEW SECTION

WAC 458-08-010 APPLICATION AND SCOPE OF CHAPTER 458-08 WAC. (1) Rules adopted by the Office of Administrative Hearings, chapter 10-08 WAC, apply to all stages of the conduct of a contested case hearing from issuance of the notice of hearing through issuance of a proposed decision, an initial decision, or the agency's final decision if no proposed or initial decision is required or issued. Such rules supersede or are in lieu of rules that have been or may be adopted by an agency for the conduct of contested cases, provided that an agency may adopt rules which prescribe:

- (a) Form and content of pleadings, procedures for settlement or disposition of contested cases without hearing, and procedures for obtaining review by the agency of proposed and initial decisions and reconsideration of final decisions;
  - (b) Qualifications of persons appearing before the agency in a representative capacity; and
  - (c) Procedures for discovery.
- (2) These rules are adopted by the department of revenue to provide procedures, as permitted by statute and chapter 10-08 WAC, for contested case hearings, and shall apply to hearings which the department of revenue is by statute or Constitution required to conduct.

NEW SECTION

WAC 458-08-020 DEFINITIONS. Unless the context shall otherwise provide:

- (1) "Department" means the Washington state department of revenue.
- (2) "Party" includes the department.
- (3) "Presiding officer" means a department official(s), administrative law judge, hearing examiner, hearing officer, or other person authorized by law or appointed to preside over a contested case hearing.
- (4) "Proceeding" means a hearing or other occasion for action, decision, or ruling, or where the same are considered by the parties or their representatives, which constitutes a part of the contested case hearing.

NEW SECTION

WAC 458-08-030 APPEARANCE AND PRACTICE BEFORE AGENCY—WHO MAY APPEAR. No person may appear in a representative capacity before the agency or its presiding officer other than the following:

- (1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington.
- (2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by state law.
- (3) A bona fide officer, partner, or full time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership, or corporation.

NEW SECTION

WAC 458-08-040 APPEARANCE AND PRACTICE BEFORE AGENCY—STANDARDS OF ETHICAL CONDUCT. All persons appearing in a proceeding before the department in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to such standards, the agency involved may decline to permit such person to appear in a representative capacity in any proceeding before the agency.

NEW SECTION

WAC 458-08-050 APPEARANCE AND PRACTICE BEFORE AGENCY—APPEARANCE BY FORMER EMPLOYEE OF AGENCY OR FORMER MEMBER OF ATTORNEY GENERAL'S STAFF. No former employee of the department or member of the attorney general's staff may at any time after severing employment with the department or the attorney general appear in a representative capacity on behalf of other parties in a formal proceeding wherein such person previously took an active part as a representative of the department, as provided by RCW 42.18.220.

NEW SECTION

WAC 458-08-060 APPEARANCE AND PRACTICE BEFORE AGENCY—FORMER EMPLOYEE AS EXPERT WITNESS. No former employee of the department shall at any time after severing his employment with the state of Washington appear, except with the written permission of the agency, as an expert witness on behalf of other parties in a formal proceeding wherein such former employee previously took an active part in the investigation as a representative of the department.

NEW SECTION

WAC 458-08-070 PLEADINGS. (1) Pleadings enumerated. Pleadings before the department shall include notices of hearing, complaints, answers, and motions.

(2) Verification. All pleadings except motions, notices of hearing, or complaints brought upon the department's own motion, shall be verified in the manner prescribed for verification of pleadings in the superior court of Washington.

(3) Time for motion. Any motion directed toward a notice of hearing or complaint must be filed before an answer is due. Otherwise objections must be raised in the answer. Motions directed toward a notice of hearing or complaint must be filed within ten days after service of the notice of hearing or complaint.

(4) Time for answer. An answer, if made, must be filed within twenty days following service of the notice of hearing or complaint; provided, however, that whenever the department believes the public interest requires expedited procedure it may shorten the time required for an answer.

(5) Liberal construction. All pleadings shall be liberally construed with a view to effect justice between the parties and the department will at any stage of the proceeding disregard errors or defects in the pleadings or proceedings which do not affect the substantial rights of a party.

(6) Amendments. The department may allow amendments to the pleadings or other relevant documents at any time upon such terms as may be lawful and just, provided that such amendments do not adversely affect the interest of persons not parties to the proceeding.

(7) Disposition of motions. The department may direct all motions to be submitted for decision by the department on either written or oral argument and may permit the filing of affidavits in support or contravention thereof.

(8) Consolidation of hearings. Two or more hearings where the facts or principles of law are related may be consolidated and heard together.

(9) Motions. Subject to the provisions of subsection (3) of this section, the practice respecting motions including the grounds therefor and forms thereof shall conform insofar as possible with the practice relative thereto in the superior court of Washington and the practice permitted by the Administrative Procedure Act (chapter 34.04 RCW).

(10) Forms. (a) Persons responding to notice of hearing or complaint filed by the department in filing any answer or motion thereto shall generally adhere to the following form for such purpose:

At the top of the page shall appear the wording "Before The Washington State Department of Revenue." On the left side of the page below the foregoing the following caption shall be set out: "In the Matter of (the name of the party)." Opposite the foregoing caption shall appear the work "Answer" or "Motion."

The body of the answer or motion shall be set out in numbered paragraphs which shall include the name and address of the responding or moving party.

(b) The original and one legible copy shall be filed with the department. Answers or motions shall be on white paper, eight and one-half by eleven inches in size.

NEW SECTION

WAC 458-08-080 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RIGHT TO TAKE. Except as may be otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding, except that leave must be obtained if notice of the taking is served by a proponent within twenty days after the filing of a notice of hearing or complaint. The attendance of witnesses may be compelled by the use of a subpoena. Depositions shall be taken only in accordance with this rule and the rule on subpoenas.

NEW SECTION

WAC 458-08-090 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SCOPE. Unless otherwise ordered, the deponent may be examined regarding any matter not privileged, which is relevant to the subject matter involved in the proceeding.

NEW SECTION

WAC 458-08-100 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—OFFICER BEFORE WHOM TAKEN. Within the United States or within a territory or insular possession subject to the dominion of the United States depositions shall be taken before an officer authorized to administer oaths by the laws of the state of Washington or of the place where the examination is held; within a foreign country, depositions shall be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or a person designated by the department, or agreed upon by the parties by stipulation in writing filed with the department. Except by stipulation, no deposition shall be taken before a person who is a party or the privy of a party, or a privy of any counsel of a party, or who is financially interested in the proceeding.

NEW SECTION

WAC 458-08-110 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—AUTHORIZATION. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing of not less than five days (exclusive of the day of service, Saturdays, Sundays and legal holidays). The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify the person. On motion of a party upon whom the notice is served, the presiding officer may for cause shown enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.

NEW SECTION

WAC 458-08-120 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—PROTECTION OF PARTIES AND DEONENTS. After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the department or its presiding officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed, the deposition shall be opened only by order of the department or that business secrets or secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents, or information enclosed in sealed envelopes to be opened as directed by the department which may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. At any time during the taking of the deposition, on motion of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the department, or its presiding officer may order the officer conducting the examination to cease forthwith from taking the

deposition, or may limit the scope and manner of the taking of the deposition as above provided. If the order made terminates the examination, it shall be resumed thereafter only upon order. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

#### NEW SECTION

WAC 458-08-130 DEPOSITION AND INTERROGATORIES IN CONTESTED CASES—ORAL EXAMINATION AND CROSS-EXAMINATION. Examination and cross-examination shall proceed as at an oral hearing. In lieu of participating in the oral examination, any party served with notice of taking a deposition may transmit written cross interrogatories to the officer who, without first disclosing them to any person, and after the direct testimony is complete, shall propound them seriatim to the deponent and record or cause the answers to be recorded verbatim.

#### NEW SECTION

WAC 458-08-140 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RECORDATION. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under his or her direction and in his or her presence, record the testimony by typewriter directly or by transcription from stenographic notes, wire, or record recorders, which record shall separately and consecutively number each interrogatory. Objections to the notice, qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented or to the conduct of the officer, or of any party, shall be noted by the officer upon the deposition. All objections by any party not so made are waived.

#### NEW SECTION

WAC 458-08-150 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SIGNING ATTESTATION AND RETURN. (1) When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress, the department holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(2) The officer shall certify on the deposition that the witness was duly sworn and that the deposition is a true record of the testimony given by the witness. The officer shall then securely seal the deposition in an envelope indorsed with the title of proceeding and marked "Deposition of (here insert name of witness)" and shall promptly send it by registered or certified mail to the agency, or its presiding officer, for filing. The party taking the deposition shall give prompt notice of its filing to all other parties. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

#### NEW SECTION

WAC 458-08-160 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—USE AND EFFECT. Subject to rulings by the presiding officer upon objections a deposition taken and filed as provided in this rule will not become a part of the record in the proceeding until received in evidence by the presiding officer upon his or her own motion or the motion of any party. Except by agreement of the parties or ruling of the presiding officer, a deposition will be received only in its entirety. A party does not make a party, or the privy of a party, or any hostile witness that party's witness by taking such deposition. Any party may rebut any relevant evidence contained in a deposition whether introduced by that party or any other party.

#### NEW SECTION

WAC 458-08-170 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—FEES OF OFFICERS AND DEponents. Deponents whose depositions are taken and the officers taking the same shall be entitled to the same fees as are paid for like services in the superior courts of the state of Washington, which fees shall be paid by the party at whose instance the depositions are taken.

#### NEW SECTION

WAC 458-08-180 DEPOSITIONS UPON INTERROGATORIES—SUBMISSION OF INTERROGATORIES. Where the deposition is taken upon written interrogatories, the party offering the testimony shall separately and consecutively number each interrogatory and file and serve them with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom they are to be taken. Within ten days thereafter a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within five days thereafter, the latter may serve redirect interrogatories upon the party who served cross-interrogatories.

#### NEW SECTION

WAC 458-08-190 DEPOSITIONS UPON INTERROGATORIES—INTERROGATION. Where the interrogatories are forwarded to an officer authorized to administer oaths the officer taking the same after duly swearing the deponent, shall read to the deponent seriatim, one interrogatory at a time and cause the same and the answer thereto to be recorded before the succeeding interrogatory is asked. No one except the deponent, the officer and the court reporter or stenographer recording and transcribing it shall be present during the interrogation.

#### NEW SECTION

WAC 458-08-200 DEPOSITIONS UPON INTERROGATORIES—ATTESTATION AND RETURN. The officer before whom interrogatories are verified or answered shall (1) certify under official signature and seal that the deponent was duly sworn by such officer, that the interrogatories and answers are a true record of the deponent's testimony, that no one except deponent, the officer and the stenographer were present during the taking, and that neither the officer nor the stenographer, to his or her knowledge, is a party, privy to a party, or interested in the event of the proceedings, and (2) promptly send by registered or certified mail the original copy of the deposition and exhibits with his attestation to the department, or its presiding officer, one copy to the counsel who submitted the interrogatories and another copy to the deponent.

#### NEW SECTION

WAC 458-08-210 DEPOSITIONS UPON INTERROGATORIES—PROVISIONS OF DEPOSITION RULE. In all other respects, depositions upon interrogatories shall be governed by the previous deposition rule.

#### NEW SECTION

WAC 458-08-220 SUBPOENAS. (1) Subpoenas shall be issued and enforced, and witness fees paid, as provided in RCW 34.04.105.

(2) Every subpoena shall identify the party causing issuance of the subpoena and shall state the name of the department and the title of the proceeding and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under his or her control at the time and place set for the hearing.

(3) A subpoena may be served by any suitable person over eighteen years of age, by exhibiting and reading it to the witness, or by giving him or her a copy thereof, or by leaving such copy at the place of his or her abode. When service is made by any other person than an officer authorized to serve process, proof of service shall be made by affidavit.

(4) The presiding officer, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (a) quash or modify the subpoena if it is unreasonable and oppressive or (b) condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the

reasonable cost of producing the books, papers, documents, or tangible things.

#### NEW SECTION

WAC 458-08-230 SETTLEMENT. The parties to a proceeding may enter into a voluntary settlement of the subject matter contained in any notice of hearing or complaint prior or subsequent to hearing. In exploration or furtherance of a voluntary settlement, the parties may confer within or outside the presence of the presiding officer. Any such settlement conference shall be informal and without prejudice to the rights of the parties.

#### NEW SECTION

WAC 458-08-240 DECISION PROCEDURE. At the conclusion of a hearing the presiding officer shall announce his or her decision or what action will be recommended to the department or may take the decision under advisement. The presiding officer shall prepare a written summary of findings together with a recommendation for action by the department unless such officer is the person authorized to make final decisions on behalf of the department. In such case the presiding officer shall make a written summary of findings, conclusions and a decision with respect to action to be taken by the department.

#### NEW SECTION

WAC 458-08-250 REVIEW PROCEDURES. In all cases not heard by a presiding officer authorized to make final decisions on behalf of the department the file, together with the presiding officer's findings, conclusions, and recommendations shall be forwarded to the director of the department or to such other person to whom the director has assigned responsibility for review and decision. Review and decision by the director or the director's assignee shall be in accordance with RCW 34.04.110, 34.04.115, and 34.04.120.

**WSR 85-16-101**  
**EMERGENCY RULES**  
**DEPARTMENT OF REVENUE**  
[Order 85-1—Filed August 6, 1985]

I, Matthew J. Coyle, director of the Washington State Department of Revenue, do promulgate and adopt at 415 General Administration Building, Olympia, Washington 98504, the annexed rules relating to uniform procedural rules for the conduct of contested cases before the Department of Revenue.

I, Matthew J. Coyle, find that an emergency exists and that this 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 the emergency is the Department of Revenue intermittently conducts contested case hearings in matters relating to the revocation of taxpayer registration certificates, the administration of the state's property tax laws, and the administration and enforcement of the Unfair Cigarette Sales Below Cost Act. Upcoming hearings within the next month necessitate the immediate adoption of procedural rules governing practice before the agency including discovery procedures.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 34.12.080 and chapter 10-08 WAC which directs that the Department of Revenue has authority to implement the provisions of RCW 34.12.080.

This rule is promulgated under the general rule-making authority of the Department of Revenue as authorized in RCW 82.01.060(2).

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED August 6, 1985.

By Matthew J. Coyle  
Acting Director

*Chapter 458-08 WAC*  
**UNIFORM PROCEDURAL RULES FOR THE**  
**CONDUCT OF CONTESTED CASES**

#### WAC

- 458-08-010 *Application and scope of chapter 458-08 WAC.*
- 458-08-020 *Definitions.*
- 458-08-030 *Appearance and practice before agency—Who may appear.*
- 458-08-040 *Appearance and practice before agency—Standards of ethical conduct.*
- 458-08-050 *Appearance and practice before agency—Appearance by former employee of agency or former member of attorney general's staff.*
- 458-08-060 *Appearance and practice before agency—Former employee as expert witness.*
- 458-08-070 *Pleadings.*
- 458-08-080 *Depositions and interrogatories in contested cases—Right to take.*
- 458-08-090 *Depositions and interrogatories in contested cases—Scope.*
- 458-08-100 *Depositions and interrogatories in contested cases—Officer before whom taken.*
- 458-08-110 *Depositions and interrogatories in contested cases—Authorization.*
- 458-08-120 *Depositions and interrogatories in contested cases—Protection of parties and deponents.*
- 458-08-130 *Deposition and interrogatories in contested cases—Oral examination and cross-examination.*
- 458-08-140 *Depositions and interrogatories in contested cases—Recordation.*
- 458-08-150 *Depositions and interrogatories in contested cases—Signing attestation and return.*
- 458-08-160 *Depositions and interrogatories in contested cases—Use and effect.*
- 458-08-170 *Depositions and interrogatories in contested cases—Fees of officers and deponents.*
- 458-08-180 *Depositions upon interrogatories—Submission of interrogatories.*
- 458-08-190 *Depositions upon interrogatories—Interrogation.*

|            |   |
|------------|---|
| 458-08-200 | Depositions upon interrogatories—<br>Attestation and return.        |
| 458-08-210 | Depositions upon interrogatories—<br>Provisions of deposition rule. |
| 458-08-220 | Subpoenas.  |
| 458-08-230 | Settlement.   |
| 458-08-240 | Decision procedure.   |
| 458-08-250 | Review procedures.  |

NEW SECTION

WAC 458-08-010 APPLICATION AND SCOPE OF CHAPTER 458-08 WAC. (1) Rules adopted by the Office of Administrative Hearings, chapter 10-08 WAC, apply to all stages of the conduct of a contested case hearing from issuance of the notice of hearing through issuance of a proposed decision, an initial decision, or the agency's final decision if no proposed or initial decision is required or issued. Such rules supersede or are in lieu of rules that have been or may be adopted by an agency for the conduct of contested cases, provided that an agency may adopt rules which prescribe:

(a) Form and content of pleadings, procedures for settlement or disposition of contested cases without hearing, and procedures for obtaining review by the agency of proposed and initial decisions and reconsideration of final decisions;

(b) Qualifications of persons appearing before the agency in a representative capacity; and

(c) Procedures for discovery.

(2) These rules are adopted by the department of revenue to provide procedures, as permitted by statute and chapter 10-08 WAC, for contested case hearings, and shall apply to hearings which the department of revenue is by statute or Constitution required to conduct.

NEW SECTION

WAC 458-08-020 DEFINITIONS. Unless the context shall otherwise provide:

(1) "Department" means the Washington state department of revenue.

(2) "Party" includes the department.

(3) "Presiding officer" means a department official(s), administrative law judge, hearing examiner, hearing officer, or other person authorized by law or appointed to preside over a contested case hearing.

(4) "Proceeding" means a hearing or other occasion for action, decision, or ruling, or where the same are considered by the parties or their representatives, which constitutes a part of the contested case hearing.

NEW SECTION

WAC 458-08-030 APPEARANCE AND PRACTICE BEFORE AGENCY—WHO MAY APPEAR. No person may appear in a representative capacity before the agency or its presiding officer other than the following:

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

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other

state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by state law.

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

NEW SECTION

WAC 458-08-040 APPEARANCE AND PRACTICE BEFORE AGENCY—STANDARDS OF ETHICAL CONDUCT. All persons appearing in a proceeding before the department in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to such standards, the agency involved may decline to permit such person to appear in a representative capacity in any proceeding before the agency.

NEW SECTION

WAC 458-08-050 APPEARANCE AND PRACTICE BEFORE AGENCY—APPEARANCE BY FORMER EMPLOYEE OF AGENCY OR FORMER MEMBER OF ATTORNEY GENERAL'S STAFF. No former employee of the department or member of the attorney general's staff may at any time after severing employment with the department or the attorney general appear in a representative capacity on behalf of other parties in a formal proceeding wherein such person previously took an active part as a representative of the department, as provided by RCW 42.18.220.

NEW SECTION

WAC 458-08-060 APPEARANCE AND PRACTICE BEFORE AGENCY—FORMER EMPLOYEE AS EXPERT WITNESS. No former employee of the department shall at any time after severing his employment with the state of Washington appear, except with the written permission of the agency, as an expert witness on behalf of other parties in a formal proceeding wherein such former employee previously took an active part in the investigation as a representative of the department.

NEW SECTION

WAC 458-08-070 PLEADINGS. (1) Pleadings enumerated. Pleadings before the department shall include notices of hearing, complaints, answers, and motions.

(2) Verification. All pleadings except motions, notices of hearing, or complaints brought upon the department's own motion, shall be verified in the manner prescribed for verification of pleadings in the superior court of Washington.

(3) Time for motion. Any motion directed toward a notice of hearing or complaint must be filed before an answer is due. Otherwise objections must be raised in the answer. Motions directed toward a notice of hearing

or complaint must be filed within ten days after service of the notice of hearing or complaint.

(4) *Time for answer.* An answer, if made, must be filed within twenty days following service of the notice of hearing or complaint; provided, however, that whenever the department believes the public interest requires expedited procedure it may shorten the time required for an answer.

(5) *Liberal construction.* All pleadings shall be liberally construed with a view to effect justice between the parties and the department will at any stage of the proceeding disregard errors or defects in the pleadings or proceedings which do not affect the substantial rights of a party.

(6) *Amendments.* The department may allow amendments to the pleadings or other relevant documents at any time upon such terms as may be lawful and just, provided that such amendments do not adversely affect the interest of persons not parties to the proceeding.

(7) *Disposition of motions.* The department may direct all motions to be submitted for decision by the department on either written or oral argument and may permit the filing of affidavits in support or contravention thereof.

(8) *Consolidation of hearings.* Two or more hearings where the facts or principles of law are related may be consolidated and heard together.

(9) *Motions.* Subject to the provisions of subsection (3) of this section, the practice respecting motions including the grounds therefor and forms thereof shall conform insofar as possible with the practice relative thereto in the superior court of Washington and the practice permitted by the Administrative Procedure Act (chapter 34.04 RCW).

(10) *Forms.* (a) Persons responding to notice of hearing or complaint filed by the department in filing any answer or motion thereto shall generally adhere to the following form for such purpose:

At the top of the page shall appear the wording "Before The Washington State Department of Revenue." On the left side of the page below the foregoing the following caption shall be set out: "In the Matter of (the name of the party)." Opposite the foregoing caption shall appear the work "Answer" or "Motion."

The body of the answer or motion shall be set out in numbered paragraphs which shall include the name and address of the responding or moving party.

(b) The original and one legible copy shall be filed with the department. Answers or motions shall be on white paper, eight and one-half by eleven inches in size.

#### NEW SECTION

WAC 458-08-080 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RIGHT TO TAKE. Except as may be otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding, except that leave must be obtained if notice of the taking is served by a proponent within twenty days after the filing of a notice of hearing or complaint. The attendance of witnesses may be compelled by the use of a subpoena.

Depositions shall be taken only in accordance with this rule and the rule on subpoenas.

#### NEW SECTION

WAC 458-08-090 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SCOPE. Unless otherwise ordered, the deponent may be examined regarding any matter not privileged, which is relevant to the subject matter involved in the proceeding.

#### NEW SECTION

WAC 458-08-100 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—OFFICER BEFORE WHOM TAKEN. Within the United States or within a territory or insular possession subject to the dominion of the United States depositions shall be taken before an officer authorized to administer oaths by the laws of the state of Washington or of the place where the examination is held; within a foreign country, depositions shall be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or a person designated by the department, or agreed upon by the parties by stipulation in writing filed with the department. Except by stipulation, no deposition shall be taken before a person who is a party or the privy of a party, or a privy of any counsel of a party, or who is financially interested in the proceeding.

#### NEW SECTION

WAC 458-08-110 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—AUTHORIZATION. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing of not less than five days (exclusive of the day of service, Saturdays, Sundays and legal holidays). The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify the person. On motion of a party upon whom the notice is served, the presiding officer may for cause shown enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.

#### NEW SECTION

WAC 458-08-120 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—PROTECTION OF PARTIES AND DEONENTS. After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the department or its presiding officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of

the examination shall be limited to certain matters, or that the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed, the deposition shall be opened only by order of the department or that business secrets or secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents, or information enclosed in sealed envelopes to be opened as directed by the department which may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. At any time during the taking of the deposition, on motion of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the department, or its presiding officer may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as above provided. If the order made terminates the examination, it shall be resumed thereafter only upon order. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

#### NEW SECTION

**WAC 458-08-130 DEPOSITION AND INTERROGATORIES IN CONTESTED CASES—ORAL EXAMINATION AND CROSS-EXAMINATION.** Examination and cross-examination shall proceed as at an oral hearing. In lieu of participating in the oral examination, any party served with notice of taking a deposition may transmit written cross interrogatories to the officer who, without first disclosing them to any person, and after the direct testimony is complete, shall propound them seriatim to the deponent and record or cause the answers to be recorded verbatim.

#### NEW SECTION

**WAC 458-08-140 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RECORDATION.** The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under his or her direction and in his or her presence, record the testimony by typewriter directly or by transcription from stenographic notes, wire, or record recorders, which record shall separately and consecutively number each interrogatory. Objections to the notice, qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented or to the conduct of the officer, or of any party, shall be noted by the officer upon the deposition. All objections by any party not so made are waived.

#### NEW SECTION

**WAC 458-08-150 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SIGNING ATTESTATION AND RETURN.** (1) When the testimony is fully transcribed, the deposition shall be

submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor, and the deposition may then be used as fully as though signed, unless on a motion to suppress, the department holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(2) The officer shall certify on the deposition that the witness was duly sworn and that the deposition is a true record of the testimony given by the witness. The officer shall then securely seal the deposition in an envelope indorsed with the title of proceeding and marked "Deposition of (here insert name of witness)" and shall promptly send it by registered or certified mail to the agency, or its presiding officer, for filing. The party taking the deposition shall give prompt notice of its filing to all other parties. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

#### NEW SECTION

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department and the title of the proceeding and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under his or her control at the time and place set for the hearing.

(3) A subpoena may be served by any suitable person over eighteen years of age, by exhibiting and reading it to the witness, or by giving him or her a copy thereof, or by leaving such copy at the place of his or her abode. When service is made by any other person than an officer authorized to serve process, proof of service shall be made by affidavit.

(4) The presiding officer, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (a) quash or modify the subpoena if it is unreasonable and oppressive or (b) condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

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#### NEW SECTION

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**WSR 85-16-102**  
**PROPOSED RULES**  
**BOARD FOR**  
**COMMUNITY COLLEGE EDUCATION**  
[Filed August 6, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board for Community College Education intends to adopt, amend, or repeal rules concerning capital projects funded on the basis of voluntary student fees;

that the agency will at 10:30 a.m., Thursday, September 12, 1985, in the Peninsula College, Port Angeles, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.50.090(8).

The specific statute these rules are intended to implement is RCW 28B.50.090(8).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 11, 1985.

Dated: August 7, 1985  
By: Gilbert J. Carbone  
Assistant Director

**STATEMENT OF PURPOSE**

Rule Title, Description of Purpose, and Statutory Authority: WAC 131-24-040 Capital projects funded on the basis of voluntary student fees. This proposed rule will establish criteria related to the construction of community college capital projects, over which the state board has statutory control, when such projects are to be funded through fees the students voluntarily maintain upon themselves.

Summary of Rule and Reasons Supporting Proposed Action: RCW 28B.15.610 authorizes college students to levy upon themselves as a body voluntary fees for "student purposes only," to quote the statute. The proposed rule sets forth the conditions under which the State Board for Community College Education will authorize capital projects, under its authority in RCW 28B.50.090(8), proposed to be funded through assessment of such self-imposed fees.

Agency Personnel Responsible for Drafting: Gilbert J. Carbone, Assistant Director, 319 7th Avenue, FF-11, Olympia, WA 98504, 753-3650; Implementation: Jan Yoshiwara, Assistant Director, 319 7th Avenue, FF-11, Olympia, WA 98504, 753-4694; and Enforcement: John N. Terrey, Executive Director, 319 7th Avenue, FF-11, Olympia, WA 98504, 753-7412.

Person or Organization Proposing Rule: Washington State Board for Community College Education.

Agency Comments: The rule is necessary to ensure that indebtedness based on voluntary student fees will be incurred in a prudent manner.

Rule Necessary as a Result of Federal Law or Federal or State Court Action: No.

NEW SECTION

WAC 131-24-040 CAPITAL PROJECTS FUNDED ON THE BASIS OF VOLUNTARY STUDENT FEES. (1) A request for approval of a capital project proposed to be funded from revenue derived from fees that students voluntarily maintain upon themselves pursuant to RCW 28B.15.610 must be supported by evidence that:

(a) The student fee was approved by a majority vote, as defined by the constitution or governing policies of the student government, at a general election of the student body.

(b) The college district has identified an alternative source of funding in the event the fee is discontinued or revenues fall below the required level. The alternative funding source is sufficient to cover the full costs of the project, including debt service in the case of borrowed funds.

(2) When a capital project is to be financed by borrowed funds repayable from revenue derived from fees that students voluntarily maintain upon themselves, the following criteria shall be met:

(a) The stream of revenue from the student fee must have been in existence for at least two quarters prior to consideration of the project proposal by the state board.

(b) The duration of the terms of the loan shall not exceed ten years.

(c) Final approval shall be based on presentation of details of the terms of the anticipated loan.

**WSR 85-16-103**  
**PROPOSED RULES**  
**BOARD FOR**  
**COMMUNITY COLLEGE EDUCATION**  
[Filed August 6, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board for Community College Education intends to adopt, amend, or repeal rules concerning the annuity retirement plan mandatory retirement age and supplemental benefit average annual salary calculation in WAC 131-16-005 and 131-16-011(5) respectively;

that the agency will at 10:00 a.m., Thursday, September 12, 1985, in the Peninsula College, Port Angeles, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.10.400.

The specific statute these rules are intended to implement is RCW 28B.10.400.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 11, 1985.

Dated: August 7, 1985  
By: Gilbert J. Carbone  
Assistant Director

**STATEMENT OF PURPOSE**

Rule Title, Description of Purpose, and Statutory Authority: Both of the amendments are based on authority in RCW 28B.10.400. WAC 131-16-005 Mandatory retirement age defined, will make the rule consistent with RCW 28B.10.420; and 131-16-011(5) Definitions, will make the supplemental benefit calculation (in WAC 131-16-061) consistent with the method for calculating benefits under the teachers retirement system pursuant to RCW 41.32.010 as amended by section 1(11)(ii), chapter 5, Laws of 1984.

Summary of Rule and Reasons Supporting Proposed Action: The mandatory retirement rule for community college faculty and exempt has never been updated to reflect the special extension provision adopted in RCW 28B.10.420. The amendment simply does that. The proposed amendment to WAC 131-16-011(5) would make a benefit provision of the TIAA/CREF retirement annuity plan parallel to one put in statute for the teachers retirement system. Because community colleges have faculty and administrators in one or the other of the two plans, it is the policy of the state board to maintain the benefit levels as nearly identical as possible.

Agency Personnel Responsible for Drafting and Implementation: Gilbert J. Carbone, Assistant Director, 319 7th Avenue, FF-11, Olympia, WA 98504, 753-3650; and Enforcement: John N. Terrey, Executive Director, 319 7th Avenue, FF-11, Olympia, WA 98504, 753-7412.

Person or Organization Proposing Rule: State Board for Community College Education.

Agency Comments: Community colleges employ significant numbers of tenured employees who are nearing retirement and are at the top of their pay grades. Frequently such individuals seek to reduce their workload and income in their final years of employment through what is known as "phased retirement." However, they are reluctant to do so because of its negative effect upon their pensions. The proposed amendment will facilitate phased retirement programs in addition to providing a benefit that is parallel to that of the teachers retirement system.

Rule Necessary as a Result of Federal Law or Federal or State Court Action: No.

AMENDATORY SECTION (Amending Order 77, Resolution 79-30, filed 9/10/79)

WAC 131-16-005 MANDATORY RETIREMENT AGE DEFINED. The mandatory retirement age for employees of community college districts or the state board for community college education shall be defined as the end of the academic year in which an employee attains age seventy; however, when officially approved by the district board of trustees, or by the state board in the case of its employees, extension of service beyond the mandatory retirement age may be made (~~for definite periods of time not to exceed one year each~~) pursuant to the provisions of RCW 28B.10.420.

AMENDATORY SECTION (Amending Order 95, Resolution No. 83-25, filed 9/28/83)

WAC 131-16-011 DEFINITIONS. For the purpose of WAC 131-16-005 through 131-16-069, the following definitions shall apply:

(1) "Participant" shall be defined as any individual who is eligible to purchase retirement annuities through the TIAA/CREF plan and whose basic contribution to such plan is matched by the employing college district or the state board for community college education pursuant to the provisions of WAC 131-16-050.

(2) "Supplemental retirement benefit" shall be defined as payments, as calculated in accordance with WAC 131-16-061 and 131-16-062, made by the community college district or the state board to an eligible retired participant or designated beneficiary whose retirement benefits provided by the TIAA/CREF plan do not attain the level of the retirement benefit goal established by WAC 131-16-015.

(3) "Year of full-time service" shall be defined as retirement credit based on full-time employment or the equivalent thereof based on part-time employment in an eligible position for a period of not less than five months in any fiscal year during which TIAA/CREF contributions were made by both the participant and a Washington public higher education institution or any year or fractional year of prior service in a Washington public retirement system while employed at a

Washington public higher education institution: PROVIDED, The participant will receive a pension benefit from such other retirement system: AND PROVIDED FURTHER, That not more than one year of full-time service will be credited for service in any one fiscal year.

(4) "Fiscal year" shall be defined as the period beginning on July 1 of any calendar year and ending on June 30 of the succeeding calendar year.

(5) "Average annual salary" shall be defined as the amount derived when the salary received during ~~((any))~~ the two consecutive highest salaried fiscal years of full-time service for which TIAA/CREF contributions were made by both the participant and a Washington public higher education institution is divided by two, except that for persons employed at least seventy-five percent of full time and receiving fractional years of service credit in both of the fiscal years that otherwise would be used to determine the average annual salary for the purposes of WAC 131-16-061, calculation of the average annual salary may include the amount the person would have received in the same position if employed on a regular full-time basis for the same contract period.

(6) "TIAA/CREF retirement benefit" shall be defined as the amount of annual retirement income derived from a participant's accumulated annuities including dividends at the time of retirement; provided that, solely for the purpose of calculating a potential supplemental retirement benefit, such amount shall be adjusted to meet the assumptions set forth in WAC 131-16-061(2).

(7) "Salary" shall be defined as all remuneration received by the participant from the employing community college district or the state board including summer quarter compensation, extra duty pay, leave stipends, and grants made by or through the college district or state board.

(8) "Designated beneficiary" shall be defined as the surviving spouse of the retiree or, with the consent of such spouse, if any, such other person or persons as shall have an insurable interest in the retiree's life and shall have been nominated by written designation duly executed and filed with the retiree's institution of higher education.

## WSR 85-16-104

### PROPOSED RULES

#### DEPARTMENT OF ECOLOGY

[Filed August 6, 1985]

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 Clallam County, WAC 173-19-130.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 10, 1985.

The authority under which these rules are proposed is chapters 43.21A and 34.04 RCW.

The specific statute these rules are intended to implement is RCW 90.58.120 and 90.58.200.

This notice is connected to and continues the matter in Notice No. WSR 85-12-049 filed with the code reviser's office on June 5, 1985.

Dated: August 6, 1985

By: Glen H. Fiedler  
Deputy Director

## WSR 85-16-105

### ADOPTED RULES

#### DEPARTMENT OF ECOLOGY

[Order DE 85-11—Filed August 6, 1985]

I, Glen H. Fiedler, deputy director of the Department of Ecology, do promulgate and adopt at Lacey,

Washington, the annexed rules relating to Walla Walla, city of, WAC 173-19-4402.

This action is taken pursuant to Notice No. WSR 85-13-053 filed with the code reviser on June 18, 1985. These rules shall take effect thirty days after they are filed with the code reviser 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 the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED August 6, 1985.

By Glen H. Fiedler  
Deputy Director

AMENDATORY SECTION (Amending Order DE 81-21, filed 8/5/81)

WAC 173-19-4402 WALLA WALLA, CITY OF. City of Walla Walla master program approved February 23, 1977. Revision approved July 15, 1981. Revision approved August 6, 1985.

**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 85-16-106**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**  
[Filed August 7, 1985]

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:

|     |                  |   |
|-----|------------------|---|
| Amd | WAC 458-20-155   | Information and computer services.  |
| Amd | WAC 458-20-207   | Attorneys.  |
| New | WAC 458-20-17901 | Public utility tax—Energy conservation and cogeneration deductions.                               |
| New | WAC 458-20-24001 | Sales and use tax deferral—Manufacturing and research/development facilities in distressed areas. |
| New | WAC 458-20-24002 | Sales and use tax deferral—New manufacturing and research/development facilities;                 |

that the agency will at 9:00 a.m., Wednesday, September 11, 1985, in the First Floor Conference Room, General Administration Building, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 20, 1985.

The authority under which these rules are proposed is RCW 82.32.300, chapter 232, Laws of 1985, and chapter 2, Laws of 1985 1st ex. sess.

The specific statute these rules are intended to implement is RCW 82.04.040, 82.04.050, 82.04.070, 82.04.290, 82.04.080, 82.16.055, Laws of 1985, as yet

uncodified, and chapter 2, Laws of 1985 1st ex. sess., as yet uncodified.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 11, 1985.

Dated: August 7, 1985  
By: Matthew J. Coyle  
Acting Director

**STATEMENT OF PURPOSE**

Title: WAC 458-20-155 Information and computer services.

Description of Purpose: To explain uniform and consistent guidelines for excise tax application, under various tax classifications, measured by amounts derived from performing professional services and/or making sales of tangible personal property in connection with the business of providing information and computer services. To define terms and to distinguish between taxable sales and services in such businesses. To apply existing statutory law and case law to such business activities. Emergency basis rule adoption is necessary because the department has already applied these concepts through administrative appeals rulings.

Statutory Authority: RCW 82.32.300.

Specific Statute Rule is Intended to Implement: RCW 82.04.040, 82.04.050, 82.04.070 and 82.04.290.

Reasons Supporting Proposed Action: Persons who perform informational and computer services provide their customers with a number of benefits which constitute a mixture of personal, professional services and sales of tangible property. Previous inconsistency of tax treatment because no WAC rule existed has identified the need for this rule. The rule position places this state's tax applications in agreement with the majority of states, based upon existing provisions of the Revenue Act and prevailing case law.

Agency Personnel Responsible for Drafting: Edward L. Faker, 415 General Administration Building, Olympia, WA 98504, phone 753-5579; Implementation: Garry G. Fujita, 415 General Administration Building, Olympia, WA 98504, phone 753-5544; and Enforcement: Department of Revenue, 415 General Administration Building, Olympia, WA 98504, phone 753-5540.

Title: WAC 458-20-207 Attorneys.

Description of Purpose: To fully describe the kinds of costs which are identified as independent, clients' costs and which are not included in the gross income of the business of attorneys for purposes of measuring their B&O tax liability under the service and other activities classification. To administratively implement the court rulings in Christensen, et al v. Dept. of Revenue, 97 Wn.2d 764 (1982) and Walthew, Warner, et al v. Dept. of Revenue, 103 Wn.2d 183, 691 P.2d 559 (1984).

Statutory Authority: RCW 82.32.300.

Specific Statute Rule is Intended to Implement: RCW 82.04.080.

Reasons Supporting Proposed Action: Formerly attorneys have been assessed for tax measured by gross client billings without exception or exclusion of certain amounts paid to cover client expenses arranged and paid for by the attorneys. The supreme court has ruled that

attorneys are in a unique agency relationship with clients, such that not all amounts paid to them by clients constitute part of the attorneys' taxable gross income. Rule 207, as amended here, distinguishes between amounts which are taxable income and those which are not. The amendments are necessary in order to provide uniform and consistent tax reporting guidelines for the legal profession. Emergency basis rule adoption is necessary because the case law results prevail already.

Agency Personnel Responsible for Drafting: Edward L. Faker, 415 General Administration Building, Olympia, WA 98504, phone 753-5579; Implementation: Garry G. Fujita, 415 General Administration Building, Olympia, WA 98504, phone 753-5544; and Enforcement: Department of Revenue, 415 General Administration Building, Olympia, WA 98504, phone 753-5540.

Title: WAC 458-20-17901 Public utility tax—Energy conservation and cogeneration deductions.

Description of Purpose: To implement the special tax deductions provided by RCW 82.16.055 relating to energy conservation or production from renewable resources. To distinguish and identify tax deductible costs of energy production. To distinguish and identify energy conservation program costs which reduce energy end-use and are thereby tax deductible. To distinguish and identify such costs as do not result in the reduction of energy end-use and are thereby nondeductible costs. To provide uniform and consistent guidelines to public and private utilities for determining their eligibility for tax deductions on individual projects and energy conservation measures.

Statutory Authority: RCW 82.32.300.

Specific Statute Rule is Intended to Implement: RCW 82.16.055.

Reasons Supporting Proposed Action: RCW 82.16.055(5) requires the Department of Revenue to consult with the Utilities and Transportation Commission and governing bodies of locally regulated utilities and to determine tax deduction eligibility. The statutory law contemplates, and utility providers have requested, that a WAC rule be adopted to resolve questionable aspects of energy production and conservation program costs eligibility for deduction.

Agency Personnel Responsible for Drafting: Edward L. Faker, 415 General Administration Building, Olympia, WA 98504, phone 753-5579; Implementation: Garry G. Fujita, 415 General Administration Building, Olympia, WA 98504, phone 753-5544; and Enforcement: Department of Revenue, 415 General Administration Building, Olympia, WA 98504, phone 753-5540.

Title: WAC 458-20-24001 Sales and use tax deferral—Manufacturing and research/development facilities in distressed areas.

Description of Purpose: To implement the provisions of chapter 232, Laws of 1985, for deferrals of retail sales tax and use tax on materials and labor used and services rendered in the construction of qualifying buildings, machinery, and equipment in certain distressed areas of this state. To define terms; to explain the qualifying criteria for deferrals; to outline deferral application and related

administrative procedures; to explain employment reporting and monitoring procedures; and to outline tax repayment schedules connected with such programs. Emergency rule adoption is necessary because the deferral law took effect in July 1985.

Statutory Authority: RCW 82.32.300 and chapter 232, Laws of 1985.

Specific Statute Rule is Intended to Implement: Chapter 232, Laws of 1985, as yet uncodified.

Reasons Supporting Proposed Action: The enabling legislation mandates the Department of Revenue to develop and publish a rule for the purposes explained above. The rule format and concepts are predicated upon the department's previous successful administration of similar tax deferral programs.

Agency Personnel Responsible for Drafting: George C. Mastrodonato, 415 General Administration Building, Olympia, WA 98504, phone 753-3995; Implementation: Garry G. Fujita, 415 General Administration Building, Olympia, WA 98504, phone 753-5544; and Enforcement: Department of Revenue, 415 General Administration Building, Olympia, WA 98504, phone 753-5540.

Title: WAC 458-20-24002 Sales and use tax deferral—New manufacturing and research/development facilities.

Description of Purpose: To implement the provisions of chapter 2, Laws of 1985 1st ex. sess., for deferrals of retail sales tax and use tax in connection with the construction of new buildings and the acquisition of related machinery and equipment by persons first engaging in manufacturing or research and development activities in this state after June 14, 1985, and applying for deferral before July 1, 1986. To define terms; to explain application procedures; and to outline audit, cost reporting, monitoring, and tax repayment procedures connected with such programs. Emergency rule adoption is necessary because the deferral rule is already in effect.

Statutory Authority: RCW 82.32.300 and chapter 2, Laws of 1985 1st ex. sess.

Specific Statute Rule is Intended to Implement: Chapter 2, Laws of 1985 1st ex. sess., as yet uncodified.

Reasons Supporting Proposed Action: The enabling legislation contemplates the adoption of a WAC rule for the purposes explained above. The rule format and concepts are predicated upon the department's previous successful administration of similar tax deferral programs.

Agency Personnel Responsible for Drafting: George C. Mastrodonato, 415 General Administration Building, Olympia, WA 98504, phone 753-3995; Implementation: Garry G. Fujita, 415 General Administration Building, Olympia, WA 98504, phone 753-5544; and Enforcement: Department of Revenue, 415 General Administration Building, Olympia, WA 98504, phone 753-5540.

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-155 ((ACCOUNTING, DATA PROCESSING OR) INFORMATION AND COMPUTER SERVICES. ((Persons rendering accounting, data processing or computer services are taxable upon gross income under the service and other business activities classification.

The gross income of such businesses is the total of all fees received or charges made, including periodic service charges for audits or book-keeping, without any deduction on account of expenses of any kind (including traveling expenses) or losses. Amounts paid regularly by clients to such persons are not salaries, but rather are fees for services analogous to retainer fees.

Revised June 1, 1970:)) Persons rendering information or computer services and persons who manufacture, develop, process, or sell information or computer programs are subject to business and occupation taxes and retail sales or use taxes as explained in this rule.

#### DEFINITIONS

##### As used herein:

The term "information services" means every business activity, process, or function by which a person transfers, transmits, or conveys data, facts, knowledge, procedures, and the like to any user of such information through any tangible or intangible medium. The term does not include transfers of tangible personal property such as computer hardware or standard prewritten software programs. Neither does the term include telephone service defined under RCW 82.04.065 and WAC 458-20-245.

The term "computer services" means every method of providing information services through the use of computer hardware and/or software.

\*The term "computer system" means a functional unit, consisting of one or more computers and associated software, that uses common storage for all or part of the data necessary for execution of the program; executes user-written or user-designated programs; performs user-designated data manipulation; including arithmetic operations and logic operations; and that can execute programs that modify themselves during their execution.

\*The term "hardware" means physical equipment used in data processing, as opposed to programs, procedures, rules, and associated documentation.

\*The term "software" means programs, procedures, rules, and any associated documentation pertaining to the operation of a computer system.

The term "custom program" means software which is developed and produced by a provider exclusively for a specific user, and which is of an original, one-of-a-kind nature.

The term "standard, prewritten program," sometimes referred to as "canned" or "off-the-shelf" software, means software which is not originally developed and produced for the user.

The term "provider" means the person who makes available information and computer services to a user.

The term "user" means a person for whom information and/or computer services are provided as a consumer.

#### DISTINCTION BETWEEN SALES AND SERVICES

Liability for sales tax or use tax depends upon whether the subject of the sale is a product or a service. If information services, computer services or data processing services are performed, such that the only tangible personal property in the transaction is the paper or medium on which the information is printed or carried, the activity constitutes the rendering of professional services, similar to those rendered by a public accountant, architect, lawyer, etc., and the retail sales tax or use tax is not applicable to such charges. This includes the sales of software in connection with custom programs written to meet a particular customer's specific needs. The programs are considered to be the tangible evidence of a professional service rendered to a client and not subject to retail sales tax or use tax.

If, on the other hand, the sale, lease, or licensing of the computer program is a sale or lease of a product, even though produced through a computer system or process, it is taxable as a retail sale. Standard, prewritten software programs do not constitute professional services rendered to meet the particular needs of specific customers, but rather, are essentially sales of articles of tangible personal property. Articles of this type are no different from a usual inventory of tangible personal property held for sale or lease and, irrespective of any incidental modifications to the program medium or its environment (e.g., adaptation to computer room configuration) to meet a particular customer's needs, the sale or lease of such standard software is a sale at retail subject to retail sales tax or use tax.

#### BUSINESS AND OCCUPATION TAX

The terms "sale" (RCW 82.04.040) and "retail sale" (RCW 82.04-.050) include any transfer of possession of tangible personal property for a consideration. This includes transfers of computer hardware and standard, prewritten software for a charge, regardless that outright ownership or title may not pass to the user, and regardless of any express or implied restrictions upon the user.

RETAILING: All sales, leases, rentals, and licenses to use tangible personal property, including computer systems and all hardware and standard, prewritten software, to users, are subject to the Retailing classification of business and occupation tax measured by the gross proceeds of sales derived therefrom. (See RCW 82.04.070.)

WHOLESALEING: When such transfers of tangible personal property as described in the previous paragraph, are for resale by the customer or client in the regular course of business, without intervening use by such persons, they are subject to Wholesaling business and occupation tax measured by gross proceeds of sales.

SERVICE: Persons who charge for providing information services or computer services (other than Retailing or Wholesaling as defined above) are subject to the Service and Other Activities classification of business and occupation tax measured by the gross income of such business. This includes charges for custom program development, charges for on-line information and data, and charges in the nature of royalties for the reproduction, use, and reuse of patented systems and technological components of hardware or software, whether tangible or intangible.

The tax classifications and distinctions explained above will prevail regardless of how the Federal government or other tax jurisdictions may classify these transactions for other tax purposes.

#### RETAIL SALES TAX

The retail sales tax applies to all amounts taxable under the Retailing classification of business and occupation tax explained earlier. Providers must collect the sales tax from users of computer systems, hardware, equipment, and/or standard, prewritten software and materials delivered in this state. This includes outright sales, leases, rentals, licenses to use, and any other transfer of possession and the right to use such things, however physically packaged, represented, or conveyed.

The retail sales tax also applies to all charges to users for the repair, maintenance, alteration, or modification of hardware, equipment, and/or standard, prewritten software or materials.

#### USE TAX

The use tax applies upon the full value of computer systems, hardware, equipment, standard, prewritten software, and materials which are used by consumers in this state and upon which the retail sales tax has not been paid. The person liable for the tax is the user. However, see WAC 458-20-193B for circumstances under which the seller may be required to collect and report the use tax.

Also, the use tax applies upon the full value of such things which are made available to a user without a charge by a provider in the course of rendering any information or computer service. The person liable for the tax is the provider, as a bailor, or the user, as a bailee. See WAC 458-20-178.

#### INTERSTATE SALES AND SERVICES

Persons who produce computer systems, hardware, equipment, standard, prewritten software, and materials in this state and who sell, lease, license, or otherwise transfer such things to buyers outside this state and deliver such things outside this state are not subject to either Retailing or Wholesaling business tax. Such persons are subject to the Manufacturing classification of business and occupation tax. See WAC 458-20-136. The measure of tax is the full value of the product manufactured. See WAC 458-20-112. Retail sales tax does not apply to such interstate deliveries. However, see WAC 458-20-193A for the criteria for perfecting interstate tax exempt sales. Persons who do not themselves produce such things in this state but merely sell such things and deliver outside this state are exempt of business tax and retail sales tax.

Providers of information or computer services in interstate commerce who are taxable under the Service business tax classification are governed by the provisions of WAC 458-20-194 (doing business inside and outside the state).

\*Definitions marked with an asterisk are taken from Vocabulary for Data Processing, Telecommunications, and Office Systems, IBM, Seventh Edition (July, 1981).

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-207 ((COURT COSTS, EXCLUSION)) AT-TORNEYS. ((Court costs paid by a taxpayer is a business expense and may not be deducted from the gross amount reported as the measure of tax under the business and occupation tax.

Court costs paid by a taxpayer and recovered in an action at law may be excluded from the gross amount reported as the measure of tax under the business and occupation tax. The recovery of such costs is construed to be a return of capital invested rather than income.

Court costs advanced by an attorney for the account of his client may be excluded from the attorney's income upon the reimbursement by the client or recovery of such amount in an action at law. (See WAC 458-20-111.)

Revised May 1, 1943:)) The word "attorney" as used herein means an individual engaged in the practice of law. The term shall also include a professional service corporation organized under chapter 18.100 RCW for the purpose of engaging in the practice of law.

#### BUSINESS AND OCCUPATION TAX

Attorneys are taxable under the Service and Other Activities classification upon the gross income of the business. Gross income of the business means the value proceeding or accruing by reason of the transaction of the business engaged in and includes compensation for the rendition of services, all without any deduction on account of expenses or losses. (See RCW 82.04.070.) Value proceeding or accruing means consideration actually received or accrued. (See RCW 82.04.090.) Thus, under these statutes, the measure of the tax for attorneys includes compensation or consideration for the rendition of legal service.

Attorneys are bound by the Disciplinary Rules of the Code of Professional Responsibility. DR 5-103 prohibits an attorney from financing the expenses of contemplated or pending litigation unless the client remains ultimately liable for such expenses. An attorney therefore normally acts solely as agent for the client when financing litigation. Accordingly, amounts received from a client for certain expenses of litigation do not constitute income to the attorney. Thus, such amounts are not part of the business and occupation tax measure.

Sometimes in the regular course of business an attorney may receive amounts from a client for expenses of third party providers incurred in connection with a legal matter other than litigation. Such amounts are also excluded from the business and occupation tax, but only if the attorney has no obligation for payment other than as agent for the client or equivalent commitment for their payment.

Thus, the following kinds of expenses are not subject to the business and occupation tax where the above requirements are satisfied.

- A. Filing fees and court costs.
- B. Process server and messenger fees.
- C. Court reporter fees.
- D. Expert witness fees.
- E. Costs of associate counsel.
- F. Costs of third party service providers (for example, accountants, appraisers, architects, artists, draftsmen, economists, engineers, investigators, physicians, surveyors, etc.) who provide services to the client which the attorney does not or cannot render, and to whom the attorney has no obligation for payment other than as agent for the client.
- G. Registration, licensing or maintenance fees.
- H. Title and other insurance premiums.
- I. Escrow fees paid to third party escrow agents.

In order to support the exclusion from taxable gross income of any of the foregoing expenses, the attorney must maintain records which indicate the amount of the payment received from the client, the name of the client, the name of the person to whom the attorney has made payment, and a description of the item for which payment was made. If the foregoing expenses are incurred outside the context of litigation or contemplated litigation, the attorney must maintain records which indicate the amount of the payment received, the name of the client, and the person to whom the attorney makes payment. In addition, the attorney must provide the person to whom payment is made with written notice that (1) payment is made, or will be made on behalf of a named client, and (2) the attorney assumes no liability for payment, other than as agent for the named client.

General overhead costs are includable in the tax measure even though an attorney may allocate those costs among particular clients. Likewise, any other costs for which the attorney assumes personal liability other than as stated above are includable in the tax measure.

Thus, amounts received to compensate for the following costs are fully subject to tax, even though they may be separately stated on the billings or expressly denominated as costs of the client:

- A. Photocopy or other reproduction charges.
- B. Long distance telephone tolls.
- C. Secretarial expenses.
- D. Travel, meals and lodging.
- E. Third party service providers (for example, accountants, appraisers, architects, artists, draftsmen, economists, engineers, investigators, physicians, etc.) to whom the attorney assumes personal liability for payment.

#### RETAIL SALES TAX

Attorneys primarily render professional legal services and are not required to collect the retail sales tax from clients and others paying for such services. This is so even though the legal services rendered by attorneys may include abstract, title insurance, and escrow business activities which are "retail sales" under the law when performed by persons other than attorneys.

Sales of tangible personal property to attorneys for use in rendering professional services are retail sales upon which the retail sales tax must be collected. Such sales include, among others, sales of office furniture and equipment, stationery, office supplies, law books, and reference materials.

#### USE TAX

The use tax applies upon the use within this state of all articles of tangible personal property used in the performance of professional services when such articles have been purchased or acquired under conditions whereby the Washington retail sales tax has not been paid.

#### NEW SECTION

WAC 458-20-17901 PUBLIC UTILITY TAX—ENERGY CONSERVATION AND COGENERATION DEDUCTIONS. In chapter 149, Laws of 1980 (RCW 80.28.024, 80.28.025, and 82.16.055), the legislature finds and declares that the potential for meeting future energy needs through conservation measures, including energy conservation loans, energy audits, and the use of renewable resources, such as solar energy, wind energy, wood, wood waste, municipal waste, agricultural products and wastes, hydroelectric energy, geothermal energy, and end-use waste heat, may not be realized without incentives to public and private utilities.

The legislature has implemented its intent by adding a new section to chapter 82.16 RCW, codified as RCW 82.16.055, for deductions relating to energy conservation or production from renewable resources, as follows:

(1) In computing tax under this chapter there shall be deducted from the gross income:

(a) An amount equal to the cost of production at the plant for consumption within the state of Washington of:

(i) Electrical energy produced or generated from cogeneration as defined in RCW 82.35.020; and

(ii) Electrical energy or gas produced or generated from renewable energy resources such as solar energy, wind energy, hydroelectric energy, geothermal energy, wood, wood wastes, municipal wastes, agricultural products and wastes, and end-use waste heat; and

(b) Those amounts expended to improve consumers' efficiency of energy end-use or to otherwise reduce the use of electrical energy or gas by the consumer.

(2) This section applies only to new facilities for the production or generation of energy from cogeneration or renewable energy resources or measures to improve the efficiency of energy end-use on which construction or installation is begun after June 12, 1980, and before January 1, 1990.

(3) Deductions under subsection (1)(a) of this section shall be allowed for a period not to exceed thirty years after the project is placed in operation.

(4) Measures or projects encouraged under this section shall at the time they are placed in service be reasonably expected to save, produce, or generate energy at a total incremental system cost per unit

of energy delivered to end-use which is less than or equal to the incremental system cost per unit of energy delivered to end-use from similarly available conventional energy resources which utilize nuclear energy or fossil fuels and which the gas or electric utility could acquire to meet energy demand in the same time period.

(5) The department of revenue, after consultation with the utilities and transportation commission in the case of investor-owned utilities, shall determine the eligibility of individual projects and measures for deductions under this section.

The department of revenue has complied with the consultation requirements of RCW 82.16.055(5). The provisions of subsection (1)(a)(i) through (ii) of this section, deal with new facilities designed and intended for the production of energy. The department will rule upon eligibility of such facilities and the attendant cost of energy production for purposes of determining deductibility from the public utility tax upon an individual project basis. Plans for the construction of such facilities and pertinent details, including energy production and production costs projections relative to the planned facility or construction details and energy production costs for facilities already in service must be submitted to the department for determination of eligibility for tax deductions.

Subsection (1)(b) and (4) of this section are applicable to projects conducted by utilities which are designed and projected to result in a reduction in the amount of electrical energy or gas used by the consumer.

Pursuant to subsection (5) of this section, the department of revenue has determined the eligibility of individual measures to improve consumers' efficiency of energy end-use or otherwise reduce the use of electrical energy or gas by the consumer. Such measures include residential and commercial buildings weatherization programs as well as energy end-user conservation programs, however designated and however funded or financed.

Under the general rules of statutory construction, tax exemption provisions must be strictly construed against the person claiming the exemption and in favor of imposing tax. Also, under such general rules the words and terms used in statutes must be given their common and ordinary meaning. By the terms of RCW 82.16.055 (1)(b) deductions are restricted to amounts expended for programs and measures which actually result in some reduction of energy use by utilities' customers. Many incidental and generally related costs may be incurred in the development and implementation of measures intended to stimulate energy conservation, but which do not actually improve energy efficiency or reduce utility consumers' consumption of energy units. For these reasons and pursuant to RCW 82.16.055 (5) the department has consulted with publicly and privately operated utilities to determine the kinds of costs which will satisfy the statutory intent by actually achieving customers' reduction of energy units consumed.

Accordingly, the term "amounts expended to improve consumers' efficiency of energy end-use" means the total of direct costs incurred by public and private utilities which are exclusively attributable to the development and implementation of energy end-use conservation programs. This term does not include any costs nor any allocated portion thereof, attributable to the operation of a public or private utility business which were incurred before, or are incurred separate from the development and implementation of energy conservation programs. No allocation or apportionment of a utility's payroll, administrative expenses, direct or indirect overhead expense, or any other similar expense attendant to providing utility services other than energy end-user conservation programs will be allowed for deduction. Furthermore, no deduction of any expenditure whatsoever will be allowed if such expenditure or the costs of the energy end-user conservation program for which such expenditure was incurred are recovered, directly or indirectly, through adjustments to the utility's consumer rate base.

The department has determined the following costs to be eligible for tax deduction:

1. CONSTRUCTION AND INSTALLATION. All costs actually incurred by a utility representing the value of materials and labor applied or installed in any facility of or for an energy end-user, whether provided by the utility itself or by third party prime or subcontractors. Such eligible costs include, but are not limited to:

- a. Insulation for floors, ceilings, walls, water pipes and the complete installation thereof.
- b. Weatherstripping, caulking, batting, and any similar materials applied for weatherization of facilities and the complete installation thereof.
- c. Storm windows, insulated and other weather resistant glass or similar materials and installation.

- d. Electric or gas thermostatic controls and installation.
- e. Water heater wraps, shower head restrictors, and all similar devices installed to reduce heat loss or reduce the actual units of energy consumed, and the installation thereof.

2. ENERGY AUDITS AND POST INSTALLATION INSPECTION. All direct costs actually incurred for providing:

- a. Energy audit training.
- b. Auditor payroll.
- c. Auditor uniforms.
- d. Special tools and equipment specifically needed for carrying out audit programs.
- e. Auditor and inspector private vehicle mileage allowance.
- f. Post installation inspection, labor, and materials costs.

3. ADMINISTRATION. All administrative, clerical, professional, and technical salary and payroll costs actually and directly incurred for:

- a. Conservation program management and supervision including but not limited to audit, BPA buy-back, commercial, solar, and loan programs.
- b. Secretarial and clerical expense.
- c. Data entry and information processing operators.
- d. Engineering.
- e. Outside legal expense as opposed to inhouse legal representation.
- f. General energy conservation employee training.
- g. Conservation programs accounting and auditing.
- h. Separate telephone and third party provided services.

4. CONSUMABLE SUPPLIES AND EQUIPMENT. The cost of consumable materials and equipment utilized exclusively in energy conservation programs including but not limited to:

- a. Equipment rental.
- b. Custom software programs.
- c. Computer lease time.
- d. Computer print-out paper.
- e. Special conservation program stationery, program instruction and installation manuals and office clerical supplies.
- f. Periodic costs of capital equipment and rolling stock if:
  - (i) Such equipment and rolling stock are dedicated exclusively to an energy end-user conservation program; and
  - (ii) Such costs are incurred during the duration of such program.
- g. Direct costs of repair and maintenance of the above items.

5. FINANCING. Deduction is allowed for all direct nonallocated financing and loan expenses relative to:

- a. Loan manager, supervisor, inspectors, secretaries, and clerks payroll.
- b. Net interest differential (loans to consumers at lower than the utilities' interest rates on such acquired funds).

The department has determined the following costs as being ineligible for tax deduction:

- a. Legislative services.
- b. Allocated warehousing.
- c. Dues, memberships and subscriptions.
- d. Information, dissemination, and advertising charges for radio, television, newspaper services, bill stuffers, and related costs of producing advertising materials.
- e. Brochures, handouts, displays.
- f. Seminar development and workshops.
- g. Experimental programs.
- h. Community education and outreach efforts.
- j. Allocated facility costs.
- k. Allocated vehicle rolling stock.
- l. Convention, out-of-state travel, meals, entertainment expense.

Utilities may deduct from the measure of public utility tax deductible expenses as set forth in this rule at the time such costs are actually incurred and may include such deductions on excise tax returns covering the period during which the costs were actually incurred. For purposes of reporting public utility tax liability, utilities must include and report Bonneville Power Administration (BPA) and other providers' cash grants, reimbursements, and buy-back payments attributable to energy conservation programs as gross income of the business when it is received. "Gross income of the business" shall also include the value of electrical energy units from BPA for performing approved energy conservation services.

Any recurring costs determined to be eligible for deduction under this rule shall cease to be eligible in whole or in part at time of termination of any energy conservation measure or project which originally authorized the deduction under RCW 82.16.055.

**NEW SECTION****WAC 458-20-24001 SALES AND USE TAX DEFERRAL—  
MANUFACTURING AND RESEARCH/DEVELOPMENT FACILITIES IN DISTRESSED AREAS.****I. INTRODUCTION**

Chapter 232, Laws of 1985 establishes a sales and use tax deferral program. The purpose of the program is to promote economic stimulation, create employment opportunities, and reduce poverty in certain distressed areas of the state. Thus, the legislature established this tax deferral program to be effective solely in those distressed areas and under circumstances where the deferred tax payments are for investments or costs that result in the creation of a specified minimum number of jobs. In general, the deferral applies to sales and use taxes on materials, labor, and services rendered in the construction of qualified buildings, machinery, and equipment.

**II. DEFINITION OF TERMS**

For purposes of this rule:

"Applicant" means a person applying for a tax deferral under chapter 232, Laws of 1985.

"Person" has the meaning given in RCW 82.04.030. It means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any instrumentality thereof. For purposes of this rule the relationship of landlord and tenant shall not be considered as any of the types of relationships which are identified above as "persons."

"Certificate holder" means an applicant to whom a tax deferral certificate has been issued.

"Recipient" means a person who has been granted a tax deferral under this program.

"Department" means the department of revenue.

"Eligible area" means a county in which the average level of unemployment for the three calendar years preceding the year in which an application is filed exceeds the average state unemployment for those years by twenty percent; i.e., the average unemployment rate for the county must be twenty percent above the average unemployment rate for the state in the preceding three calendar years. In determining an eligible area the department may compare the county's average unemployment rate in the prior three years to one hundred twenty percent of the state's average unemployment rate based on official unemployment figures published by the department of employment security.

"Eligible investment project" means that portion of an investment project which:

1. Is directly utilized to create at least one new full time qualified employment position for each two hundred thousand dollars of investment on which a deferral is requested; and

2. Either initiates a new operation or expands or diversifies a current operation by expanding or renovating an existing building with costs in excess of twenty-five percent of the true and fair value of the plant complex prior to the improvement; and

3. Does not exceed twenty million dollars in value.

For the purposes of the above paragraph the following definitions will apply:

"Qualified employment position" means a permanent, full time employee employed in the eligible investment project during the entire tax year following the operational completion of the project. In the event an employee is either voluntarily or involuntarily separated from employment the employment position will be considered filled if the employer is either training or actively recruiting a replacement employee.

An "improvement" shall mean the physical alteration by expansion, modernization, or renovation of an existing building where the cost exceeds 25 percent of the true and fair value of the existing plant complex prior to the initiation of construction. The term "improvement" is further defined to include those portions of an existing building which do not increase the usable floor space, but is limited to the renovation, modernization, or any other form of alteration or addition and the equipment and machinery installed therein during the course of construction.

"True and fair value" means:

The value listed on the assessment roles as determined by the county assessor for the land, buildings, or equipment for ad valorem property tax purposes at the time of application.

"Plant complex" shall mean land, machinery, and buildings adapted to industrial, computer, warehouse, or research and development use as a single functional or operational unit for the designing, assembling, processing, or manufacturing of finished or partially finished products from raw materials or fabricated parts.

"Eligible investment project" does not include:

1. An investment project undertaken by a light and power business as defined in RCW 82.16.010(5), or

2. Investment projects which have already received deferrals under chapter 232, Laws of 1985.

"Investment project" means an investment in qualified buildings together with qualified machinery and equipment including labor and services rendered in the planning, installation, and construction of the project. An investment in a building only or machinery and equipment only shall not be considered an investment project under this rule. A person that does not build or remodel its own building, but leases from a third party, is ineligible for sales and use tax deferral.

"Manufacturing" has the meaning given in RCW 82.04.110 and WAC 458-20-136 now and as hereafter amended. Manufacturing, for purposes of this rule only, shall also include computer programming, the production of computer-related service, and the activities performed by research and development laboratories and commercial testing laboratories.

"Qualified buildings" means new structures used to house manufacturing activities as defined above and includes plant offices, warehouses, or other facilities for the storage of raw material and finished goods if such facilities are essential or an integral part of a manufacturing operation. The term also includes parking lots, landscaping, sewage disposal systems, cafeterias, and the like, which are attendant to the initial construction of an eligible investment project.

"Qualified machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing operation, as defined above.

"Qualified machinery and equipment" includes, but is not limited to, computers, software, data processing equipment, laboratory equipment; manufacturing components such as belts, pulleys, shafts and moving parts; molds, tools and dies; operating structures and all equipment used to control or operate machinery. It also includes machinery and equipment acquired under the terms of a long or short term lease by the recipient. The tax deferral applies to equipment purchased outright by the recipient (or the transfer of machinery and equipment into the state of Washington) and leased equipment. Acquisition of spare parts for machinery, equipment, etc., in excess of normal operating levels shall not be eligible for deferral.

"New machinery and equipment" means either new to the taxing jurisdiction of the state or new to the certificate holder. Used equipment is eligible for deferral provided that the certificate holder either brings the machinery or equipment into Washington for the first time or purchases it at retail in Washington.

"Initiation of construction," for purposes of applying for the investment tax deferral relating to the construction of new buildings, shall mean the date upon which on-site construction work commences.

"Initiation of construction," for purposes of applying for the investment tax deferral relating to a major improvement of existing buildings, shall mean the date upon which the new construction by renovation, modernization, or expansion, by physical alteration, begins.

"Operationally complete" means the eligible investment project is constructed or improved to the point of being functionally useable for its intended purpose.

**III. APPLICATION PROCEDURE**

An application for sales and use tax deferral under chapter 232, Laws of 1985 must be made prior to the initiation of construction, as defined above. Application forms will be supplied to the applicant by the department upon request. The completed application is to be sent in duplicate to the following address:

State of Washington  
Department of Revenue  
Audit Procedures & Review  
Olympia, WA 98504  
Mail Stop AX-02

The department will verify the information contained in the application and either approve or disapprove the application within sixty days. If approved, a tax deferral certificate shall be issued effective as of the date the application was received by the department. If disapproved, the department shall notify the applicant as to the reason(s)

for disapproval. The applicant may seek administrative review of the department's refusal to issue a certificate pursuant to the provisions of WAC 458-20-100.

In the event an application is submitted prior to the publication of state-wide and county unemployment statistics for the year preceding the year in which application is made, the department will take no action on the application until the statistics are published even though this period may extend beyond the sixty-day approval period. If, after publication of the statistics, it is determined that the applicant is eligible for tax deferral the department, within ten days of publication, shall issue the tax deferral certificate effective on the date the application was received by the department.

#### IV. USE OF THE CERTIFICATE

A tax deferral certificate issued pursuant to chapter 232, Laws of 1985 shall be for the use of the recipient thereof for deferral of sales and use taxes due on each eligible investment project. Deferral is limited only to investment in qualified buildings and qualified machinery and equipment as defined in this rule. Thus, sales and use taxes cannot be deferred on items which do not become part of the qualified buildings, machinery, and equipment.

The tax deferral certificate shall be used in a manner similar to that of a resale certificate as set forth in WAC 458-20-102. The certificate holder shall provide its vendors with a copy of the tax deferral certificate at the time goods or services are purchased. The seller or vendor shall be relieved of the responsibility for collection of the sales or use tax upon presentation of the certificate. The seller or vendor shall retain a copy of the certificate as part of its permanent records. A blanket certificate may be provided by the certificate holder and accepted by the seller covering all such purchases relative to the eligible project. The seller or vendor is liable for reporting business and occupation tax on all tax deferral sales.

#### V. AUDIT PROCEDURE

An applicant must provide the department with the estimated cost of the investment project at the time the application is made. A certificate holder is eligible for deferral of sales and use taxes on any eligible investment project up to twenty million dollars in project value. Following approval of the application and issuance of a sales and use tax deferral certificate, a certificate holder must notify the department, in writing, when the value of the investment project reaches the estimated cost as stated on the tax deferral certificate. At that time the certificate holder may not utilize the certificate further. If a certificate holder has reached its level of estimated costs, which level is less than twenty million dollars and the project is not operationally complete, the certificate holder may apply for a supplemental certificate stating a revised amount upon which the deferral of sales and use taxes is requested. The certificate holder shall amend the original application to account for the additional costs. The department may grant or deny the amended application depending on the total biennial tabulation of deferred taxes.

The certificate holder shall notify the department in writing when the construction project is operationally complete. Upon receipt of such notification or other information, the department shall conduct a final audit of the investment project. The certificate holder shall open its books and records to the department and make available the final cost figures for the investment project. The department may request reasonable supporting documentation and other proof to justify the final cost of the project.

Upon completion of the audit the department shall certify the amount of sales and use taxes subject to deferral and the date on which the project was operationally complete. The recipient shall be notified in writing of the total amount of deferred taxes, the date(s) upon which the deferred taxes shall be paid, and any reports required to be submitted in the subsequent years. If the department disallows all or any portion of the amount of sales and use taxes requested for deferral, the recipient may seek administrative review of the department's action pursuant to the provisions of WAC 458-20-100.

The department shall keep a running total of all deferral certificates granted during each fiscal biennium. The department will not allow any deferral certificates to be issued which would cause the tabulation for a biennium to exceed twenty million dollars in deferred taxes. If the department has granted a total of nineteen million dollars in deferrals during any fiscal biennium and there is a reasonable expectation that the total of all deferrals shall reach or exceed twenty million dollars in the current biennium, the department shall notify each new applicant of the department's tabulation and of the fact that the

applicant's deferred taxes may carry over into the next biennium in accordance with the guidelines set forth in the following paragraph.

An application for deferral of taxes shall be prioritized based upon the time of receipt by the department of the original application. For purposes of this regulation, the term "time of receipt" shall mean the date shown by the post office cancellation mark stamped upon the envelope containing the application if transmitted by the United States Postal Service, the date stamped on the envelope if transmitted by another carrier, or the date of receipt if hand delivered to an office of the department. If more than one application is received on the same day and, under the provisions of this paragraph, only a portion of the taxes may be deferred, the amount of taxes to be deferred by each applicant shall be determined on a pro rata basis.

If all or part of an application for deferral is disallowed because the total tabulation for the biennium exceeds twenty million dollars in deferred taxes the disallowed portion shall be carried over for approval into the next biennium. However, the applicant's carryover into the next biennium is only permitted if the tabulation for the next biennium does not exceed twenty million dollars as of the date on which the department has disallowed all or part of the application.

The deferral is allowable only in respect to investment in the construction of a new plant complex or the enlargement or improvement of an existing plant complex directly used in manufacturing activities, as defined above. Where a plant complex is used partly for manufacturing and partly for purposes which do not qualify for deferral under this rule and it is not possible to identify the nonqualifying items through separate accounting, the applicable tax deferral shall be determined by apportionment according to the ratio which the construction cost per square foot of that portion of the plant complex directly used for manufacturing purposes bears to the construction cost per square foot of the total plant complex.

The amount of tax deferral allowable for leased equipment shall be calculated upon that amount of the consideration paid by the lessee/recipient to the lessor:

(1) Over the initial term of the lease, excluding any period of extension or option to renew, where the lease term ends on or before the last date for repayment of the deferred taxes; or

(2) Over that portion of the lease term to the last date for repayment of deferred taxes as provided hereinafter, where the lease term, excluding any period of extension or option to renew extends beyond such repayment date.

After that date the lessee/recipient shall pay the appropriate sales taxes to the lessor for the remaining term of the lease.

No taxes may be deferred under this rule prior to July 1, 1985. No applications for deferral of taxes will be accepted after May 1, 1991 nor will sales or use tax deferral certificates be issued on or after July 1, 1991. In tabulating the total amount of deferrals granted under this law there shall be considered a total of three fiscal biennia within which applications shall be accepted.

#### VI. REPORTING AND MONITORING PROCEDURE

Each recipient of sales and use tax deferral shall submit a report to the department on December 31st of each year during the repayment period until all taxes are repaid. The first report shall be submitted in the third year after the date on which the construction project has been operationally complete to coincide with the first payment of deferred taxes. The report shall contain information from which the department may determine whether the recipient is meeting the requirements of the deferral law.

The report shall be made to the department in a form and manner prescribed by the department. The report shall contain information regarding the recipient's average employment in the state for the prior three years, the actual employment related to the project, the actual wages of the employees related to the project, and any other information required by the department. If the recipient fails to submit a report or submits an inadequate or falsified report, the department may declare the amount of deferred taxes outstanding to be immediately assessed and payable. An inadequate or falsified report is one that contains material omissions or contains knowingly false statements and information.

The department shall notify the department of employment security of the names of all recipients of tax deferrals under chapter 232, Laws of 1985. On or before December 31st of each year a deferral is in effect, the department shall request information on each recipient's employment in the state for that year, including employment related to the deferral project, and the wages of such employees. The department of employment security shall make, and certify to the department, all

determinations of employment and wages required under this paragraph.

If, on the basis of the recipient's annual report or other information including that submitted by the department of employment security, the department finds that an investment project is not eligible for tax deferral, the department will (1) declare the amount of deferred taxes outstanding to be immediately due or (2) assess interest on the deferred taxes for the project, under the following guidelines:

(1) If the department finds that an investment project has been operationally complete for three years and has failed to create the required number of qualified employment positions, the department shall assess interest, but not penalties, on the deferred taxes. The interest shall be assessed at the rate of nine percent per annum, shall be assessed retroactively to the date of deferral, and shall accrue until the deferred taxes are paid. A recipient of deferred taxes shall have from the date on which the construction project was certified as operationally complete to December 31st of the first year of repayment in which to create the required number of employment positions under this law.

(2) If the department finds that the investment project is not eligible for tax deferral for reasons other than failure to create the required number of qualified employment positions, the amount of deferred taxes outstanding for the project shall be immediately due. The reasons for disqualification include, but are not limited to, the following:

(a) The facility is not used for a manufacturing, warehouse, computer, or research and development operations;

(b) The recipient has not made an investment in qualified buildings, machinery, and equipment.

Any action taken by the department under paragraph (1) or (2) above shall be subject to administrative review pursuant to the provisions of WAC 458-20-100.

#### VII. PAYMENT PROCEDURES

The recipient of sales and use tax deferral under this regulation shall begin paying the deferred taxes in the third year after the date certified by the department as the date on which the construction project was operationally complete. The first payment will be due on December 31st of the third calendar year after such certified date, with subsequent annual payments due on December 31st of the following four years, with amounts of payment scheduled as follows:

| Repayment Year | Percentage of Deferred Tax Repaid |
|----------------|-----------------------------------|
| 1              | 10%                               |
| 2              | 15%                               |
| 3              | 20%                               |
| 4              | 25%                               |
| 5              | 30%                               |

The department may authorize an accelerated repayment schedule upon request of the recipient. Interest shall not be charged on any taxes deferred under this rule during the period of deferral, although other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for any delinquent payments during the repayment period pursuant to chapter 82.32 RCW. The debt for deferred taxes shall not be extinguished by insolvency or other failure of the recipient nor shall the debt for the deferred taxes be extinguished by the sale, exchange, or other disposition of the recipient's business. Any person who becomes a successor (see WAC 458-20-216) to such investment project shall be liable for the full amount of any unpaid, deferred taxes under the same terms and conditions as the original recipient.

#### NEW SECTION

#### WAC 458-20-24002 SALES AND USE TAX DEFERRAL—NEW MANUFACTURING AND RESEARCH/DEVELOPMENT FACILITIES.

##### I. INTRODUCTION

Chapter 2, Laws of 1985 1st ex. sess. establishes a sales and use tax deferral program for certain manufacturing or research and development investment projects. The deferral will be granted only to persons not currently engaged in manufacturing or research and development activities in the state of Washington on June 14, 1985, the effective date of the deferral program. Applications for the tax deferral may be accepted up through June 30, 1986; a holder of a tax deferral certificate must initiate construction of the investment project within one hundred eighty days of receiving approval from the department and issuance of the tax deferral certificate. In general, the deferral applies to

the construction of new buildings and the acquisition of related machinery and equipment.

##### II. DEFINITION OF TERMS

Unless the context clearly requires otherwise, the definitions in this section apply throughout this rule.

"Applicant" means a person applying for a tax deferral under this rule.

"Person" has the meaning given in RCW 82.04.030. It means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any instrumentality thereof. For purposes of this rule the relationship of landlord and tenant shall not be considered as any of the types of relationships which are identified above as "persons".

"Eligible investment project" means construction of new buildings and the acquisition of related machinery and equipment when the buildings, machinery, and equipment are to be used for either manufacturing or research and development activities, which construction is commenced prior to December 31, 1986.

"Manufacturing" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different, or useful substance or article of tangible personal property is produced for sale or commercial or industrial use and includes the production or fabrication of specially made or custom-made articles.

"Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun.

"Buildings" means only those new structures used for either manufacturing or research and development activities, including plant offices and warehouses or other facilities for the storage of raw materials or finished goods if such facilities are an essential or integral part of a factory, mill, plant, or laboratory used for manufacturing or research and development purposes. If a building is used partly for manufacturing or research and development purposes and partly for other purposes, the applicable tax deferral shall be determined by apportionment of the costs of construction under this rule.

"Machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing or research and development operation.

"Qualified machinery and equipment" includes computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery. For purposes of this definition, new machinery and equipment means either new to the taxing jurisdiction of the state or new to the certificate holder. Used machinery and equipment are eligible for deferral if the certificate holder either brings the machinery and equipment into Washington for the first time or makes a retail purchase of the machinery and equipment in Washington.

"Acquisition of equipment and machinery" shall have the meaning given to the term "sale" in RCW 82.04.040. It means any transfer of the ownership of, title to, or possession of, tangible personal property for a valuable consideration. A sale takes place when the goods sold are actually or constructively delivered to the buyer in this state.

"Recipient" means a person receiving a tax deferral under this chapter.

"Certificate holder" means an applicant to whom a tax deferral certificate has been issued.

"Operationally complete" means constructed or improved to the point of being functionally useable for the intended purpose.

"Initiation of construction" means that date upon which on-site construction commences.

"Plant complex" shall mean land, machinery, and buildings adapted to commercial, industrial, or research and development use as a single functional or operational unit for the designing, assembling, processing or manufacturing of finished or partially finished products from raw materials or fabricated parts.

"Investment project" means an investment in qualified buildings and qualified machinery and equipment including labor and services rendered in the planning, installation, and construction of the project. An investment in a building only or machinery and equipment only shall not be considered an investment project under this rule. A person that

does not build its own building, but leases from a third party, is ineligible for sales and use tax deferral. An eligible investment project does not include any project which or person who have previously been the recipient of a tax deferral under Washington law.

### III. APPLICATION PROCEDURES

An application for sales and use tax deferral under chapter 2, Laws of 1985 1st ex. sess. must be made prior to the initiation of construction or an acquisition of equipment or machinery, as defined above. Application forms will be supplied to the applicant by the department upon request. The completed application is to be sent in duplicate to the following address:

State of Washington  
Department of Revenue  
Audit Procedures & Review  
Olympia, WA 98504  
Mail Stop AX-02

The application shall contain information regarding the location of the investment project, estimated or actual costs, time schedules for completion and operation, and other information required by the department, including information relating to employment at the investment project.

The department will examine and verify the information contained in the application and either approve or disapprove the application within sixty days. If approved, a tax deferral certificate will be issued effective as of the date the application was received by the department. If disapproved, the department shall notify the applicant as to the reason(s) for disapproval. The applicant may seek administrative review of the department's refusal to issue a certificate pursuant to the provisions of WAC 458-20-100. A certificate holder shall initiate construction of the investment project within one hundred eighty days of receiving approval from the department and issuance of the tax deferral certificate.

A tax deferral certificate shall only be issued to persons who, on June 14, 1985, are not engaged in manufacturing or research and development activities within this state. For purposes of this section, a person shall not be considered to be engaged in manufacturing or research and development activities where the only activities performed by such person in this state are sales, installation, repair, or promotional activities in respect to products manufactured outside this state. Any person who has succeeded by merger, consolidation, incorporation, or any other form or change of identity to the business of a person engaged in manufacturing or research and development activities in this state on June 14, 1985 and any person who is a subsidiary of a person engaged in manufacturing or research and development activities in this state on June 14, 1985 shall also be ineligible to receive a tax deferral certificate.

No application for deferral of taxes shall be accepted after June 30, 1986. For purposes of this regulation, the time of receipt of an application shall be determined by the date shown by the post office cancellation mark stamped upon the envelope containing the application if transmitted by the United States Postal Service, the date stamped on the envelope if transmitted by another carrier, or the date of receipt if hand delivered to an office of the department.

### IV. USE OF THE CERTIFICATE

A tax deferral certificate issued pursuant to chapter 2, Laws of 1985 1st ex. sess. shall be for the use of the recipient thereof for deferral of sales and use taxes due on each eligible investment project. Deferral is limited only to investment in qualified buildings, machinery, and equipment as defined in this rule. Thus, sales and use taxes cannot be deferred on items which do not become part of the qualified buildings, machinery, and equipment.

The tax deferral certificate shall be used in a manner similar to that of a resale certificate as set forth in WAC 458-20-102. The certificate holder shall provide its vendors with a copy of the tax deferral certificate at the time goods or services are purchased. The seller or vendor shall be relieved of the responsibility for collection of the sales or use tax upon presentation of the certificate. The seller or vendor shall retain a copy of the certificate as part of its permanent records. A blanket certificate may be provided by the certificate holder and accepted by the seller covering all such purchases relative to the eligible project. The seller or vendor is liable for reporting business and occupation tax on all deferral sales.

### V. AUDIT PROCEDURES

The certificate holder shall notify the department in writing when the construction project is operationally complete. Upon receipt of such notification or other information, the department shall conduct a final audit of the investment project. The certificate holder shall open its books and records to the department and make available the final cost figures for the investment project. The department may request reasonable supporting documentation and other proof to justify the final cost of the project.

Upon completion of the audit the department shall certify the amount of sales and use taxes subject to deferral and the date on which the project was operationally complete. The recipient shall be notified in writing of the total amount of deferred taxes, the date(s) upon which the deferred taxes shall be paid, and any reports required to be submitted in the subsequent years. If the department disallows all or any portion of the amount of sale and use taxes requested for deferral, the recipient may seek administrative review of the department's action pursuant to the provisions of WAC 458-20-100.

The deferral is allowable only in respect to investment in the construction of a new plant complex used in manufacturing or research and development activities, as defined above. Where a plant complex is used partly for manufacturing or research and development purposes and partly for purposes which do not qualify for deferral under this rule and it is not possible to identify the nonqualifying items through separate accounting, the applicable tax deferral shall be determined by apportionment according to the ratio which the construction cost per square foot of that portion of the plant complex directly used for manufacturing purposes bears to the construction cost per square foot of the total plant complex.

The amount of tax deferral allowable for leased equipment shall be calculated upon that amount of the consideration paid by the lessee/recipient to the lessor:

(1) Over the initial term of the lease, excluding any period of extension or option to renew, where the lease term ends on or before the last date for repayment of the deferred taxes; or

(2) Over that portion of the lease term to the last date for repayment of deferred taxes as provided hereinafter, where the lease term, excluding any period of extension or option to renew extends beyond such repayment date.

After that date the lessee/recipient shall pay the appropriate sales tax to the lessor for the remaining term of the lease.

No taxes may be deferred under this rule prior to June 14, 1985. No applications for deferral of taxes will be accepted after June 30, 1986, nor will sales or use tax deferral certificates be issued after August 29, 1986. A certificate holder must commence construction of the investment project within one hundred eighty days of receiving approval from the department and issuance of the tax deferral certificate but no later than December 31, 1986.

### VI. REPORTING AND MONITORING PROCEDURE

An applicant must provide the department with the estimated cost of the investment project at the time the application is made. The applicant shall also provide information relative to the number of jobs contemplated to be created by the project.

The department and the department of trade and economic development shall jointly make two reports to the legislature about the effect of this deferral law on new manufacturing and research and development activities and projects in Washington. The report shall contain information concerning the number of deferral certificates granted, the amount of state and local sales and use taxes deferred, the number of jobs created, and other information useful in measuring such effects. The departments shall submit their joint reports to the legislature by January 1, 1986 and January 1, 1987.

Any recipient of a sales and use tax deferral may be asked to submit reports to the department or department of trade and economic development during any period of time the recipient is receiving benefits under this deferral law. The report shall be made to the department in a form and manner prescribed by the department. The recipient may be asked to report information regarding the actual average employment related to the project, the actual wages of the employees related to the project, and any other information required by the department. If the recipient fails to submit a report, the department may not impose any penalties or sanctions against the recipient.

### VII. PAYMENT PROCEDURES

The recipient of sales and use tax deferral under this regulation shall begin paying the deferred taxes in the third year after the date certified by the department as the date on which the construction project

was operationally complete. The first payment will be due on December 31st of the third calendar year after such certified date, with subsequent annual payments due on December 31st of the following four years, with amounts of payment scheduled as follows:

| Repayment Year | Percentage of Deferred Tax Repaid |
|----------------|-----------------------------------|
| 1              | 10%                               |
| 2              | 15%                               |
| 3              | 20%                               |
| 4              | 25%                               |
| 5              | 30%                               |

The department may authorize an accelerated repayment schedule upon request of the recipient. Interest shall not be charged on any taxes deferred under this program during the period of deferral, although other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for any delinquent payments during the repayment period pursuant to chapter 82.32 RCW. The debt for deferred taxes shall not be extinguished by insolvency or other failure of the recipient nor shall the debt for the deferred taxes be extinguished by the sale, exchange, or other disposition of the recipient's business. Any person who becomes a successor (see WAC 458-20-216) to such investment project shall be liable for the full amount of any unpaid, deferred taxes under the same terms and conditions as the original recipient.

**WSR 85-16-107**  
**EMERGENCY RULES**  
**DEPARTMENT OF REVENUE**  
 [Order 85-2—Filed August 7, 1985]

I, Matthew J. Coyle, acting director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

- Amd WAC 458-20-155 Information and computer services.
- Amd WAC 458-20-207 Attorneys.
- New WAC 458-20-24001 Sales and use tax deferral—Manufacturing and research/development in distressed areas.
- New WAC 458-20-24002 Sales and use tax deferral—New manufacturing and research development facilities.

I, Matthew J. Coyle, acting director, find that an emergency exists and that this 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 the emergency is the statutory law and case law which mandate these rule provisions is already in place and effective. Emergency rule adoption is necessary to provide the administrative guidelines for tax liabilities, exemptions, deductions, and tax reporting procedures which taxpayers need to know in order to comply with existing law.

These 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 the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED August 7, 1985.

By Matthew J. Coyle  
 Acting Director

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

~~WAC 458-20-155 ((ACCOUNTING, DATA PROCESSING OR)) INFORMATION AND COMPUTER SERVICES. ((Persons rendering accounting, data processing or computer services are taxable upon gross income under the service and other business activities classification.~~

~~The gross income of such businesses is the total of all fees received or charges made, including periodic service charges for audits or bookkeeping, without any deduction on account of expenses of any kind (including traveling expenses) or losses. Amounts paid regularly by clients to such persons are not salaries, but rather are fees for services analogous to retainer fees.~~

~~Revised June 1, 1970:)) Persons rendering information or computer services and persons who manufacture, develop, process, or sell information or computer programs are subject to business and occupation taxes and retail sales or use taxes as explained in this rule.~~

DEFINITIONS

As used herein:

The term "information services" means every business activity, process, or function by which a person transfers, transmits, or conveys data, facts, knowledge, procedures, and the like to any user of such information through any tangible or intangible medium. The term does not include transfers of tangible personal property such as computer hardware or standard prewritten software programs. Neither does the term include telephone service defined under RCW 82.04.065 and WAC 458-20-245.

The term "computer services" means every method of providing information services through the use of computer hardware and/or software.

\*The term "computer system" means a functional unit, consisting of one or more computers and associated software, that uses common storage for all or part of the data necessary for execution of the program; executes user-written or user-designated programs; performs user-designated data manipulation, including arithmetic operations and logic operations; and that can execute programs that modify themselves during their execution.

\*The term "hardware" means physical equipment used in data processing, as opposed to programs, procedures, rules, and associated documentation.

\*The term "software" means programs, procedures, rules, and any associated documentation pertaining to the operation of a computer system.

The term "custom program" means software which is developed and produced by a provider exclusively for a specific user, and which is of an original, one-of-a-kind nature.

The term "standard, prewritten program," sometimes referred to as "canned" or "off-the-shelf" software, means software which is not originally developed and produced for the user.

The term "provider" means the person who makes available information and computer services to a user.

The term "user" means a person for whom information and/or computer services are provided as a consumer.

#### DISTINCTION BETWEEN SALES AND SERVICES

Liability for sales tax or use tax depends upon whether the subject of the sale is a product or a service. If information services, computer services or data processing services are performed, such that the only tangible personal property in the transaction is the paper or medium on which the information is printed or carried, the activity constitutes the rendering of professional services, similar to those rendered by a public accountant, architect, lawyer, etc., and the retail sales tax or use tax is not applicable to such charges. This includes the sales of software in connection with custom programs written to meet a particular customer's specific needs. The programs are considered to be the tangible evidence of a professional service rendered to a client and not subject to retail sales tax or use tax.

If, on the other hand, the sale, lease, or licensing of the computer program is a sale or lease of a product, even though produced through a computer system or process, it is taxable as a retail sale. Standard, prewritten software programs do not constitute professional services rendered to meet the particular needs of specific customers, but rather, are essentially sales of articles of tangible personal property. Articles of this type are no different from a usual inventory of tangible personal property held for sale or lease and, irrespective of any incidental modifications to the program medium or its environment (e.g., adaptation to computer room configuration) to meet a particular customer's needs, the sale or lease of such standard software is a sale at retail subject to retail sales tax or use tax.

#### BUSINESS AND OCCUPATION TAX

The terms "sale" (RCW 82.04.040) and "retail sale" (RCW 82.04.050) include any transfer of possession of tangible personal property for a consideration. This includes transfers of computer hardware and standard, prewritten software for a charge, regardless that outright ownership or title may not pass to the user, and regardless of any express or implied restrictions upon the user.

RETAILING: All sales, leases, rentals, and licenses to use tangible personal property, including computer systems and all hardware and standard, prewritten software, to users, are subject to the Retailing classification of business and occupation tax measured by the gross proceeds of sales derived therefrom. (See RCW 82.04.070.)

WHOLESALE: When such transfers of tangible personal property as described in the previous paragraph, are for resale by the customer or client in the regular course of business, without intervening use by such persons, they are subject to Wholesaling business and occupation tax measured by gross proceeds of sales.

SERVICE: Persons who charge for providing information services or computer services (other than Retailing or Wholesaling as defined above) are subject to the

Service and Other Activities classification of business and occupation tax measured by the gross income of such business. This includes charges for custom program development, charges for on-line information and data, and charges in the nature of royalties for the reproduction, use, and reuse of patented systems and technological components of hardware or software, whether tangible or intangible.

The tax classifications and distinctions explained above will prevail regardless of how the Federal government or other tax jurisdictions may classify these transactions for other tax purposes.

#### RETAIL SALES TAX

The retail sales tax applies to all amounts taxable under the Retailing classification of business and occupation tax explained earlier. Providers must collect the sales tax from users of computer systems, hardware, equipment, and/or standard, prewritten software and materials delivered in this state. This includes outright sales, leases, rentals, licenses to use, and any other transfer of possession and the right to use such things, however physically packaged, represented, or conveyed.

The retail sales tax also applies to all charges to users for the repair, maintenance, alteration, or modification of hardware, equipment, and/or standard, prewritten software or materials.

#### USE TAX

The use tax applies upon the full value of computer systems, hardware, equipment, standard, prewritten software, and materials which are used by consumers in this state and upon which the retail sales tax has not been paid. The person liable for the tax is the user. However, see WAC 458-20-193B for circumstances under which the seller may be required to collect and report the use tax.

Also, the use tax applies upon the full value of such things which are made available to a user without a charge by a provider in the course of rendering any information or computer service. The person liable for the tax is the provider, as a bailor, or the user, as a bailee. See WAC 458-20-178.

#### INTERSTATE SALES AND SERVICES

Persons who produce computer systems, hardware, equipment, standard, prewritten software, and materials in this state and who sell, lease, license, or otherwise transfer such things to buyers outside this state and deliver such things outside this state are not subject to either Retailing or Wholesaling business tax. Such persons are subject to the Manufacturing classification of business and occupation tax. See WAC 458-20-136. The measure of tax is the full value of the product manufactured. See WAC 458-20-112. Retail sales tax does not apply to such interstate deliveries. However, see WAC 458-20-193A for the criteria for perfecting interstate tax exempt sales. Persons who do not themselves produce such things in this state but merely sell such things and deliver outside this state are exempt of business tax and retail sales tax.

Providers of information or computer services in interstate commerce who are taxable under the Service business tax classification are governed by the provisions of WAC 458-20-194 (doing business inside and outside the state).

\*Definitions marked with an asterisk are taken from Vocabulary for Data Processing, Telecommunications, and Office Systems, IBM, Seventh Edition (July, 1981).

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-207 ((~~COURT COSTS, EXCLUSION~~)) ATTORNEYS. ((~~Court costs paid by a taxpayer is a business expense and may not be deducted from the gross amount reported as the measure of tax under the business and occupation tax.~~

Court costs paid by a taxpayer and recovered in an action at law may be excluded from the gross amount reported as the measure of tax under the business and occupation tax. The recovery of such costs is construed to be a return of capital invested rather than income.

Court costs advanced by an attorney for the account of his client may be excluded from the attorney's income upon the reimbursement by the client or recovery of such amount in an action at law. (See WAC 458-20-111.)

Revised May 1, 1943.) The word "attorney" as used herein means an individual engaged in the practice of law. The term shall also include a professional service corporation organized under chapter 18.100 RCW for the purpose of engaging in the practice of law.

#### BUSINESS AND OCCUPATION TAX

Attorneys are taxable under the Service and Other Activities classification upon the gross income of the business. Gross income of the business means the value proceeding or accruing by reason of the transaction of the business engaged in and includes compensation for the rendition of services, all without any deduction on account of expenses or losses. (See RCW 82.04.070.) Value proceeding or accruing means consideration actually received or accrued. (See RCW 82.04.090.) Thus, under these statutes, the measure of the tax for attorneys includes compensation or consideration for the rendition of legal service.

Attorneys are bound by the Disciplinary Rules of the Code of Professional Responsibility. DR 5-103 prohibits an attorney from financing the expenses of contemplated or pending litigation unless the client remains ultimately liable for such expenses. An attorney therefore normally acts solely as agent for the client when financing litigation. Accordingly, amounts received from a client for certain expenses of litigation do not constitute income to the attorney. Thus, such amounts are not part of the business and occupation tax measure.

Sometimes in the regular course of business an attorney may receive amounts from a client for expenses of third party providers incurred in connection with a legal matter other than litigation. Such amounts are also excluded from the business and occupation tax, but only if

the attorney has no obligation for payment other than as agent for the client or equivalent commitment for their payment.

Thus, the following kinds of expenses are not subject to the business and occupation tax where the above requirements are satisfied.

A. Filing fees and court costs.

B. Process server and messenger fees.

C. Court reporter fees.

D. Expert witness fees.

E. Costs of associate counsel.

F. Costs of third party service providers (for example, accountants, appraisers, architects, artists, draftsmen, economists, engineers, investigators, physicians, surveyors, etc.) who provide services to the client which the attorney does not or cannot render, and to whom the attorney has no obligation for payment other than as agent for the client.

G. Registration, licensing or maintenance fees.

H. Title and other insurance premiums.

I. Escrow fees paid to third party escrow agents.

In order to support the exclusion from taxable gross income of any of the foregoing expenses, the attorney must maintain records which indicate the amount of the payment received from the client, the name of the client, the name of the person to whom the attorney has made payment, and a description of the item for which payment was made. If the foregoing expenses are incurred outside the context of litigation or contemplated litigation, the attorney must maintain records which indicate the amount of the payment received, the name of the client, and the person to whom the attorney makes payment. In addition, the attorney must provide the person to whom payment is made with written notice that (1) payment is made, or will be made on behalf of a named client, and (2) the attorney assumes no liability for payment, other than as agent for the named client.

General overhead costs are includable in the tax measure even though an attorney may allocate those costs among particular clients. Likewise, any other costs for which the attorney assumes personal liability other than as stated above are includable in the tax measure.

Thus, amounts received to compensate for the following costs are fully subject to tax, even though they may be separately stated on the billings or expressly denominated as costs of the client:

A. Photocopy or other reproduction charges.

B. Long distance telephone tolls.

C. Secretarial expenses.

D. Travel, meals and lodging.

E. Third party service providers (for example, accountants, appraisers, architects, artists, draftsmen, economists, engineers, investigators, physicians, etc.) to whom the attorney assumes personal liability for payment.

#### RETAIL SALES TAX

Attorneys primarily render professional legal services and are not required to collect the retail sales tax from clients and others paying for such services. This is so even though the legal services rendered by attorneys may

include abstract, title insurance, and escrow business activities which are "retail sales" under the law when performed by persons other than attorneys.

Sales of tangible personal property to attorneys for use in rendering professional services are retail sales upon which the retail sales tax must be collected. Such sales include, among others, sales of office furniture and equipment, stationery, office supplies, law books, and reference materials.

#### USE TAX

The use tax applies upon the use within this state of all articles of tangible personal property used in the performance of professional services when such articles have been purchased or acquired under conditions whereby the Washington retail sales tax has not been paid.

#### NEW SECTION

### WAC 458-20-24001 SALES AND USE TAX DEFERRAL—MANUFACTURING AND RESEARCH/DEVELOPMENT FACILITIES IN DISTRESSED AREAS.

#### I. INTRODUCTION

Chapter 232, Laws of 1985 establishes a sales and use tax deferral program. The purpose of the program is to promote economic stimulation, create employment opportunities, and reduce poverty in certain distressed areas of the state. Thus, the legislature established this tax deferral program to be effective solely in those distressed areas and under circumstances where the deferred tax payments are for investments or costs that result in the creation of a specified minimum number of jobs. In general, the deferral applies to sales and use taxes on materials, labor, and services rendered in the construction of qualified buildings, machinery, and equipment.

#### II. DEFINITION OF TERMS

For purposes of this rule:

"Applicant" means a person applying for a tax deferral under chapter 232, Laws of 1985.

"Person" has the meaning given in RCW 82.04.030. It means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any instrumentality thereof. For purposes of this rule the relationship of landlord and tenant shall not be considered as any of the types of relationships which are identified above as "persons."

"Certificate holder" means an applicant to whom a tax deferral certificate has been issued.

"Recipient" means a person who has been granted a tax deferral under this program.

"Department" means the department of revenue.

"Eligible area" means a county in which the average level of unemployment for the three calendar years preceding the year in which an application is filed exceeds the average state unemployment for those years by twenty percent; i.e., the average unemployment rate for the county must be twenty percent above the average unemployment rate for the state in the preceding three calendar years. In determining an eligible area the department may compare the county's average unemployment rate in the prior three years to one hundred twenty percent of the state's average unemployment rate based on official unemployment figures published by the department of employment security.

"Eligible investment project" means that portion of an investment project which:

1. Is directly utilized to create at least one new full time qualified employment position for each two hundred thousand dollars of investment on which a deferral is requested; and
2. Either initiates a new operation or expands or diversifies a current operation by expanding or renovating an existing building with costs in excess of twenty-five percent of the true and fair value of the plant complex prior to the improvement; and
3. Does not exceed twenty million dollars in value.

For the purposes of the above paragraph the following definitions will apply:

"Qualified employment position" means a permanent, full time employee employed in the eligible investment project during the entire tax year following the operational completion of the project. In the event an employee is either voluntarily or involuntarily separated from employment the employment position will be considered filled if the employer is either training or actively recruiting a replacement employee.

An "improvement" shall mean the physical alteration by expansion, modernization, or renovation of an existing building where the cost exceeds 25 percent of the true and fair value of the existing plant complex prior to the initiation of construction. The term "improvement" is further defined to include those portions of an existing building which do not increase the usable floor space, but is limited to the renovation, modernization, or any other form of alteration or addition and the equipment and machinery installed therein during the course of construction.

"True and fair value" means:

The value listed on the assessment rolls as determined by the county assessor for the land, buildings, or equipment for ad valorem property tax purposes at the time of application.

"Plant complex" shall mean land, machinery, and buildings adapted to industrial, computer, warehouse, or research and development use as a single functional or operational unit for the designing, assembling, processing, or manufacturing of finished or partially finished products from raw materials or fabricated parts.

"Eligible investment project" does not include:

1. An investment project undertaken by a light and power business as defined in RCW 82.16.010(5), or
2. Investment projects which have already received deferrals under chapter 232, Laws of 1985.

"Investment project" means an investment in qualified buildings together with qualified machinery and equipment including labor and services rendered in the planning, installation, and construction of the project. An investment in a building only or machinery and equipment only shall not be considered an investment project under this rule. A person that does not build or remodel its own building, but leases from a third party, is ineligible for sales and use tax deferral.

"Manufacturing" has the meaning given in RCW 82-.04.110 and WAC 458-20-136 now and as hereafter amended. Manufacturing, for purposes of this rule only, shall also include computer programming, the production of computer-related service, and the activities performed by research and development laboratories and commercial testing laboratories.

"Qualified buildings" means new structures used to house manufacturing activities as defined above and includes plant offices, warehouses, or other facilities for the storage of raw material and finished goods if such facilities are essential or an integral part of a manufacturing operation. The term also includes parking lots, landscaping, sewage disposal systems, cafeterias, and the like, which are attendant to the initial construction of an eligible investment project.

"Qualified machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing operation, as defined above. "Qualified machinery and equipment" includes, but is not limited to, computers, software, data processing equipment, laboratory equipment; manufacturing components such as belts, pulleys, shafts and moving parts; molds, tools and dies; operating structures and all equipment used to control or operate machinery. It also includes machinery and equipment acquired under the terms of a long or short term lease by the recipient. The tax deferral applies to equipment purchased outright by the recipient (or the transfer of machinery and equipment into the state of Washington) and leased equipment. Acquisition of spare parts for machinery, equipment, etc., in excess of normal operating levels shall not be eligible for deferral.

"New machinery and equipment" means either new to the taxing jurisdiction of the state or new to the certificate holder. Used equipment is eligible for deferral provided that the certificate holder either brings the machinery or equipment into Washington for the first time or purchases it at retail in Washington.

"Initiation of construction," for purposes of applying for the investment tax deferral relating to the construction of new buildings, shall mean the date upon which on-site construction work commences.

"Initiation of construction," for purposes of applying for the investment tax deferral relating to a major improvement of existing buildings, shall mean the date upon which the new construction by renovation, modernization, or expansion, by physical alteration, begins.

"Operationally complete" means the eligible investment project is constructed or improved to the point of being functionally useable for its intended purpose.

### III. APPLICATION PROCEDURE

An application for sales and use tax deferral under chapter 232, Laws of 1985 must be made prior to the initiation of construction, as defined above. Application forms will be supplied to the applicant by the department upon request. The completed application is to be sent in duplicate to the following address:

State of Washington  
Department of Revenue  
Audit Procedures & Review  
Olympia, WA 98504  
Mail Stop AX-02

The department will verify the information contained in the application and either approve or disapprove the application within sixty days. If approved, a tax deferral certificate shall be issued effective as of the date the application was received by the department. If disapproved, the department shall notify the applicant as to the reason(s) for disapproval. The applicant may seek administrative review of the department's refusal to issue a certificate pursuant to the provisions of WAC 458-20-100.

In the event an application is submitted prior to the publication of state-wide and county unemployment statistics for the year preceding the year in which application is made, the department will take no action on the application until the statistics are published even though this period may extend beyond the sixty-day approval period. If, after publication of the statistics, it is determined that the applicant is eligible for tax deferral the department, within ten days of publication, shall issue the tax deferral certificate effective on the date the application was received by the department.

### IV. USE OF THE CERTIFICATE

A tax deferral certificate issued pursuant to chapter 232, Laws of 1985 shall be for the use of the recipient thereof for deferral of sales and use taxes due on each eligible investment project. Deferral is limited only to investment in qualified buildings and qualified machinery and equipment as defined in this rule. Thus, sales and use taxes cannot be deferred on items which do not become part of the qualified buildings, machinery, and equipment.

The tax deferral certificate shall be used in a manner similar to that of a resale certificate as set forth in WAC 458-20-102. The certificate holder shall provide its vendors with a copy of the tax deferral certificate at the time goods or services are purchased. The seller or vendor shall be relieved of the responsibility for collection of the sales or use tax upon presentation of the certificate. The seller or vendor shall retain a copy of the certificate as part of its permanent records. A blanket certificate may be provided by the certificate holder and accepted by the seller covering all such purchases relative to the eligible project. The seller or vendor is liable for reporting business and occupation tax on all tax deferral sales.

### V. AUDIT PROCEDURE

An applicant must provide the department with the estimated cost of the investment project at the time the

application is made. A certificate holder is eligible for deferral of sales and use taxes on any eligible investment project up to twenty million dollars in project value. Following approval of the application and issuance of a sales and use tax deferral certificate, a certificate holder must notify the department, in writing, when the value of the investment project reaches the estimated cost as stated on the tax deferral certificate. At that time the certificate holder may not utilize the certificate further. If a certificate holder has reached its level of estimated costs, which level is less than twenty million dollars and the project is not operationally complete, the certificate holder may apply for a supplemental certificate stating a revised amount upon which the deferral of sales and use taxes is requested. The certificate holder shall amend the original application to account for the additional costs. The department may grant or deny the amended application depending on the total biennial tabulation of deferred taxes.

The certificate holder shall notify the department in writing when the construction project is operationally complete. Upon receipt of such notification or other information, the department shall conduct a final audit of the investment project. The certificate holder shall open its books and records to the department and make available the final cost figures for the investment project. The department may request reasonable supporting documentation and other proof to justify the final cost of the project.

Upon completion of the audit the department shall certify the amount of sales and use taxes subject to deferral and the date on which the project was operationally complete. The recipient shall be notified in writing of the total amount of deferred taxes, the date(s) upon which the deferred taxes shall be paid, and any reports required to be submitted in the subsequent years. If the department disallows all or any portion of the amount of sales and use taxes requested for deferral, the recipient may seek administrative review of the department's action pursuant to the provisions of WAC 458-20-100.

The department shall keep a running total of all deferral certificates granted during each fiscal biennium. The department will not allow any deferral certificates to be issued which would cause the tabulation for a biennium to exceed twenty million dollars in deferred taxes. If the department has granted a total of nineteen million dollars in deferrals during any fiscal biennium and there is a reasonable expectation that the total of all deferrals shall reach or exceed twenty million dollars in the current biennium, the department shall notify each new applicant of the department's tabulation and of the fact that the applicant's deferred taxes may carry over into the next biennium in accordance with the guidelines set forth in the following paragraph.

An application for deferral of taxes shall be prioritized based upon the time of receipt by the department of the original application. For purposes of this regulation, the term "time of receipt" shall mean the date shown by the post office cancellation mark stamped upon the envelope containing the application if transmitted by the United States Postal Service, the date stamped on the envelope if transmitted by another carrier, or the

date of receipt if hand delivered to an office of the department. If more than one application is received on the same day and, under the provisions of this paragraph, only a portion of the taxes may be deferred, the amount of taxes to be deferred by each applicant shall be determined on a pro rata basis.

If all or part of an application for deferral is disallowed because the total tabulation for the biennium exceeds twenty million dollars in deferred taxes the disallowed portion shall be carried over for approval into the next biennium. However, the applicant's carryover into the next biennium is only permitted if the tabulation for the next biennium does not exceed twenty million dollars as of the date on which the department has disallowed all or part of the application.

The deferral is allowable only in respect to investment in the construction of a new plant complex or the enlargement or improvement of an existing plant complex directly used in manufacturing activities, as defined above. Where a plant complex is used partly for manufacturing and partly for purposes which do not qualify for deferral under this rule and it is not possible to identify the nonqualifying items through separate accounting, the applicable tax deferral shall be determined by apportionment according to the ratio which the construction cost per square foot of that portion of the plant complex directly used for manufacturing purposes bears to the construction cost per square foot of the total plant complex.

The amount of tax deferral allowable for leased equipment shall be calculated upon that amount of the consideration paid by the lessee/recipient to the lessor:

(1) Over the initial term of the lease, excluding any period of extension or option to renew, where the lease term ends on or before the last date for repayment of the deferred taxes; or

(2) Over that portion of the lease term to the last date for repayment of deferred taxes as provided hereinafter, where the lease term, excluding any period of extension or option to renew extends beyond such repayment date.

After that date the lessee/recipient shall pay the appropriate sales taxes to the lessor for the remaining term of the lease.

No taxes may be deferred under this rule prior to July 1, 1985. No applications for deferral of taxes will be accepted after May 1, 1991 nor will sales or use tax deferral certificates be issued on or after July 1, 1991. In tabulating the total amount of deferrals granted under this law there shall be considered a total of three fiscal biennia within which applications shall be accepted.

#### VI. REPORTING AND MONITORING PROCEDURE

Each recipient of sales and use tax deferral shall submit a report to the department on December 31st of each year during the repayment period until all taxes are repaid. The first report shall be submitted in the third year after the date on which the construction project has been operationally complete to coincide with the first payment of deferred taxes. The report shall contain information from which the department may determine whether the recipient is meeting the requirements of the deferral law.

The report shall be made to the department in a form and manner prescribed by the department. The report shall contain information regarding the recipient's average employment in the state for the prior three years, the actual employment related to the project, the actual wages of the employees related to the project, and any other information required by the department. If the recipient fails to submit a report or submits an inadequate or falsified report, the department may declare the amount of deferred taxes outstanding to be immediately assessed and payable. An inadequate or falsified report is one that contains material omissions or contains knowingly false statements and information.

The department shall notify the department of employment security of the names of all recipients of tax deferrals under chapter 232, Laws of 1985. On or before December 31st of each year a deferral is in effect, the department shall request information on each recipient's employment in the state for that year, including employment related to the deferral project, and the wages of such employees. The department of employment security shall make, and certify to the department, all determinations of employment and wages required under this paragraph.

If, on the basis of the recipient's annual report or other information including that submitted by the department of employment security, the department finds that an investment project is not eligible for tax deferral, the department will (1) declare the amount of deferred taxes outstanding to be immediately due or (2) assess interest on the deferred taxes for the project, under the following guidelines:

(1) If the department finds that an investment project has been operationally complete for three years and has failed to create the required number of qualified employment positions, the department shall assess interest, but not penalties, on the deferred taxes. The interest shall be assessed at the rate of nine percent per annum, shall be assessed retroactively to the date of deferral, and shall accrue until the deferred taxes are paid. A recipient of deferred taxes shall have from the date on which the construction project was certified as operationally complete to December 31st of the first year of repayment in which to create the required number of employment positions under this law.

(2) If the department finds that the investment project is not eligible for tax deferral for reasons other than failure to create the required number of qualified employment positions, the amount of deferred taxes outstanding for the project shall be immediately due. The reasons for disqualification include, but are not limited to, the following:

(a) The facility is not used for a manufacturing, warehouse, computer, or research and development operations;

(b) The recipient has not made an investment in qualified buildings, machinery, and equipment.

Any action taken by the department under paragraph (1) or (2) above shall be subject to administrative review pursuant to the provisions of WAC 458-20-100.

## VII. PAYMENT PROCEDURES

The recipient of sales and use tax deferral under this regulation shall begin paying the deferred taxes in the third year after the date certified by the department as the date on which the construction project was operationally complete. The first payment will be due on December 31st of the third calendar year after such certified date, with subsequent annual payments due on December 31st of the following four years, with amounts of payment scheduled as follows:

| Repayment Year | Percentage of Deferred Tax Repaid |
|----------------|-----------------------------------|
| 1              | 10%                               |
| 2              | 15%                               |
| 3              | 20%                               |
| 4              | 25%                               |
| 5              | 30%                               |

The department may authorize an accelerated repayment schedule upon request of the recipient. Interest shall not be charged on any taxes deferred under this rule during the period of deferral, although other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for any delinquent payments during the repayment period pursuant to chapter 82.32 RCW. The debt for deferred taxes shall not be extinguished by insolvency or other failure of the recipient nor shall the debt for the deferred taxes be extinguished by the sale, exchange, or other disposition of the recipient's business. Any person who becomes a successor (see WAC 458-20-216) to such investment project shall be liable for the full amount of any unpaid, deferred taxes under the same terms and conditions as the original recipient.

## NEW SECTION

### WAC 458-20-24002 SALES AND USE TAX DEFERRAL—NEW MANUFACTURING AND RESEARCH/DEVELOPMENT FACILITIES.

#### I. INTRODUCTION

Chapter 2, Laws of 1985 1st ex. sess. establishes a sales and use tax deferral program for certain manufacturing or research and development investment projects. The deferral will be granted only to persons not currently engaged in manufacturing or research and development activities in the state of Washington on June 14, 1985, the effective date of the deferral program. Applications for the tax deferral may be accepted up through June 30, 1986; a holder of a tax deferral certificate must initiate construction of the investment project within one hundred eighty days of receiving approval from the department and issuance of the tax deferral certificate. In general, the deferral applies to the construction of new buildings and the acquisition of related machinery and equipment.

#### II. DEFINITION OF TERMS

Unless the context clearly requires otherwise, the definitions in this section apply throughout this rule.

"Applicant" means a person applying for a tax deferral under this rule.

"Person" has the meaning given in RCW 82.04.030. It means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any instrumentality thereof. For purposes of this rule the relationship of landlord and tenant shall not be considered as any of the types of relationships which are identified above as "persons".

"Eligible investment project" means construction of new buildings and the acquisition of related machinery and equipment when the buildings, machinery, and equipment are to be used for either manufacturing or research and development activities, which construction is commenced prior to December 31, 1986.

"Manufacturing" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different, or useful substance or article of tangible personal property is produced for sale or commercial or industrial use and includes the production or fabrication of specially made or custom-made articles.

"Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun.

"Buildings" means only those new structures used for either manufacturing or research and development activities, including plant offices and warehouses or other facilities for the storage of raw materials or finished goods if such facilities are an essential or integral part of a factory, mill, plant, or laboratory used for manufacturing or research and development purposes. If a building is used partly for manufacturing or research and development purposes and partly for other purposes, the applicable tax deferral shall be determined by apportionment of the costs of construction under this rule.

"Machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing or research and development operation.

"Qualified machinery and equipment" includes computers, software, data processing equipment, laboratory equipment, manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery. For purposes of this definition, new machinery and equipment means either new to the taxing jurisdiction of the state or new to the certificate holder. Used machinery and equipment are eligible for deferral if the certificate holder either brings the machinery and equipment into Washington for the first time or makes a retail purchase of the machinery and equipment in Washington.

"Acquisition of equipment and machinery" shall have the meaning given to the term "sale" in RCW 82.04-.040. It means any transfer of the ownership of, title to,

or possession of, tangible personal property for a valuable consideration. A sale takes place when the goods sold are actually or constructively delivered to the buyer in this state.

"Recipient" means a person receiving a tax deferral under this chapter.

"Certificate holder" means an applicant to whom a tax deferral certificate has been issued.

"Operationally complete" means constructed or improved to the point of being functionally useable for the intended purpose.

"Initiation of construction" means that date upon which on-site construction commences.

"Plant complex" shall mean land, machinery, and buildings adapted to commercial, industrial, or research and development use as a single functional or operational unit for the designing, assembling, processing or manufacturing of finished or partially finished products from raw materials or fabricated parts.

"Investment project" means an investment in qualified buildings and qualified machinery and equipment including labor and services rendered in the planning, installation, and construction of the project. An investment in a building only or machinery and equipment only shall not be considered an investment project under this rule. A person that does not build its own building, but leases from a third party, is ineligible for sales and use tax deferral. An eligible investment project does not include any project which or person who have previously been the recipient of a tax deferral under Washington law.

### III. APPLICATION PROCEDURES

An application for sales and use tax deferral under chapter 2, Laws of 1985 1st ex. sess. must be made prior to the initiation of construction or an acquisition of equipment or machinery, as defined above. Application forms will be supplied to the applicant by the department upon request. The completed application is to be sent in duplicate to the following address:

State of Washington  
Department of Revenue  
Audit Procedures & Review  
Olympia, WA 98504  
Mail Stop AX-02

The application shall contain information regarding the location of the investment project, estimated or actual costs, time schedules for completion and operation, and other information required by the department, including information relating to employment at the investment project.

The department will examine and verify the information contained in the application and either approve or disapprove the application within sixty days. If approved, a tax deferral certificate will be issued effective as of the date the application was received by the department. If disapproved, the department shall notify the applicant as to the reason(s) for disapproval. The applicant may seek administrative review of the department's refusal to issue a certificate pursuant to the provisions of WAC 458-20-100. A certificate holder shall initiate

construction of the investment project within one hundred eighty days of receiving approval from the department and issuance of the tax deferral certificate.

A tax deferral certificate shall only be issued to persons who, on June 14, 1985, are not engaged in manufacturing or research and development activities within this state. For purposes of this section, a person shall not be considered to be engaged in manufacturing or research and development activities where the only activities performed by such person in this state are sales, installation, repair, or promotional activities in respect to products manufactured outside this state. Any person who has succeeded by merger, consolidation, incorporation, or any other form or change of identity to the business of a person engaged in manufacturing or research and development activities in this state on June 14, 1985 and any person who is a subsidiary of a person engaged in manufacturing or research and development activities in this state on June 14, 1985 shall also be ineligible to receive a tax deferral certificate.

No application for deferral of taxes shall be accepted after June 30, 1986. For purposes of this regulation, the time of receipt of an application shall be determined by the date shown by the post office cancellation mark stamped upon the envelope containing the application if transmitted by the United States Postal Service, the date stamped on the envelope if transmitted by another carrier, or the date of receipt if hand delivered to an office of the department.

#### IV. USE OF THE CERTIFICATE

A tax deferral certificate issued pursuant to chapter 2, Laws of 1985 1st ex. sess. shall be for the use of the recipient thereof for deferral of sales and use taxes due on each eligible investment project. Deferral is limited only to investment in qualified buildings, machinery, and equipment as defined in this rule. Thus, sales and use taxes cannot be deferred on items which do not become part of the qualified buildings, machinery, and equipment.

The tax deferral certificate shall be used in a manner similar to that of a resale certificate as set forth in WAC 458-20-102. The certificate holder shall provide its vendors with a copy of the tax deferral certificate at the time goods or services are purchased. The seller or vendor shall be relieved of the responsibility for collection of the sales or use tax upon presentation of the certificate. The seller or vendor shall retain a copy of the certificate as part of its permanent records. A blanket certificate may be provided by the certificate holder and accepted by the seller covering all such purchases relative to the eligible project. The seller or vendor is liable for reporting business and occupation tax on all deferral sales.

#### V. AUDIT PROCEDURES

The certificate holder shall notify the department in writing when the construction project is operationally complete. Upon receipt of such notification or other information, the department shall conduct a final audit of the investment project. The certificate holder shall open its books and records to the department and make available the final cost figures for the investment project. The

department may request reasonable supporting documentation and other proof to justify the final cost of the project.

Upon completion of the audit the department shall certify the amount of sales and use taxes subject to deferral and the date on which the project was operationally complete. The recipient shall be notified in writing of the total amount of deferred taxes, the date(s) upon which the deferred taxes shall be paid, and any reports required to be submitted in the subsequent years. If the department disallows all or any portion of the amount of sale and use taxes requested for deferral, the recipient may seek administrative review of the department's action pursuant to the provisions of WAC 458-20-100.

The deferral is allowable only in respect to investment in the construction of a new plant complex used in manufacturing or research and development activities, as defined above. Where a plant complex is used partly for manufacturing or research and development purposes and partly for purposes which do not qualify for deferral under this rule and it is not possible to identify the non-qualifying items through separate accounting, the applicable tax deferral shall be determined by apportionment according to the ratio which the construction cost per square foot of that portion of the plant complex directly used for manufacturing purposes bears to the construction cost per square foot of the total plant complex.

The amount of tax deferral allowable for leased equipment shall be calculated upon that amount of the consideration paid by the lessee/recipient to the lessor:

(1) Over the initial term of the lease, excluding any period of extension or option to renew, where the lease term ends on or before the last date for repayment of the deferred taxes; or

(2) Over that portion of the lease term to the last date for repayment of deferred taxes as provided hereinafter, where the lease term, excluding any period of extension or option to renew extends beyond such repayment date.

After that date the lessee/recipient shall pay the appropriate sales tax to the lessor for the remaining term of the lease.

No taxes may be deferred under this rule prior to June 14, 1985. No applications for deferral of taxes will be accepted after June 30, 1986, nor will sales or use tax deferral certificates be issued after August 29, 1986. A certificate holder must commence construction of the investment project within one hundred eighty days of receiving approval from the department and issuance of the tax deferral certificate but no later than December 31, 1986.

#### VI. REPORTING AND MONITORING PROCEDURE

An applicant must provide the department with the estimated cost of the investment project at the time the application is made. The applicant shall also provide information relative to the number of jobs contemplated to be created by the project.

The department and the department of trade and economic development shall jointly make two reports to the legislature about the effect of this deferral law on new manufacturing and research and development activities

and projects in Washington. The report shall contain information concerning the number of deferral certificates granted, the amount of state and local sales and use taxes deferred, the number of jobs created, and other information useful in measuring such effects. The departments shall submit their joint reports to the legislature by January 1, 1986 and January 1, 1987.

Any recipient of a sales and use tax deferral may be asked to submit reports to the department or department of trade and economic development during any period of time the recipient is receiving benefits under this deferral law. The report shall be made to the department in a form and manner prescribed by the department. The recipient may be asked to report information regarding the actual average employment related to the project, the actual wages of the employees related to the project, and any other information required by the department. If the recipient fails to submit a report, the department may not impose any penalties or sanctions against the recipient.

**VII. PAYMENT PROCEDURES**

The recipient of sales and use tax deferral under this regulation shall begin paying the deferred taxes in the third year after the date certified by the department as the date on which the construction project was operationally complete. The first payment will be due on December 31st of the third calendar year after such certified date, with subsequent annual payments due on December 31st of the following four years, with amounts of payment scheduled as follows:

| Repayment Year | Percentage of Deferred Tax Repaid |
|----------------|-----------------------------------|
| 1              | 10%                               |
| 2              | 15%                               |
| 3              | 20%                               |
| 4              | 25%                               |
| 5              | 30%                               |

The department may authorize an accelerated repayment schedule upon request of the recipient. Interest shall not be charged on any taxes deferred under this program during the period of deferral, although other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for any delinquent payments during the repayment period pursuant to chapter 82.32 RCW. The debt for deferred taxes shall not be extinguished by insolvency or other failure of the recipient nor shall the debt for the deferred taxes be extinguished by the sale, exchange, or other disposition of the recipient's business. Any person who becomes a successor (see WAC 458-20-216) to such investment project shall be liable for the full amount of any unpaid, deferred taxes under the same terms and conditions as the original recipient.

**WSR 85-16-108  
PROPOSED RULES  
DEPARTMENT OF  
COMMUNITY DEVELOPMENT**  
[Filed August 7, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Community Development intends to adopt, amend, or repeal rules concerning the collection of state building code surcharges and fees by cities and counties;

that the agency will at 10:00 a.m., Wednesday, September 11, 1985, in the House Office Building, Hearing Room D, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is the general rule-making authority of the Department of Community Development, chapter 43.63A RCW and RCW 43.63A.065.

The specific statute these rules are intended to implement is chapters 144 and 360, Laws of 1985, and chapter 6, Laws of 1985 1st ex. sess.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 9, 1985.

Dated: August 7, 1985  
By: Chuck Clarke  
Deputy Director

**STATEMENT OF PURPOSE**

Title: Chapter 365-110 WAC, collection of state building code surcharges and fees, Department of Community Development.

Statutory Authority for Adopting the Rule and the Specific Statute the Rule is Intended to Implement: RCW 43.63A.060 which provides that the director shall make such rules and regulations and do all other things necessary and proper to carry out the purposes of chapter 43.63A RCW. RCW 43.63A.065(2) provides that among its functions and responsibilities the department shall administer state and federal grants and programs which are assigned to the department by the governor or the legislature. The specific statutes the rules are intended to implement are chapters 144 and 360, Laws of 1985, and sections 217 and 301, chapter 6, Laws of 1985 1st ex. sess.

Summary of the Rule and Statement of the Reasons Supporting the Proposed Action: Provide guidelines and definitions to assist cities and counties in collecting required state building code surcharges and fees; provide for local agencies to keep records of those funds collected under the energy code studies surcharge and those funds collected under the state building code fee; and provide for these funds to be identified when they are remitted to the state treasurer. The Department of Community Development provides administrative, budget, and technical support to the state building code council. The purpose of these rules is to implement chapter 19.27 RCW as amended by chapters 144 and 360, Laws of 1985, and chapter 19.27A RCW created

by chapter 360, Laws of 1985. Chapter 144, Laws of 1985, provides for the amendment of the state energy code by the state building code council and for certain energy studies to be conducted by the University of Washington College of Architecture and Department of Mechanical Engineering. The code amendment and energy studies are to be funded by a surcharge on building permit fees issued by local governments for new building construction. As required by chapter 144, Laws of 1985, the Department of Community Development has consulted with the Washington State Energy Office and has requested that the Washington State Energy Office determine if federal funds are available to implement the purposes of the chapter. The Bonneville Power Administration, the appropriate federal funding agency, has denied the state's request for funding for the energy conservation testing studies by the University of Washington provided for in section 4, chapter 144, Laws of 1985. The appropriations provided in section 301(2), chapter 6, Laws of 1985 1st ex. sess., shall therefore be funded from the surcharge provided in chapter 144, Laws of 1985. The Bonneville Power Administration has approved partial funding in the amount of \$15,000 for activities of the state building code council to implement the amendment of the state energy code. Pursuant to the provisions of section 217(6), chapter 6, Laws of 1985 1st ex. sess., funding for this appropriation from the surcharge shall be reduced in the amount of \$15,000. The Department of Community Development finds that federal funds are not available in sufficient amounts to implement the provisions of chapter 144, Laws of 1985. Therefore, the department is, through chapter 365-110 WAC, implementing the surcharge as required by section 4(5), chapter 144, Laws of 1985. The second purpose of these rules is to provide funding for the state building code council to perform the purposes of chapter 360, Laws of 1985. Section 4, chapter 360, Laws of 1985, provides that the activities of the state building code council necessary to implement the purposes of the chapter shall be funded by a fee of \$1.50 to be imposed on each building permit issued by a city or county. The moneys collected under this fee shall be deposited in the building code council account in the state treasury and shall be used by the building code council, after appropriation, to perform the purposes of the council. Every four years the state treasurer shall report to the legislature on the balances in the account so that the legislature may adjust the charges imposed.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Chuck Clarke, Deputy Director, Department of Community Development, 9th and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151, (206) 753-2203.

Name of the Organization Proposing the Rule: Department of Community Development.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: Detail the procedures necessary to collect and remit the funds to the state treasurer.

Whether the Rule is Necessary as the Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: Not applicable.

Chapter 365 - 110 WAC  
State Building Code  
Building Permit Surcharges and Fees

#### NEW SECTION

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

#### NEW SECTION

WAC 365-110-020 PURPOSE. The purpose of these rules is to implement Chapter 19.27 RCW as amended by Chapter 144, Laws of 1985, and Chapter 360, Laws of 1985, and Chapter 19.27A RCW, created by Chapter 360, Laws of 1985.

Chapter 144, Laws of 1985, provides for the amendment of the State Energy Code by the State Building Code Council and for certain energy studies to be conducted by the University of Washington College of Architecture and Department of Mechanical Engineering. The code amendment and energy studies are to be funded by a surcharge on building permit fees issued by local governments for new building construction.

Chapter 360, Section 4, Laws of 1985 provides that the activities of the State Building Code Council necessary to implement the purposes of the chapter shall be funded by a fee of \$1.50 to be imposed on each building permit issued by a city or county. The moneys collected under this fee will be deposited in the Building Code Council Account in the state treasury and must be used by the Building Code Council, after appropriation, to perform the purposes of the Council. Every four years the state treasurer must report to the Legislature on the balances in the account so that the Legislature may adjust the charges imposed.

#### NEW SECTION

WAC 365-110-030 SUFFICIENT FEDERAL FUNDS NOT AVAILABLE. As required by Chapter 144, Laws of 1985, the Department of Community Development has consulted with the Washington State Energy Office and has requested that the Washington State Energy Office determine if federal funds are available to implement the purposes of the chapter. The Bonneville Power Administration, the appropriate federal funding agency, has denied the state's request for funding for the energy conservation testing studies by the University of Washington provided for in Section 4 of Chapter 144, Laws of 1985. The appropriations provided in Chapter 6, First Special Session, Section 301(2), Laws of 1985, shall therefore be funded from the surcharge provided in Chapter 144, Laws of 1985.

The Bonneville Power Administration has approved partial funding in the amount of \$15,000 for activities of the State Building Code Council to implement the amendment of the State Energy Code. Pursuant to the provisions of Section 217(6), Chapter 6, First Special Session, Laws of 1985, funding for this appropriation from the surcharge shall be reduced in the amount of \$15,000.

The Department of Community Development finds that federal funds are not available in sufficient amounts to implement the provisions of Chapter 144, Laws of 1985. Therefore the department is, through Chapter 365-110 WAC, implementing the surcharge as required by Chapter 144, Section 4(5), Laws of 1985.

**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.

#### NEW SECTION

WAC 365-110-035 DEFINITIONS. 1. DEPARTMENT shall mean the Department of Community Development.

2. ENERGY CODE STUDIES SURCHARGE shall mean a surcharge which is required to be collected by cities and counties pursuant

to Chapter 144, Laws of 1985, and subject to appropriations as provided in Chapter 6, First Special Session, Laws of 1985. Funds collected shall be used exclusively to implement the provisions of Chapter 144, Laws of 1985.

3. STATE BUILDING CODE FEE shall mean a fee which is required to be collected by cities and counties pursuant to Chapter 360, Laws of 1985. Funds collected shall be used exclusively to implement the provisions of Chapter 360, Laws of 1985.

4. BUILDING PERMIT shall mean a permit issued by a city or a county to construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure regulated by the Uniform Building Code as set forth in the Uniform Building Code, Section 301. This definition shall be subject to the exemptions contained in Section 301 of the Uniform Building Code. Building permits shall not include plumbing, electrical, mechanical permits, or permits issued pursuant to the Uniform Fire Code.

5. NEW BUILDING CONSTRUCTION PERMIT shall mean a permit which is issued by a city or a county for the construction of a new building and shall not include remodeling, renovation, demolition, or addition to an existing building. A new building construction permit shall include a permit to relocate an existing building but shall not include a permit for a manufactured home.

NEW SECTION

WAC 365-110-040 COLLECTION OF ENERGY STUDIES SURCHARGE. Every city or county shall collect an Energy Code Studies Surcharge on all building permits issued for new construction within its jurisdiction. The Energy Code Studies Surcharge shall be collected by the appropriate city or county official at the time the building permit is issued. Separate records shall be kept by cities and counties of funds collected under the Energy Code Studies Surcharge from those funds collected under the State Building Code Fee provided for in WAC 365-110-050.

The surcharge on new building construction permits shall be in the following amounts:

|  |                                  |
|--|----------------------------------|
| New construction multiple-family residential building permits: (Group R Division 1 permits as defined by Chapter 12 of the Uniform Building Code.)           | \$10.00 for each building permit |
| New construction single-family and duplex residential building permits: (Group R Division 3 permits as defined by Chapter 12 of the Uniform Building Code.)  | \$15.00 for each building permit |
| New construction building permits for other new buildings: (All occupancies except Group R and Group M occupancies as defined by the Uniform Building Code.) | \$15.00 for each building permit |

The other new buildings classification shall include commercial or industrial buildings which are designed to be heated and occupied by humans. Agricultural buildings, industrial storage, or other structures designed to be unheated or not occupied by humans shall be exempt from the Energy Studies Surcharge.

NEW SECTION

WAC 365-110-050 COLLECTION OF STATE BUILDING CODE FEE. Every city or county shall collect a State Building Code Fee of one dollar and fifty cents on each building permit issued within its jurisdiction. The fee shall be collected by appropriate city or county officials at the time the building permit is issued. Separate records shall be kept of funds collected under the State Building Code Fee.

NEW SECTION

WAC 365-110-060 TRANSMITTAL OF FUNDS. On or before the 20th working day after the end of each quarter, each county or city shall remit all funds collected pursuant to WAC 365-110-040 and WAC 365-110-050 to the state treasurer. At their option, cities and counties may remit funds monthly. The funds shall be identified as funds for the State Building Code Council Account. The funds shall be further identified as those funds remitted pursuant to WAC 365-110-040 (State Energy Code Studies Surcharge) and those remitted pursuant to WAC 365-110-050 (State Building Code Fee).

No remittance of funds collected pursuant to WAC 365-110-050 shall be required to be made until the total of the accumulated funds collected reaches a minimum of fifty dollars.

NEW SECTION

WAC 365-110-080 TERMINATION. The surcharges established under WAC 365-110-040 (State Energy Code Studies Surcharge) shall terminate on June 30, 1989, unless terminated earlier upon a finding that the general fund has been reimbursed for the cost of the studies pursuant to Chapter 144, Laws of 1985.

The fees established under WAC-365-110-050 (State Building Code Fee) shall continue in effect until repealed or modified by legislative action.

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.

**WSR 85-16-109  
PROPOSED RULES  
DEPARTMENT OF PERSONNEL  
(Personnel Board)  
[Filed August 7, 1985]**

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 356-05-465 Veteran.
- Amd WAC 356-15-020 Work period designations.
- Amd WAC 356-15-030 Overtime provisions and compensation.
- Amd WAC 356-15-050 Holiday compensation.
- New WAC 356-15-095 Flexible time schedules.
- Amd WAC 356-18-030 Holidays—Rules—Regulations governing.
- New WAC 356-34-035 Dismissal—Determination process;

that the agency will at 10:00 a.m., Thursday, September 12, 1985, in the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150, the Fair Labor Standards Act, section 7(k) and SHB 1195.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 10, 1985.

Dated: August 7, 1985  
By: Leonard Nord  
Secretary

**STATEMENT OF PURPOSE**

Amend WAC 356-05-465.

Title: Veteran.

Purpose: Defines "veteran" for the purpose of granting preference during layoffs and subsequent reemployment.

Statutory Authority: RCW 41.06.150.

Summary: Intended to state the purpose more clearly.

Reasons: Experienced difficulty in interpreting present language.

Responsibility for Drafting: Al Gonzales, Department of Social and Health Services, Office Building #2, MS: OB-13, Olympia, WA 98504, phone 753-5184; Implementation: All state agencies; and Enforcement: Department of Personnel.

Proposed by: Department of Social and Health Services, governmental agency.

Amend WAC 356-15-020.

Title: Work period designations.

Purpose: Defines work period designations for entitlement to premium pay.

Statutory Authority: RCW 41.06.150.

Specific Statute: The Federal Fair Labor Standards Act, section 7(k).

Summary: Adds a special law enforcement category under "nonscheduled."

Reasons: Law enforcement officers are being changed to nonscheduled because they are not exempt from FLSA, and "nonscheduled" must be changed to accommodate them.

Responsibility for Drafting: Gail Salisbury, Personnel Analyst, Department of Personnel, 600 South Franklin, MS: FE-11, Olympia, WA 98504, phone 753-5383; Implementation and Enforcement: All state agencies.

Proposed by: Department of Personnel, governmental agency.

Result of Federal Law: Section 7(k) of the Fair Labor Standards Act.

Amend WAC 356-15-030.

Title: Overtime provisions and compensation.

Purpose: Authorizes premium pay for positions in different work period designations.

Statutory Authority: RCW 41.06.150.

Specific Statute: The Federal Fair Labor Standards Act, section 7(k).

Summary: Would reduce the number of hours to be worked by law enforcement personnel before overtime rates apply.

Reasons: The federal law (FLSA) reduced the number of straight-time hours.

Responsibility for Drafting: Gail Salisbury, Personnel Analyst, Department of Personnel, 600 South Franklin, MS: FE-11, Olympia, WA, phone 753-5383; Implementation and Enforcement: All state agencies.

Proposed by: Department of Personnel, governmental agency.

Result of Federal Law: The Federal Fair Labor Standards Act, section 7(k).

Amend WAC 356-15-050.

Title: Holiday compensation.

Purpose: Denotes how full-time employees will be compensated for work on holidays.

Statutory Authority: RCW 41.06.150.

Summary: Would address holiday compensation for part-time employees.

Reasons: Would allow easy reference for holiday compensation regarding part-time employees.

Responsibility for Drafting: Al Gonzales, Department of Social and Health Services, Office Building #2, MS:

OB-13, Olympia, WA 98504, phone 753-5184; Implementation: All state agencies; and Enforcement: Department of Personnel.

Proposed by: Department of Social and Health Services, governmental agency.

New WAC 356-15-095.

Title: Flexible time schedules.

Purpose: New rule.

Statutory Authority: RCW 41.06.150.

Specific Statute: SHB 1195.

Summary: Restates employer's right to establish and change employee work schedules; authorizes employees to request different work schedules; limits agency right to grant employee requests if there is a bargaining unit.

Reasons: Implements Substitute House Bill 1195.

Responsibility for Drafting: Gail Salisbury, Personnel Analyst, Department of Personnel, 600 South Franklin, MS: FE-11, Olympia, WA 98504, phone 753-5383; Implementation and Enforcement: Department of Personnel.

Proposed by: Department of Personnel, governmental agency.

Result of State Law: SHB 1195.

Amend WAC 356-18-030.

Title: Holidays—Rules—Regulations governing.

Purpose: Denotes when employees will be given time off for holidays with consideration given to work schedules.

Statutory Authority: RCW 41.06.150.

Summary: Clarifies what portion of the rule pertains to full and part-time employees. Deletes that portion of the rule pertaining to temporary employees because of redundancy. Requires part-time employees be compensated in cash for work on a holiday.

Reasons: Clarifies and removes redundancy from the rule. Allows cash compensation as opposed to compensatory time as is presently being done in many instances.

Responsibility for Drafting: Al Gonzales, Department of Social and Health Services, Office Building #2, MS: OB-13, Olympia, WA 98504, phone 753-5184; Implementation: All state agencies; and Enforcement: Department of Personnel.

Proposed by: Department of Social and Health Services, governmental agency.

New WAC 356-34-035.

Title: Dismissal—Determination process.

Purpose: New rule.

Statutory Authority: RCW 41.06.150.

Summary: Explains the process that agencies need to follow prior to making the final decision to dismiss permanent employees for cause.

Reasons: To comply with a United States Supreme Court decision regarding pretermination rights of tenured employees (Cleveland Board of Education vs. Loudermill).

Responsibility for Drafting: D. J. Patin, Personnel Analyst, Department of Personnel, 600 South Franklin, MS: FE-11, Olympia, WA 98504, phone 754-1769; Implementation: All state agencies; and Enforcement: Department of Personnel.

Proposed by: Department of Personnel, governmental agency.

Result of Federal Court Action: Cleveland Board of Education vs. Loudermill.

**AMENDATORY SECTION** (Amending Order 209, filed 8/10/84)

WAC 356-05-465 VETERAN. For the purpose of determining seniority for granting preference during layoffs and subsequent reemployment, any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge is given: PROVIDED, That ~~((the person has not voluntarily retired with 20 or more years of active military service and has military retirement pay in excess of \$500 per month))~~ for the purposes of this section "veteran" does not include any person who has:

(1) Voluntarily retired with twenty or more years of active military service; and

(2) Whose military retirement pay is in excess of five hundred dollars per month.

(Refer to WAC 356-05-390, Seniority).

**AMENDATORY SECTION** (Amending Order 212, filed 12/19/84)

WAC 356-15-020 WORK PERIOD DESIGNATIONS. The personnel board shall assign a specific work period designation to each classification. The personnel board may authorize a work period designation which differs from the class-wide designation for specific positions having atypical working conditions. When two or more designations are indicated for a job classification, the first designation listed shall constitute the class-wide designation. Each position shall be assigned only one designation. The work period designation for persons on "in-training" and "underfill" appointments shall be the same as that of the position to which they are appointed.

(1) Scheduled (S):

(a) Standard: Full time positions with conditions of employment which may be completed within five consecutive work days, each having the same starting time and lasting not more than eight working hours, and occurring within the same workweek.

(b) Alternate: Full time positions with conditions of employment which may be completed within:

(i) Five work days lasting not more than eight working hours within the same workweek but which, because of operational necessity, cannot be scheduled with the same daily starting time or with consecutive days off; or

(ii) Four work days lasting not more than ten working hours each within the same workweek; or

(iii) Ten consecutive work days with four consecutive days off; or

(iv) Ten work days lasting not more than eight working hours and occurring within a scheduled fourteen consecutive day period. Positions are restricted to employees in the registered nurse class series who work in an institutional hospital primarily engaged in the care of residents.

(v) Continuous five work-days-per-week shifts which rotate each 28 days to a different schedule of regular days and hours per week. The rotation involves extended or shortened time off between the ending shift of one schedule and the beginning shift of the next, but does not require more than eight hours work in any one 24-hour period within a schedule, nor more than 52 40-hour workweeks per year. Positions are limited to communications officers and scheduled commercial vehicle enforcement officers of the state patrol.

After giving written notice to the employee and the certified exclusive representative, the employer may implement an alternate schedule provided the employer can document a program need for the alternate schedule or the alternate schedule is mutually agreeable to the employer and employee.

(c) Unlisted: Full time positions for which the director of personnel has approved a schedule or scheduling plan not allowed above. Such unlisted schedules may be approved by the director of personnel when both the agency and the affected employees are in agreement. Approval by the exclusive representative shall constitute approval of employees within a certified bargaining unit.

(2) Nonscheduled (NS):

(a) Standard: Full time positions with conditions of employment which necessitate adjustment of hours by employees within forty working hours within the workweek. These positions normally have no scheduled starting and/or quitting time, but management may designate specific tasks which require assigned hours.

(b) Law enforcement: Full time positions which are so designated by the personnel board, and which fulfill the requirements of Section 7 (k) of the Fair Labor Standards Act. These positions have conditions of employment which necessitate the adjustment of hours of work by employees within 160 hours of a 28-day work period. Management may designate specific tasks which require assigned hours.

(3) Exceptions (E): In determining which positions are designated in the "exceptions" work period, the personnel board shall consider the following factors:

(a) Positions which meet the definition (chapter 356-05 WAC) of administrative personnel, agricultural personnel, executive personnel, housed personnel, law enforcement personnel, professional personnel.

(b) Positions which have historically been paid overtime by the state.

(c) Positions which have direct counterparts in private industry or other governmental jurisdictions and which have an historical or prevailing practice of paying overtime.

(d) Other factors it may deem to be appropriate.

**AMENDATORY SECTION** (Amending Order 194, filed 12/30/83)

WAC 356-15-030 OVERTIME PROVISIONS AND COMPENSATION. (1) The following conditions constitute overtime:

(a) For full-time employees, work in excess of the workshift within the work day.

(b) Work in excess of forty working hours in one workweek or eighty working hours in a scheduled fourteen consecutive day period as authorized under WAC 356-15-020 (1)(b)(iv).

(c) Work on a holiday (except Sunday when it is within the assigned workshift).

(d) Work on a scheduled day off.

(e) ~~((Law enforcement work in excess of 240 hours in a work period of 28 consecutive days (60 hours in a work period of 7 consecutive days or in the case of any work period between 7 and 28 days, a proportionate number of hours in such a work period:))~~ Work performed by nonscheduled law enforcement employees in excess of 160 hours in a work period of 28 consecutive days.

(2) Scheduled work period employees shall receive overtime compensation for work which meets subsection (1)(a) through (d) of this section. However, an agency is not obligated to pay overtime due to a change in the work day or workweek, when such change is in response to a written request from an employee for employee convenience.

(3) Nonscheduled:

(a) Nonscheduled standard work period employees shall receive overtime compensation for work which meets subsection (1)(b) through (d) of this section and may be paid overtime compensation for work which meets subsection (1)(b) of this section.

(b) Nonscheduled law enforcement employees shall receive overtime compensation for work which meets subsection (1)(c), (d), and (e) of this section. They are not eligible for overtime compensation under subsection (1)(a) or (b) of this section.

(4) Exceptions work period employees are not required to be compensated beyond their regular monthly rate of pay for work which meets subsection (1)(a) through (d) of this section. However, they may be compensated or granted exchange time for any of those conditions if their appointing authority deems it appropriate.

(a) If overtime compensation is authorized, the appointing authority may fix the rate, not to exceed one and one-half times the employee's regular rate of pay. As indicated in subsection (5) of this section, the agency and the employee may agree to use compensatory time off in lieu of cash; in that event, the rules covering liquidation of compensatory time apply.

(b) Exchange time may be authorized for any number of hours worked beyond the exceptions work period employee's normal hours of work. For those hours authorized, the rate shall be equal hours off for those worked. Exchange time can be accrued to a limit determined by each agency, not to exceed 174 hours.

(c) Employees must be allowed, and may be required, to use all exchange time in excess of 80 hours prior to each April 1 and October 1, or other semi-annual dates fixed by an agency and made known to its employees and the director of personnel by that agency's director. As an exception to the above, the director of personnel may establish a single annual date based on the special needs of the requesting agency.

Employees must exhaust their exchange time before using compensatory time or vacation leave unless this would result in a loss of accumulated leave.

(d) Employee absence on approved exchange time shall be considered as time worked for payroll purposes.

(e) Exchange time has no cash liquidation value. However, employees voluntarily terminating from state service or transferring to another agency must be offered the opportunity to postpone their cessation of employment by the granting agency until their accumulated, authorized exchange time has been used. Employees who were separated due to a reduction in force or disability separation are entitled to reinstatement of accumulated exchange time if they are rehired on a permanent basis by the granting agency within three years of separation.

(f) Law enforcement employees shall receive overtime compensation for work that meets subsection (1)(e) of this section and at the rate of time-and-one-half.

(5) Unless otherwise provided in the work period designations or other personnel board decisions, the rate of overtime compensation for scheduled and nonscheduled work period employees shall be time-and-one-half.

Overtime compensation shall be paid in either cash or compensatory time off, provided that such compensation is paid in a manner consistent with the overtime liquidation provisions of the merit system rules.

Only when an agency and the employee agree may compensatory time off be used in lieu of cash compensation for overtime. When compensatory time is utilized by scheduled or nonscheduled work period employees it shall be compensated at the rate of time-and-one-half.

#### AMENDATORY SECTION (Amending Order 121, filed 6/12/78)

WAC 356-15-050 HOLIDAY COMPENSATION. (1) All full-time employees shall be compensated for the days that are designated as holidays, except Sundays, as listed in WAC 356-18-020 and 356-18-030 (2), (3) and (4) at a straight-time rate even though they do not work. In addition:

(a) Scheduled and nonscheduled work period employees shall be compensated for the hours actually worked on a holiday at a time-and-one-half rate.

(b) Exception work period employees, while not normally compensated additionally for work performed on a holiday, may be compensated for the hours actually worked on a holiday at a rate not to exceed time-and-one-half, when their appointing authority deems it appropriate.

(2) Compensation shall be in either cash or compensatory time as indicated in WAC 356-15-030(5).

(3) Part-time employees shall be compensated for holidays in accordance with WAC 356-18-030(5).

#### NEW SECTION

WAC 356-15-095 FLEXIBLE TIME SCHEDULES. Each agency shall develop one or more flex-time schedules, all of which contain required fixed core hours of work, and each of which require regular starting and quitting times other than 8 a.m. to 5 p.m., subject to the following conditions:

(1) No such schedules need be established if the agency head determines that such schedules would impede service to the public or impede the agency in accomplishing its mission.

(2) The agency may assign or reassign any employee or group of employees to any such schedule, subject to provisions of WAC 356-15-090.

(3) Employees may request assignment to flex-time schedules and the employing agency may grant or deny such assignment.

(4) If an employee is in a certified bargaining unit, the agency may not grant such employee request until it has negotiated with the certified employee organization.

#### AMENDATORY SECTION (Amending Order 117, filed 3/9/78)

WAC 356-18-030 HOLIDAYS—RULES—REGULATIONS GOVERNING. (1) The holidays cited in WAC 356-18-020 except Sundays are paid nonworking days for eligible employees.

(2) When operational necessity requires that employees work on a holiday except Sundays, they shall be compensated in accordance with the applicable provisions of the compensation plan appendix and chapter 356-15 WAC.

(3) For full-time employees on a Monday through Friday work schedule:

(a) Whenever any legal holiday falls on a Saturday, the preceding Friday shall be the holiday. Whenever any legal holiday, other than a Sunday, falls on a Sunday, the following Monday shall be the holiday.

(4) For full-time employees (~~(working at least thirty-two hours per week but)~~) not on a Monday through Friday work schedule:

(a) When a holiday (other than Sunday) as identified in WAC 356-18-020(1) falls on the employee's scheduled work day, that day will be considered the holiday.

(b) When a holiday (other than Sunday) as identified in WAC 356-18-020(1) falls on the employee's scheduled day off, (~~(agency heads)~~) agencies shall, with respect to each individual employee, treat either the last preceding or the next following work day as the holiday.

(5) (~~(Temporary employees shall be given compensatory time or compensated for holidays in the same manner as permanent employees.~~)

(6) Part-time employees who were on the payroll (~~(for)~~) before and after the holiday and for a period of at least (~~(ten working)~~) twelve calendar days during the month (but not including the holiday) (and on their regularly scheduled work day immediately preceding the holiday and their regularly scheduled work day immediately following the holiday) will be (~~(given compensatory time)~~) compensated in cash for the holiday in a proportionate amount of time actually worked during the month to that required for full-time employment.

#### NEW SECTION

WAC 356-34-035 DISMISSAL—DETERMINATION PROCESS. (1) Prior to the decision to dismiss a permanent employee for cause, the employee shall be:

(a) Notified of the charges and the possibility that the employee will be dismissed.

(b) Given the opportunity to respond to the appointing authority regarding the charges and the possibility of dismissal. If the appointing authority chooses to have a meeting with the employee, the employee shall be allowed to have a representative present at the meeting.

(2) The employee shall be notified of the final determination. If the appointing authority's decision is to proceed with disciplinary action, notification shall be in accordance with these rules (Title 356 WAC).

### WSR 85-16-110

#### PROPOSED RULES

#### MARINE EMPLOYEES' COMMISSION

[Filed August 7, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Marine Employees' Commission intends to adopt, amend, or repeal rules concerning:

|     |                |   |
|-----|----------------|---|
| Amd | WAC 316-02-100 | Service of process—Computation of time.                         |
| Amd | WAC 316-02-103 | Service of process—Additional time after service by mail.       |
| Rep | WAC 316-02-130 | Service of process—Method of service.                           |
| New | WAC 316-02-135 | Service of process—Method and completion of service on parties. |
| Rep | WAC 316-02-140 | Service of process—Completion of service on parties;            |

that the agency will at 10:30 a.m., Friday, September 27, 1985, in the Seattle Port Commission Chambers, Pier 66, Seattle, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is chapter 47.64 RCW.

The specific statute these rules are intended to implement is RCW 47.64.260.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 26, 1985.

Dated: August 7, 1985

By: Louis O. Stewart  
Commissioner

### STATEMENT OF PURPOSE

Title: Chapter 316-02 WAC.

Description of Purpose: To make chapter 316-02 WAC conform to RCW 47.64.260.

Statutory Authority: Chapter 47.64 RCW.

Specific Statute Rule is Intended to Implement: RCW 47.64.260.

Summary of Rule: To clarify the service of papers pertaining to employee grievances, representation petitions, and other matters assigned to the commission by chapter 47.64 RCW.

Reasons Supporting Proposed Action: WAC 316-02-100, 316-02-103, 316-02-130 and 316-02-140 were not congruent with RCW 47.64.260.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Marine Employees' Commission.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Marine Employees' Commission.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: N/A.

Small Business Economic Impact Statement: N/A.

#### AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-100 SERVICE OF PROCESS - COMPUTATION OF TIME. Unless otherwise provided in chapter 47.64 RCW, ((m)) in computing any period of time prescribed by notice, the prescribed period of time shall commence on the date of receipt of such notice. In computing any other period of time ((or)) allowed by chapter 47.64 RCW or other ((any)) applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

**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 Resolution No. 84-01, filed 3/20/84)

WAC 316-02-103 SERVICE OF PROCESS - ADDITIONAL TIME AFTER SERVICE BY MAIL. Unless a party is required to do some act upon a date specified in a notice or other paper served upon him, whenever a party has the right or is required to do some act within a prescribed period after service of a notice or other paper upon him, and the notice or paper is served on him by mail ((or by telegraph)), 3 days shall be added to the prescribed period.

**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.

#### NEW SECTION

WAC 316-02-135 SERVICE OF PROCESS - METHOD AND COMPLETION OF SERVICE ON PARTIES. Unless otherwise provided in chapter 47.64 RCW, any notice or other paper required under this chapter shall be in writing. Service thereof is sufficient if mailed by restricted certified mail, return receipt requested, addressed to the last known addresses of the parties. Refusal of restricted certified mail by any party shall be considered service. Any party may at any time execute and deliver an acceptance of service in lieu of mailed notice.

#### REPEALER

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

WAC 316-02-130 SERVICE OF PROCESS - METHOD OF SERVICE.

WAC 316-02-140 SERVICE OF PROCESS - COMPLETION OF SERVICE ON PARTIES.

### WSR 85-16-111

#### EMERGENCY RULES

### DEPARTMENT OF NATURAL RESOURCES

[Order 461—Filed August 7, 1985]

I, Brian J. Boyle, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the amendment of an emergency rule restricting logging, land clearing, and other industrial operations which may cause a fire to start on lands protected by the Department of Natural Resources in Western Washington and Eastern Washington.

I, Brian J. Boyle, find that an emergency exists and that this 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 the emergency is due to change in fire weather danger in certain shutdown zones in Western Washington, logging, land clearing, and other industrial operations and burning restrictions are modified or lifted in specific areas of the state.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 76.04.150, 76.04.190 and 76.04.200 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.  
APPROVED AND ADOPTED August 7, 1985.

By Brian J. Boyle  
Commissioner of Public Lands

#### AMENDATORY SECTION (Amending Emergency Order 460, filed 8/5/85)

WAC 332-26-083 HOOT OWL LOGGING RESTRICTIONS ON LANDS PROTECTED BY THE DEPARTMENT OF NATURAL RESOURCES IN WESTERN WASHINGTON. Effective midnight, (~~Monday, August 5, 1985,~~) Wednesday, August 7,

*1985, through midnight, Monday, August 12, 1985, all logging, land clearing, and other industrial operations which may cause a fire to start are to cease operations during the following times and under the following conditions: 1) All power saws, except those used on landings, to shutdown from 11:00 a.m. to 8:00 p.m. during the shutdown period. Landing saws to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 2) All yarding, skidding, loading, and hauling to shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 3) All other operations not specifically listed here will shutdown from 1:00 p.m. to 8:00 p.m. during the shutdown period; 4) Watchperson required for a minimum of one hour following operation of spark emitting equipment.*

*Affected Areas: Olympic Area - shutdown zone((s 650, 651L,)) 652((-653, 654)). Northwest Area - shutdown zone((s)) 658. South Puget Sound Area - shutdown zone ((654 in Jefferson County only,)) 652, and zone 659 in King and Pierce counties.*

*All persons are excluded from logging operating areas and areas of logging slash, except those present in the interest of fire protection, from 1:00 p.m. to 8:00 p.m. during the shutdown period.*

*All burning permits and burning privileges are cancelled in the affected shutdown zones.*

**WSR 85-16-112**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Filed August 7, 1985]

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 establishment of minimum instream flows in WRIA 1 on approximately 29 streams or stream reaches, new closures to future consumptive appropriations on approximately 24 streams and confirmation of existing low flow restrictions and/or closures on approximately 19 streams and lakes. Establishes policies regarding the protection of lakes and ponds, ground water development, hydroelectric power projects and other consumptive uses;

that the agency will at 7:00 p.m., Wednesday, September 25, 1985, in the Bellingham City Public Library, conduct a public hearing on the proposed rules. (Public meeting 7:00 p.m., Thursday, September 12.)

The formal decision regarding adoption, amendment, or repeal of the rules will take place on October 29, 1985.

The authority under which these rules are proposed is chapters 90.54 and 90.22 RCW.

The specific statute these rules are intended to implement is chapter 90.54 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 27, 1985.

Dated: August 7, 1985

By: Glen H. Fiedler  
 Acting Deputy Director

## STATEMENT OF PURPOSE

Title: Nooksack water resource inventory area instream resources protection program.

Description of Purpose: To retain perennial rivers, streams, and lakes in the Nooksack water resource inventory area with instream flows and levels necessary to provide for preservation of wildlife, fish, scenic, aesthetic, and other environmental values, and navigational values, as well as recreation and water quality.

Statutory Authority: Chapters 90.54 and 90.22 RCW.

Summary of Rule: To establish minimum instream flows on approximately 29 streams or stream reaches, proposes new closures to future consumptive appropriations on approximately 24 streams, and confirms existing low flow restrictions and/or closures on approximately 19 streams and lakes. Establishes policies regarding the protection of lakes and ponds, ground water development, hydroelectric power projects and other consumptive uses.

Reasons Supporting Proposed Action: Many streams in the area are important for fish and wildlife production and often experience extremely low summer stream flows. There is a need to establish minimum instream flows to retain adequate water in these streams during the critical low flow period to protect the fish and wildlife resources.

Agency Personnel Responsible for Drafting: Cynthia Nelson, PV-11, Olympia, WA 98504, (206) 459-6116; Implementation: Eugene F. Wallace, PV-11, Olympia, WA 98504, (206) 459-6056; and Enforcement: Herman Huggins, 4350 150 Avenue N.E., Redmond, WA 98052-5301, (206) 885-1900.

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.

Small Business Economic Impact Statement: Not applicable.

I have reviewed this regulatory proposal for impacts upon the economy of the state of Washington as required by chapter 43.21H RCW (the State Economic Policy Act). My conclusions are summarized below.

This proposal establishes an instream resources protection program for the Nooksack water resource inventory area as required by state law (chapter 90.54 RCW) and departmental regulation (chapter 173-500 WAC). Its provisions do not appear to differ markedly from the water resource management practices now in place in the area or from those which would be adopted in the absence of an overall program.

In my judgment, this regulation should have little incremental adverse impact upon the economy of the area or of the state as a whole. Indeed, it works in the direction of preserving and enhancing resources which themselves have substantial economic and environmental value.

Let me also confirm, for the record, my earlier conclusion that this proposed action does not fall under the purview of chapter 19.85 RCW (the Regulatory Fairness Act) and, thus, does not require the filing of a small business economic impact statement. Please let me know if any questions arise regarding these comments.

Bill Bafus

Chapter 173-501 WAC  
INSTREAM RESOURCES PROTECTION PROGRAM—NOOKSACK WATER RESOURCE INVENTORY AREA (WRIA) I

WAC

- 173-501-010 General provision.
- 173-501-020 Purpose.
- 173-501-030 Establishment of instream flows.
- 173-501-040 Surface water source limitations to further consumptive appropriation.
- 173-501-050 Lakes.
- 173-501-060 Ground water.
- 173-501-070 Exemptions.
- 173-501-080 Policy statement for future permitting actions.
- 173-501-090 Enforcement.
- 173-501-100 Regulation review.
- 173-501-900 Instream flow hydrographs.

NEW SECTION

WAC 173-501-010 GENERAL PROVISION. These rules apply to waters within the Nooksack water resource inventory area (WRIA 1), as defined in WAC 173-500-040. This chapter is promulgated pursuant to chapter 90.54 RCW (Water Resources Act of 1971), chapter 90.22 RCW (Minimum water flows and levels), and in accordance with chapter 173-500 WAC (Water resources management program).

NEW SECTION

WAC 173-501-020 PURPOSE. Chapter 90.54 RCW (Water Resources Act of 1971) requires that utilization and management of waters of the state be guided by a number of fundamentals, including:

Uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, and thermal power production purposes, and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state, are declared to be beneficial. (RCW 90.54.020(1))

The quality of the natural environment shall be protected and, where possible, enhanced as follows:

Perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values. Lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served. (RCW 90.54.020 (3)(a))

Waters of the state shall be of high quality. Regardless of the quality of the waters of the state, all wastes and other materials and substances proposed for entry into said waters shall be provided with all known, available, and reasonable methods of treatment prior to entry. Notwithstanding that standards of quality established for the waters of the state would not be violated, wastes and other materials and substances shall not be allowed to enter such waters which will reduce the existing quality thereof, except in those situations where it is clear that overriding considerations of the public interest will be served. (RCW 90.54.020 (3)(b))

The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Nooksack water resource inventory area with instream flows and levels necessary to provide for preservation of wildlife, fish, scenic, aesthetic, and other environmental values, and navigational values, as well as recreation and water quality.

In administering and enforcing this regulation, the department's actions shall be consistent with the provisions of chapter 90.54 RCW.

NEW SECTION

WAC 173-501-030 ESTABLISHMENT OF INSTREAM FLOWS. (1) Stream management units and associated control stations are established as follows:

Stream Management Unit Information

| Control Station No.<br>Stream Management Unit Name | Control Station by River Mile and Section, Township and Range | Stream Management Reach   |
|--|---|---|
| Anderson Creek<br>Gage # WDOE-2109-00              | 1.4<br>Section 19<br>T. 39 N., R. 4 E.                        | From confluence with Nooksack River to headwaters, including all tributaries.                                 |
| Bells Creek<br>Gage # WDOE-2073-00                 | 0.5<br>Section 21<br>T. 39 N., R. 5 E.                        | From confluence with Nooksack River to headwaters, including all tributaries.                                 |
| Bertrand Creek<br>Gage # WDOE-2124-00              | 1.0<br>Section 26<br>T. 40 N., R. 2 E.                        | From U.S./Canada border to confluence with Nooksack River, including all tributaries.                         |
| California Creek<br>Gage # WDOE-2134-00            | 3.0<br>Section 21<br>T. 40 N., R. 1 E.                        | From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries. |
| Canyon Creek<br>Gage # WDOE-2045-00                | 0.2<br>Section 35<br>T. 40 N., R. 6 E.                        | From confluence with Nooksack River to headwaters, including all tributaries.                                 |
| Canyon Creek at Kulshan<br>Gage # 12-2085-00       | 0.2<br>Section 27<br>T. 39 N., R. 5 E.                        | From confluence with Nooksack River to headwaters, including all tributaries.                                 |
| Cornell Creek<br>Gage # WDOE-2057-00               | 0.6<br>Section 1<br>T. 39 N., R. 6 E.                         | From the confluence with N. Fk. Nooksack River to headwaters, including all tributaries.                      |
| Dakota Creek near Blaine<br>Gage # 12-2140-00      | 3.5<br>Section 9<br>T. 40 N., R. 1 E.                         | From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries. |
| Deer Creek<br>Gage # WDOE-2130-50                  | 0.2<br>Section 28<br>T. 39 N., R. 2 E.                        | From the confluence with Tenmile Creek to headwaters, including all tributaries.                              |
| Fishtrap Creek at Lynden<br>Gage # 12-2120-00      | 6.9<br>Section 16<br>T. 40 N., R. 3 E.                        | From U.S./Canada border to confluence with Nooksack River, including all tributaries.                         |
| Gallop Creek<br>Gage # WDOE-2056-00                | 0.3<br>Section 7<br>T. 39 N., R. 7 E.                         | From the confluence with N. Fk. Nooksack River to headwaters, including all tributaries.                      |
| Hutchinson Creek<br>Gage # WDOE-2101-00            | 1.8<br>Section 36<br>T. 38 N., R. 5 E.                        | From confluence with South Fork Nooksack River to headwaters, including all tributaries.                      |
| Johnson Creek<br>Gage # WDOE-2149-00               | 0.5<br>Section 35<br>T. 41 N., R. 4 E.                        | From U.S./Canada border to headwaters including all tributaries.  |
| Kendall Creek<br>Gage # 12-2065-00                 | 0.1<br>Section 3<br>T. 39 N., R. 5 E.                         | From the confluence with N. Fk. Nooksack River to headwaters, including all tributaries.                      |
| Maple Creek<br>Gage # WDOE-2059-00                 | 0.8<br>Section 30<br>T. 40 N., R. 6 E.                        | From confluence with Nooksack River to headwaters, including all tributaries.                                 |
| Nooksack River<br>(at Deming)<br>12-2105-00        | 5.6<br>Section 31<br>T. 39 N., R. 5 E.                        | From confluence with Smith Creek to confluence of North Fork and  |

| Control Station No. Stream Management Unit Name | Control Station by River Mile and Section, Township and Range | Stream Management Reach   |
|---|---|---|
| Nooksack River (at Ferndale) 12-2131-00         | 5.8 Section 29 T. 39 N., R. 2 E.                              | Middle Fork Nooksack Rivers, and including South Fork Nooksack River to the confluence with and including Skookum Creek.<br>From influence of mean annual high tide at low instream flow levels to confluence with, and including, Smith Creek. |
| Nooksack River (Middle Fork) 12-2080-00         | 5.6 Section 13 T. 38 N., R. 5 E.                              | From confluence with North Fork to headwaters.  |
| Nooksack River (North Fork) 12-2072-00          | 44.1 Section 10 T. 39 N., R. 5 E.                             | From confluence with Middle Fork to headwaters.   |
| Nooksack River (South Fork) 12-2090-00          | 14.8 Section 26 T. 37 N., R. 5 E.                             | From confluence with Skookum Creek to headwaters.   |
| Porter Creek Gage # WDOE-2084-00                | 0.7 Section 11 T. 38 N., R. 5 E.                              | From the confluence with M. Fk. Nooksack R. to headwaters, including all tributaries.   |
| Racehorse Creek Gage # WDOE-2071-00             | 1.5 Section 11 T. 39 N., R. 5 E.                              | From confluence with Nooksack River to headwaters, including all tributaries.   |
| Saar Creek Gage # 12-2155-00                    | 0.2 Section 31 T. 41 N., R. 5 E.                              | From U.S./Canada border to headwaters, including all tributaries.   |
| Silver Creek Gage # WDOE-2132-00                | 2.0 Section 4 T. 38 N., R. 2 E.                               | From confluence with Nooksack River to headwaters, including all tributaries.   |
| Skookum Creek near Wickersham Gage # 12-2095-00 | 0.1 Section 27 T. 37 N., R. 5 E.                              | From confluence with South Fork Nooksack River to headwaters, including all tributaries.  |
| Smith Creek Gage # WDOE-2111-00                 | 0.8 Section 22 T. 39 N., R. 4 E.                              | From confluence with Nooksack River to headwaters, including all tributaries.   |
| Sumas River near Sumas Gage # 12-2145-00        | 2.1 Section 2 T. 41 N., R. 4 E.                               | From U.S./Canada border to headwaters including all tributaries.  |
| Tenmile Creek at Laurel Gage # 12-2129-00       | 4.4 Section 13 T. 39 N., R. 2 E.                              | From confluence with Nooksack River to headwaters, including all tributaries.   |
| Terrell Creek Gage # WDOE-2133-00               | 2.2 Section 31 T. 40 N., R. 1 E.                              | From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.   |
| Wiser Lake Creek Gage # WDOE-2126-00            | 0.7 Section 2 T. 39 N., R. 2 E.                               | From confluence with Nooksack River to headwaters, including all tributaries.   |

(2) Instream flows are established for the stream management units in WAC 173-501-030(1) as follows:

Instream Flows in the Nooksack WRIA (Instantaneous cubic feet per second)

| Month | Day | WDOE-2109-00 Anderson Cr. | WDOE-2073-00 Bells Creek | WDOE-2124-00 Bertrand Cr. | WDOE-2134-00 California Cr. |
|-------|-----|---------------------------|--------------------------|---------------------------|-----------------------------|
| Jan.  | 1   | 50                        | 4*                       | 90*                       | 40*                         |
|       | 15  | 50                        | 4*                       | 90*                       | 40*                         |
| Feb.  | 1   | 50                        | 4*                       | 90*                       | 40*                         |
|       | 15  | 50                        | 3*                       | 90*                       | 40*                         |
| Mar.  | 1   | 50                        | 2*                       | 90*                       | 40*                         |
|       | 15  | 50                        | 2*                       | 90*                       | 25*                         |
| Apr.  | 1   | 40                        | 3*                       | 80*                       | 18*                         |
|       | 15  | 31                        | 4*                       | 60*                       | 13*                         |
| May   | 1   | 25                        | 5*                       | 50*                       | 9*                          |
|       | 15  | 20                        | 6*                       | 40*                       | 6*                          |
| Jun.  | 1   | 16*                       | 6*                       | 33*                       | 4*                          |
|       | 15  | 13*                       | 6*                       | 25*                       | 3*                          |
| Jul.  | 1   | 10*                       | 3*                       | 21*                       | 2*                          |
|       | 15  | 6*                        | 2*                       | 17*                       | 2*                          |
| Aug.  | 1   | 6*                        | 1*                       | 13*                       | 2*                          |
|       | 15  | 6*                        | 0.8*                     | 13*                       | 2*                          |
| Sep.  | 1   | 6*                        | 0.8*                     | 13*                       | 2*                          |
|       | 15  | 8*                        | 0.8*                     | 13*                       | 2*                          |
| Oct.  | 1   | 8*                        | 1*                       | 13*                       | 2*                          |
|       | 15  | 11*                       | 2*                       | 20*                       | 2*                          |
| Nov.  | 1   | 15*                       | 3*                       | 30*                       | 4*                          |
|       | 15  | 20                        | 4*                       | 40*                       | 7*                          |
| Dec.  | 1   | 30                        | 4*                       | 60*                       | 15*                         |
|       | 15  | 50                        | 4*                       | 90*                       | 40*                         |

\*Denotes closure period. No further consumptive rights issued for use during this time.

| Month | Day | WDOE-2045-00 Canyon Creek | WDOE-2085-00 Canyon (Lk) Cr. | WDOE-2057-00 Cornell Creek |
|-------|-----|---------------------------|------------------------------|----------------------------|
| Jan.  | 1   | 150                       | 50                           | 1.0                        |
|       | 15  | 150                       | 50                           | 1.0                        |
| Feb.  | 1   | 150                       | 50                           | 1.0                        |
|       | 15  | 150                       | 50                           | 1.0                        |
| Mar.  | 1   | 150                       | 50                           | 1.0                        |
|       | 15  | 150                       | 50                           | 1.0                        |
| Apr.  | 1   | 150                       | 50                           | 1.0                        |
|       | 15  | 150                       | 50                           | 2.0                        |
| May   | 1   | 150                       | 50                           | 5.0                        |
|       | 15  | 150                       | 50                           | 10.0                       |
| Jun.  | 1   | 150                       | 50                           | 25.0                       |
|       | 15  | 150                       | 50                           | 25.0*                      |
| Jul.  | 1   | 150                       | 50                           | 25.0*                      |
|       | 15  | 80*                       | 30*                          | 25.0*                      |
| Aug.  | 1   | 40*                       | 15*                          | 10.0*                      |
|       | 15  | 40*                       | 10*                          | 6.0*                       |
| Sep.  | 1   | 40*                       | 10*                          | 2.5*                       |
|       | 15  | 40*                       | 10*                          | 2.5*                       |
| Oct.  | 1   | 55*                       | 20*                          | 2.5*                       |
|       | 15  | 80*                       | 23*                          | 2.5                        |
| Nov.  | 1   | 90*                       | 27*                          | 2.5                        |
|       | 15  | 110                       | 32                           | 2.5                        |
| Dec.  | 1   | 130                       | 40                           | 2.0                        |
|       | 15  | 150                       | 43                           | 1.5                        |

| Month | Day | 12-2140-00 Dakota Creek | WDOE-2130-50 Deer Creek | 12-2120-00 Fishtrap Cr. |
|-------|-----|-------------------------|-------------------------|-------------------------|
| Jan.  | 1   | 60*                     | 10*                     | 55*                     |
|       | 15  | 60*                     | 10*                     | 55*                     |
| Feb.  | 1   | 60*                     | 10*                     | 55*                     |
|       | 15  | 60*                     | 10*                     | 55*                     |
| Mar.  | 1   | 60*                     | 10*                     | 55*                     |
|       | 15  | 40*                     | 10*                     | 55*                     |
| Apr.  | 1   | 30*                     | 8*                      | 45*                     |
|       | 15  | 20*                     | 6*                      | 35*                     |
| May   | 1   | 15*                     | 4.5*                    | 30*                     |
|       | 15  | 10*                     | 3.5*                    | 25*                     |
| Jun.  | 1   | 7*                      | 2.5*                    | 20*                     |
|       | 15  | 5*                      | 2.0*                    | 15*                     |
| Jul.  | 1   | 3.5*                    | 1.5*                    | 12*                     |

| Month | Day | 12-2140-00<br>Dakota Creek | WDOE-<br>2130-50<br>Deer Creek | 12-2120-00<br>Fishtrap Cr. |
|-------|-----|----------------------------|--------------------------------|----------------------------|
| Aug.  | 15  | 2.5*                       | 1.2*                           | 10*                        |
| Aug.  | 1   | 2.5*                       | 1.0*                           | 8*                         |
| Aug.  | 15  | 2.5*                       | 0.9*                           | 8*                         |
| Sep.  | 1   | 2.5*                       | 1.0*                           | 8*                         |
| Sep.  | 15  | 2.5*                       | 1.2*                           | 8*                         |
| Oct.  | 1   | 2.5*                       | 1.4*                           | 18*                        |
| Oct.  | 15  | 2.5*                       | 1.5*                           | 20*                        |
| Nov.  | 1   | 5.0*                       | 3.0*                           | 30*                        |
| Nov.  | 15  | 10.0*                      | 4.0*                           | 40*                        |
| Dec.  | 1   | 20.0*                      | 5.5*                           | 55*                        |
| Dec.  | 15  | 60.0*                      | 7.0*                           | 55*                        |

| Month | Day | WDOE-<br>2056-00<br>Gallop<br>Creek | WDOE-<br>2101-00<br>Hutchinson<br>Creek | WDOE-<br>2149-00<br>Johnson<br>Creek | 12-2065-00<br>Kendall Cr. |
|-------|-----|-------------------------------------|---|--------------------------------------|---------------------------|
| Jan.  | 1   | 4.5                                 | 60                                      | 60*                                  | 10*                       |
| Jan.  | 15  | 4.0                                 | 60                                      | 60*                                  | 10*                       |
| Feb.  | 1   | 3.5                                 | 60                                      | 60*                                  | 10*                       |
| Feb.  | 15  | 3.0                                 | 60                                      | 60*                                  | 10*                       |
| Mar.  | 1   | 2.6                                 | 60                                      | 60*                                  | 10*                       |
| Mar.  | 15  | 2.6                                 | 60                                      | 60*                                  | 10*                       |
| Apr.  | 1   | 3.5                                 | 60                                      | 60*                                  | 10*                       |
| Apr.  | 15  | 5.0                                 | 60                                      | 45*                                  | 10*                       |
| May   | 1   | 7.0                                 | 60                                      | 35*                                  | 10*                       |
| May   | 15  | 15.0                                | 60                                      | 25*                                  | 10*                       |
| Jun.  | 1   | 25.0                                | 60                                      | 20*                                  | 10*                       |
| Jun.  | 15  | 25.0                                | 60                                      | 15*                                  | 10*                       |
| Jul.  | 1   | 25.0                                | 60                                      | 12*                                  | 10*                       |
| Jul.  | 15  | 25.0*                               | 40*                                     | 9*                                   | 6*                        |
| Aug.  | 1   | 15.0*                               | 25*                                     | 9*                                   | 3.5*                      |
| Aug.  | 15  | 9.5*                                | 15*                                     | 9*                                   | 2.5*                      |
| Sep.  | 1   | 7.0*                                | 15*                                     | 9*                                   | 2.5*                      |
| Sep.  | 15  | 6.0*                                | 15*                                     | 9*                                   | 2.5*                      |
| Oct.  | 1   | 6.0*                                | 25*                                     | 9*                                   | 5.0*                      |
| Oct.  | 15  | 6.0*                                | 30*                                     | 9*                                   | 6.0*                      |
| Nov.  | 1   | 6.0*                                | 35*                                     | 13*                                  | 7.0*                      |
| Nov.  | 15  | 6.0                                 | 40                                      | 20*                                  | 8.0*                      |
| Dec.  | 1   | 6.0                                 | 50                                      | 30*                                  | 9.0*                      |
| Dec.  | 15  | 5.0                                 | 60                                      | 60*                                  | 10.0*                     |

| Month | Day | WDOE-<br>2059-00<br>Maple Creek | 12-2105-00<br>Nooksack R.<br>(Middle Section) | 12-2131-00<br>Nooksack R.<br>(Lower Section) |
|-------|-----|---------------------------------|---|--|
| Jan.  | 1   | 20                              | 2050  | 2750   |
| Jan.  | 15  | 20                              | 2050  | 2750   |
| Feb.  | 1   | 20                              | 2150  | 2950   |
| Feb.  | 15  | 30                              | 2350  | 3200   |
| Mar.  | 1   | 30                              | 2350  | 2850   |
| Mar.  | 15  | 30                              | 2350  | 2850   |
| Apr.  | 1   | 30                              | 2350  | 2700   |
| Apr.  | 15  | 30                              | 2350  | 2550   |
| May   | 1   | 30                              | 2350  | 2450   |
| May   | 15  | 30                              | 3325  | 3625   |
| Jun.  | 1   | 30                              | 3400  | 3500   |
| Jun.  | 15  | 30                              | 3400  | 3500   |
| Jul.  | 1   | 20                              | 3400  | 3500   |
| Jul.  | 15  | 10*                             | 2950  | 3150   |
| Aug.  | 1   | 10*                             | 1700  | 2000   |
| Aug.  | 15  | 12*                             | 1700  | 1900   |
| Sep.  | 1   | 20*                             | 1700  | 1800   |
| Sep.  | 15  | 20*                             | 1700  | 1700   |
| Oct.  | 1   | 20*                             | 1700  | 1700   |
| Oct.  | 15  | 20*                             | 2050  | 2050   |
| Nov.  | 1   | 20                              | 2050  | 2050   |
| Nov.  | 15  | 20                              | 2050  | 2650   |
| Dec.  | 1   | 20                              | 2050  | 2650   |
| Dec.  | 15  | 20                              | 2050  | 2650   |

| Month | Day | 12-2080-00<br>Nooksack River<br>(Middle Fork) | 12-2072-00<br>Nooksack River<br>(North Fork nr. Deming) | 12-2090-00<br>Nooksack River<br>(South Fork) |
|-------|-----|---|---|--|
| Jan.  | 1   | 300   | 1100  | 650  |
| Jan.  | 15  | 300   | 1100  | 650  |

| Month | Day | 12-2080-00<br>Nooksack River<br>(Middle Fork) | 12-2072-00<br>Nooksack River<br>(North Fork nr. Deming) | 12-2090-00<br>Nooksack River<br>(South Fork) |
|-------|-----|---|---|--|
| Feb.  | 1   | 400*  | 1100  | 650  |
| Feb.  | 15  | 400*  | 1100  | 850  |
| Mar.  | 1   | 400*  | 1100  | 850  |
| Mar.  | 15  | 400*  | 1100  | 850  |
| Apr.  | 1   | 400*  | 1100  | 850  |
| Apr.  | 15  | 400*  | 1100  | 850  |
| May   | 1   | 400*  | 1100  | 850  |
| May   | 15  | 475*  | 2000  | 850  |
| Jun.  | 1   | 550   | 2000  | 850  |
| Jun.  | 15  | 550   | 2000  | 850  |
| Jul.  | 1   | 550   | 2000  | 850*   |
| Jul.  | 15  | 400   | 2000  | 550*   |
| Aug.  | 1   | 300   | 1100  | 300*   |
| Aug.  | 15  | 300   | 1100  | 300*   |
| Sep.  | 1   | 300   | 1100  | 300*   |
| Sep.  | 15  | 300   | 1100  | 300*   |
| Oct.  | 1   | 300   | 1100  | 300*   |
| Oct.  | 15  | 300   | 1100  | 650*   |
| Nov.  | 1   | 300   | 1100  | 650  |
| Nov.  | 15  | 300   | 1100  | 650  |
| Dec.  | 1   | 300   | 1100  | 650  |
| Dec.  | 15  | 300   | 1100  | 650  |

| Month | Day | WDOE-<br>2084-00<br>Porter Creek | WDOE-<br>2071-00<br>Racehorse Cr. | WDOE-<br>2155-00<br>Saar Creek |
|-------|-----|----------------------------------|-----------------------------------|--------------------------------|
| Jan.  | 1   | 4                                | 60                                | 35                             |
| Jan.  | 15  | 4                                | 60                                | 35                             |
| Feb.  | 1   | 4                                | 60                                | 35                             |
| Feb.  | 15  | 4                                | 60                                | 35                             |
| Mar.  | 1   | 4                                | 60                                | 35                             |
| Mar.  | 15  | 4                                | 60                                | 35                             |
| Apr.  | 1   | 4                                | 60                                | 35                             |
| Apr.  | 15  | 4                                | 80                                | 35                             |
| May   | 1   | 4                                | 80                                | 35                             |
| May   | 15  | 8                                | 90                                | 35                             |
| Jun.  | 1   | 8                                | 90                                | 35                             |
| Jun.  | 15  | 8                                | 90                                | 35                             |
| Jul.  | 1   | 8                                | 50                                | 22*                            |
| Jul.  | 15  | 8*                               | 35                                | 15*                            |
| Aug.  | 1   | 4*                               | 20*                               | 9*                             |
| Aug.  | 15  | 2.5*                             | 20*                               | 6*                             |
| Sep.  | 1   | 2.5*                             | 20*                               | 6*                             |
| Sep.  | 15  | 2.5*                             | 20*                               | 6*                             |
| Oct.  | 1   | 2.5*                             | 20*                               | 12*                            |
| Oct.  | 15  | 5.0                              | 30                                | 14*                            |
| Nov.  | 1   | 5.0                              | 35                                | 17*                            |
| Nov.  | 15  | 5.0                              | 40                                | 19                             |
| Dec.  | 1   | 5.0                              | 47                                | 23                             |
| Dec.  | 15  | 5.0                              | 55                                | 37                             |

| Month | Day | WDOE-<br>2132-00<br>Silver Creek | 12-2095-00<br>Skookum Cr. | WDOE-<br>2111-00<br>Smith Creek |
|-------|-----|----------------------------------|---------------------------|---------------------------------|
| Jan.  | 1   | 12                               | 115                       | 40                              |
| Jan.  | 15  | 12                               | 115                       | 40                              |
| Feb.  | 1   | 12                               | 115                       | 40                              |
| Feb.  | 15  | 12                               | 115                       | 40                              |
| Mar.  | 1   | 12                               | 115                       | 40                              |
| Mar.  | 15  | 12                               | 115                       | 40                              |
| Apr.  | 1   | 12                               | 115                       | 40                              |
| Apr.  | 15  | 12                               | 115                       | 60                              |
| May   | 1   | 12*                              | 115                       | 60*                             |
| May   | 15  | 9*                               | 115                       | 60*                             |
| Jun.  | 1   | 7*                               | 115                       | 60*                             |
| Jun.  | 15  | 6*                               | 115                       | 40*                             |
| Jul.  | 1   | 4*                               | 115*                      | 35*                             |
| Jul.  | 15  | 3*                               | 66*                       | 25*                             |
| Aug.  | 1   | 3*                               | 66*                       | 15*                             |
| Aug.  | 15  | 3*                               | 66*                       | 10*                             |
| Sep.  | 1   | 3*                               | 66*                       | 10*                             |
| Sep.  | 15  | 3*                               | 66*                       | 10*                             |
| Oct.  | 1   | 3.5*                             | 66*                       | 15*                             |
| Oct.  | 15  | 4*                               | 80*                       | 20*                             |
| Nov.  | 1   | 6*                               | 115*                      | 23*                             |
| Nov.  | 15  | 10*                              | 115                       | 25                              |
| Dec.  | 1   | 12                               | 115                       | 30                              |
| Dec.  | 15  | 12                               | 115                       | 35                              |

| Month | Day | 12-2145-00<br>Sumas River | 12-2129-00<br>Tenmile Cr. | WDOE-<br>2133-00<br>Terrell Creek | WDOE-<br>2126-00<br>Wiser Lk. Cr. |
|-------|-----|---------------------------|---------------------------|-----------------------------------|-----------------------------------|
| Jan.  | 1   | 100*                      | 40*                       | 12                                | 11                                |
|       | 15  | 100*                      | 40*                       | 12                                | 11                                |
| Feb.  | 1   | 100*                      | 40*                       | 12                                | 11                                |
|       | 15  | 100*                      | 40*                       | 12                                | 11                                |
| Mar.  | 1   | 100*                      | 40*                       | 12                                | 11                                |
|       | 15  | 100*                      | 40*                       | 12                                | 11                                |
| Apr.  | 1   | 100*                      | 40*                       | 12                                | 9                                 |
|       | 15  | 100*                      | 40*                       | 12                                | 7                                 |
| May   | 1   | 70*                       | 30*                       | 8                                 | 5.5*                              |
|       | 15  | 60*                       | 22*                       | 5                                 | 4*                                |
| Jun.  | 1   | 40*                       | 17*                       | 3.5*                              | 3.5*                              |
|       | 15  | 35*                       | 12*                       | 2.5*                              | 3*                                |
| Jul.  | 1   | 25*                       | 10*                       | 1.5*                              | 2.5*                              |
|       | 15  | 20*                       | 7*                        | 1.5*                              | 2*                                |
| Aug.  | 1   | 20*                       | 5*                        | 1.5*                              | 1.4*                              |
|       | 15  | 20*                       | 5*                        | 1.5*                              | 1.4*                              |
| Sep.  | 1   | 20*                       | 5*                        | 1.5*                              | 1.4*                              |
|       | 15  | 20*                       | 6*                        | 1.5*                              | 1.4*                              |
| Oct.  | 1   | 20*                       | 7*                        | 1.5*                              | 2*                                |
|       | 15  | 20*                       | 10*                       | 1.5*                              | 2.5*                              |
| Nov.  | 1   | 35*                       | 15*                       | 2.5                               | 3.5                               |
|       | 15  | 60*                       | 20*                       | 5                                 | 6                                 |
| Dec.  | 1   | 80*                       | 30*                       | 7                                 | 8                                 |
|       | 15  | 90*                       | 40*                       | 12                                | 10                                |

(3) Instream flow hydrographs, as represented in Appendix A of the document entitled Nooksack Instream Resources Protection Program, shall be used for identification of instream flows on those days not specifically identified in WAC 173-501-030(2).

(4) Future consumptive water right permits issued hereafter for diversion of surface water in the Nooksack WRIA and perennial tributaries shall be expressly subject to instream flows established in WAC 173-501-030 (1) through (3) as measured at the appropriate gage, preferably the nearest one downstream and at all other downstream control stations, except for those uses described in WAC 173-501-070 (1) through (3).

(5) Projects that would reduce the flow in a section of stream's length (e.g., hydroelectric projects that withdraw streamflow from some length of the channel) are considered consumptive with respect to the affected stream reach. Such projects will be subject to instream flow requirements as specified by the department. These flows will be those established in WAC 173-501-030 (1) through (3) and WAC 173-501-040, or may be flows specifically tailored to that particular project and stream reach. When studies are required to determine such reach and project-specific flow requirements, the department will require the project proponent to conduct such studies in consultation with affected state and federal agencies and Indian tribes.

**NEW SECTION**

WAC 173-501-040 SURFACE WATER SOURCE LIMITATIONS TO FURTHER CONSUMPTIVE APPROPRIATION. (1) The following table indicates the current and proposed status of streams and lakes affected by this chapter.

| Source Name                       | Tributary To              | Current Administrative Status | Proposed Status      | Period of Closure | Flow Established   |
|-----------------------------------|---------------------------|-------------------------------|----------------------|-------------------|--------------------|
| Anderson Creek                    | Nooksack River            | low flow                      | partial year closure | June 1-Oct. 31    | WAC 173-501-030(2) |
| Bells Creek                       | North Fork Nooksack       | open                          | closure              | year round        | WAC 173-501-030(2) |
| Bertrand Creek                    | Nooksack River            | closure                       | closure              | year round        | WAC 173-501-030(1) |
| Black Slough                      | Nooksack - South Fork     | low flow                      | low flow confirmed   |                   |                    |
| California Creek                  | Drayton Harbor            | closure                       | closure confirmed    | year round        | WAC 173-501-030(2) |
| Canyon Creek                      | North Fork Nooksack       | open                          | partial year closure | July 15-Oct. 31   | WAC 173-501-030(2) |
| Canyon Lake Creek                 | Middle Fork Nooksack      | open                          | partial year closure | July 15-Oct. 31   | WAC 173-501-030(2) |
| Chuckanut Creek                   | Chuckanut Bay             | low flow                      | closure              | year round        | natural flow       |
| Colony Creek<br>(incl. Whitehall) | Samish Bay                | open                          | closure              | year round        | natural flow       |
| Cornell Creek                     | North Fork Nooksack       | open                          | partial year closure | July 15-Oct. 31   | WAC 173-501-030(2) |
| Dakota Creek                      | Drayton Harbor            | closure                       | closure confirmed    | year round        | WAC 173-501-030(2) |
| Deer Creek                        | Barrett Lake<br>(Tenmile) | closure                       | closure confirmed    | year round        | WAC 173-501-030(2) |
| Fishtrap Creek                    | Nooksack River            | closure                       | closure confirmed    | year round        | WAC 173-501-030(2) |
| Fourmile Creek                    | Tenmile Creek             | closure                       | closure confirmed    | year round        |                    |
| Gallop Creek                      | North Fork Nooksack       | open                          | partial year closure | July 15-Oct. 31   | WAC 173-501-030(2) |
| Hutchinson Creek                  | South Fork Nooksack       | open                          | partial year closure | July 15-Oct. 31   | WAC 173-501-030(2) |
| Johnson Creek                     | Sumas River               | closure                       | closure confirmed    | year round        | WAC 173-501-030(2) |
| Kamm Ditch/<br>Stickney Slough    | Nooksack River            | closure                       | closure confirmed    | year round        | natural flow       |
| Kendall Creek                     | North Fork Nooksack       | open                          | closure              | year round        | WAC 173-501-030(2) |
| Maple Creek                       | North Fork Nooksack       | open                          | closure              | July 15-Oct. 15   | WAC 173-501-030(2) |
| Nooksack River -<br>mainstem      | Bellingham Bay            | low flow                      | low flow (new flow)  |                   | WAC 173-501-030(2) |
| Nooksack River -<br>Middle Fk.    | Nooksack River            | low flow                      | low flow (new flow)  |                   | WAC 173-501-030(2) |
| Nooksack River -<br>North Fk.     | Nooksack River            | low flow                      | low flow (new flow)  |                   | WAC 173-501-030(2) |
| Nooksack River -<br>South Fk.     | Nooksack River            | open                          | partial year closure | July 1-Oct. 15    | WAC 173-501-030(2) |
| Oyster Creek                      | Samish Bay                | open                          | closure              | year round        | natural flow       |
| Porter Creek                      | Middle Fork Nooksack      | open                          | partial year closure | July 15-Oct. 1    | WAC 173-501-030(2) |
| Racehorse Creek                   | North Fork Nooksack       | open                          | partial year closure | Aug. 1-Sept. 30   | WAC 173-501-030(2) |
| Saar Creek                        | Vedder Canal-Canada       | open                          | partial year closure | July 15-Oct. 31   | WAC 173-501-030(2) |
| Saxon Creek                       | South Fork Nooksack       | open                          | closure              | year round        | natural flow       |
| Silver Creek                      | Nooksack River            | low flow                      | partial year closure | May 1-Nov. 15     | WAC 173-501-030(2) |
| Skookum Creek                     | South Fork Nooksack       | low flow                      | partial year closure | July 1-Oct. 31    | WAC 173-501-030(2) |
| Smith Creek                       | Nooksack River            | low flow                      | partial year closure | June 1-Oct. 31    | WAC 173-501-030(2) |
| Squalicum Creek                   | Bellingham Bay            | closure                       | closure confirmed    | year round        |                    |
| Sumas River                       | Vedder Canal-Canada       | closure                       | closure confirmed    | year round        | WAC 173-501-030(2) |

| Source Name                              | Tributary To           | Current Administrative Status | Proposed Status      | Period of Closure | Flow Established   |
|--|------------------------|-------------------------------|----------------------|-------------------|--------------------|
| Tenmile Creek                            | Nooksack River         | closure                       | closure confirmed    | year round        | WAC 173-501-030(2) |
| Terrell Creek                            | Birch Bay              | open                          | partial year closure | June 1-Oct. 31    | WAC 173-501-030(2) |
| Thompson Creek                           | Glacier Cr./North Fork | open                          | partial year closure | July 15-Oct. 31   | natural flow       |
| Unnamed Stream - Elder Ditch/Scott Ditch | Nooksack River         | low flow                      | low flow confirmed   |                   |                    |
| Unnamed stream - White Creek             | Colony Creek           | closed                        | closure confirmed    |                   |                    |
| Whatcom Creek                            | Bellingham Bay         | open                          | closure              | year round        | natural flow       |
| Wiser Lake Creek                         | Nooksack River         | low flow                      | partial year closure | May 1-Oct. 31     | WAC 173-501-030(2) |
| Lummi Indian Reservation Streams         |                        | closed                        | closure confirmed    |                   |                    |
| Barrett Lake                             | Tenmile Creek          | closure                       | closure confirmed    |                   | NA                 |
| Green Lake                               | Fourmile Creek         | closure                       | closure confirmed    |                   | NA                 |
| Lake Terrell                             | Terrell Creek          | closure                       | closure confirmed    |                   | NA                 |
| Lake Whatcom*                            | Whatcom Creek          | court-ordered lake level      | closure              | year round        | NA                 |
| Wiser Lake                               | Wiser Lake Creek       | closure                       | closure confirmed    |                   | NA                 |

For streams listed as "natural flow," insufficient data are available to develop instream flows outside the closure period. Water right applications for consumptive use will be considered on a case by case basis in consultation with the departments of fisheries and game. Tribes will be notified of applications, also.

\*Lake Whatcom and its tributaries are closed to all further consumptive appropriation; however, any water right applications for consumptive use which were on file with the department of ecology on August 7, 1985 shall be exempt from the closure through the period extending one year from the effective date of this chapter.

(2) When a project (as described in WAC 173-501-030(5)) is proposed on a stream that is closed to further appropriations, the department shall deny the water right application unless the project proponent can adequately demonstrate that the project does not conflict with the intent of the closure.

**NEW SECTION**

WAC 173-501-050 LAKES. In future permitting actions relating to withdrawal of lake waters, lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

**NEW SECTION**

WAC 173-501-060 GROUND WATER. If department investigations determine that there is significant hydraulic continuity between surface water and the proposed ground water source, any water right permit or certificate issued shall be subject to the same conditions as affected surface waters. If department investigations determine that withdrawal of ground water from the source aquifers would not interfere with stream flow during the period of stream closure or with maintenance of minimum instream flows, then applications to appropriate public ground waters may be approved.

**NEW SECTION**

WAC 173-501-070 EXEMPTIONS. (1) Nothing in this chapter shall affect existing water rights, perfected riparian rights, federal Indian and non-Indian reserved rights, appropriative or otherwise existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric, or water storage reservoir or related facilities.

(2) Single domestic, (including up to 1/2 acre lawn and garden irrigation and associated noncommercial stockwatering) shall be exempt from the provisions established in this chapter. When the cumulative impact of single domestic diversions begins to significantly affect the quantity of water available for instream uses, then any water rights issued after that time shall be issued for in-house use only, if no alternative source is available. Whatcom Creek is closed to any further appropriation, including otherwise exempted single domestic use.

(3) Nonconsumptive uses which are compatible with the intent of this chapter may be approved.

**NEW SECTION**

WAC 173-501-080 POLICY STATEMENT FOR FUTURE PERMITTING ACTIONS. (1) No rights to divert or store public

surface waters of WRIA 1 shall hereafter be granted which shall conflict with the purpose of this chapter except as provided in RCW 90-.54.020 (3)(a).

(2) Consistent with the provisions of chapter 90.54 RCW, it is the policy of the department to preserve an appropriate minimum instream flow in all perennial streams and rivers as well as the water levels in all lakes in the Nooksack WRIA by encouraging the use of alternate sources of water which include (a) ground water, (b) storage water, or (c) acquisition of existing water rights.

**NEW SECTION**

WAC 173-501-090 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 43.83B.335.

**NEW SECTION**

WAC 173-501-100 REGULATION REVIEW. Review of the rules in this chapter shall be initiated by the department of ecology within five years of the date of adoption.

**NEW SECTION**

WAC 173-501-900 INSTREAM FLOW HYDROGRAPHS.

**WSR 85-16-113  
ADOPTED RULES  
DEPARTMENT OF LICENSING  
(Board of Dental Examiners)  
[Order PL 547—Filed August 7, 1985]**

Be it resolved by the Washington State Board of Dental Examiners, acting at Seattle, Washington, that it does adopt the annexed rules relating to examination results, WAC 308-40-104.

This action is taken pursuant to Notice No. WSR 85-14-032 filed with the code reviser on June 27, 1985.

These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Washington State Board of Dental Examiners as authorized in RCW 18.32.040.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED August 2, 1985.

By John C. Gould, DDS  
President

AMENDATORY SECTION (Amending Order PL 467, filed 5/11/84)

**WAC 308-40-104 EXAMINATION RESULTS.**

(1) In order to pass the examination, the applicant must pass ~~((each))~~ the theory section and the practical section ~~((and/or phase))~~ of the examination.

(2) ~~((Applicants will be required to retake the entire examination even though a passing score may have been received on any portion of the examination))~~ Failure on two or more phases of the practical section under WAC 308-40-102 (1)(b) will require reexamination on the entire examination. An applicant who fails only one phase will be required to be reexamined only on the phase failed: PROVIDED, that if the applicant who has failed only one phase has not taken and passed the failed phase by the next examination administration offered, then the entire practical section must be retaken.

(3) Applicants who fail the examination, or a phase of the examination, as provided in (2) may apply for reexamination by completing an application and submitting the appropriate fee to the division of professional licensing.

(4) Applicants who fail to appear for examination forfeit the examination fee.

**WSR 85-16-114**

**PROPOSED RULES**

**DEPARTMENT OF LICENSING**

**(Examining Board of Psychology)**

[Filed August 7, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Examining Board of Psychology intends to adopt, amend, or repeal rules concerning code of ethics for psychologists:

New WAC 308-122-630 Moral and legal standards.  
New WAC 308-122-670 Professional relationships.  
Amd WAC 308-122-640 Public statements;

that the agency will at 1:30 p.m., Friday, September 13, 1985, in the Vance Airport Inn, 18220 Pacific Highway South, Seattle, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.83.050(5).

The specific statute these rules are intended to implement is RCW 18.83.050(5).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 10, 1985.

Dated: August 7, 1985

By: Robert P. Manos  
Assistant Attorney General

**STATEMENT OF PURPOSE**

Name of Agency: Washington State Examining Board of Psychology.

Purpose: To establish a code of ethics for the practice of psychology.

Statutory Authority: RCW 18.83.050.

Summary of the Rules: WAC 308-122-630 describes certain moral and legal standards regarding the behavior of psychologists in relation to their community, their employees, their students and their research; 308-122-640 describes acceptable behavior for a psychologist regarding public statements and announcements; and 308-122-670 describes acceptable standards of conduct regarding a psychologist relations with other professionals.

Reason Proposed: In accordance with RCW 18.83.050 which requires the board to adopt a code of ethics for psychologists.

Responsible Personnel: Yvonne Braeme, Executive Secretary, 1300 Quince Street S.E., Olympia, Washington 98504, phone 753-0776 comm, 234-0776 scan.

Proponents: Washington State Examining Board of Psychology.

Agency Comments: These rules are promulgated pursuant to the authority granted to the board in RCW 18.83.050.

Small Business Economic Impact Statement: Not required and has not been filed since these rules do not impact small businesses as that term is defined by RCW 43.31.920.

NEW SECTION

WAC 308-122-630 MORAL AND LEGAL STANDARDS. Psychologists' moral and ethical standards of behavior are a personal matter to the same degree as they are for any other citizen, except as these may compromise the fulfillment of their professional responsibilities or reduce the public trust in psychology and psychologists. Regarding their own behavior, psychologists are sensitive to prevailing community standards and to the possible impact that conformity to or deviation from these standards may have upon the quality of their performance as psychologists. Psychologists are also aware of the possible impact of their public behavior upon the ability of colleagues to perform their professional duties.

(1) As teachers, psychologists are aware of the fact that their personal values may affect the selection and presentation of instructional materials. When dealing with topics that may give offense, they recognize and respect the diverse attitudes that students may have toward such materials.

(2) As employees or employers, psychologists do not engage in or condone practices that are inhumane or that result in illegal or unjustifiable actions. Such practices include, but are not limited to, those

based on considerations of race, handicap, age, gender, sexual preference, religion, or national origin in hiring, promotion, or training.

(3) In their professional roles, psychologists avoid any action that will violate or diminish the legal and civil rights of clients or of others who may be affected by their actions.

(4) As practitioners and researchers, psychologists act in accord with current professional standards and guidelines related to practice and to the conduct of research with human beings and animals. In the ordinary course of events, psychologists adhere to relevant governmental laws and institutional regulations. When federal, state, provincial, organizational, or institutional laws, regulations, or practices are in conflict with professional standards and guidelines, psychologists make known their commitment to professional standards and guidelines and, wherever possible, work toward a resolution of the conflict. Both practitioners and researchers are concerned with the development of such legal and quasi-legal regulations as best serve the public interest, and they work toward changing existing regulations that are not beneficial to the public interest.

#### NEW SECTION

WAC 308-122-670 PROFESSIONAL RELATIONSHIPS. Psychologists act with due regard for the needs, special competencies, and obligations of their colleagues in psychology and other professions. They respect the prerogatives and obligations of the institutions or organizations with which these other colleagues are associated.

(1) Psychologists understand the areas of competence of related professions. They make full use of all the professional, technical, and administrative resources that serve the best interests of consumers. The absence of formal relationships with other professional workers does not relieve psychologists of the responsibility of securing for their clients the best possible professional service, nor does it relieve them of the obligation to exercise foresight, diligence, and tact in obtaining the complementary or alternative assistance needed by clients.

(2) Psychologists know and take into account the traditions and practices of other professional groups with whom they work and cooperate fully with such groups. If a person is receiving similar services from another professional, psychologists do not offer their own services directly to such a person. If a psychologist is contacted by a person who is already receiving similar services from another professional, the psychologist carefully considers that professional relationship and proceed with caution and sensitivity to the therapeutic issues as well as the client's welfare. The psychologist discusses these issues with the client so as to minimize the risk of confusion and conflict.

(3) Psychologists who employ or supervise other professionals or professionals in training accept the obligation to facilitate the further professional development of these individuals. They provide appropriate working conditions, timely evaluations, constructive consultation, and experience opportunities.

(4) Psychologists do not exploit their professional relationships with clients, supervisees, students, employees, or research participants sexually or otherwise. Psychologists do not condone or engage in sexual harassment. Sexual harassment is defined as deliberate or repeated comments, gestures, or physical contacts of a sexual nature that are unwanted by the recipient.

(5) In conducting research in institutions or organizations, psychologists secure appropriate authorization to conduct such research. They are aware of their obligations to future research workers and ensure that host institutions receive adequate information about the research and proper acknowledgment of their contributions.

(6) Publication credit is assigned to those who have contributed to a publication in proportion to their professional contributions. Major contributions of a professional character made by several persons to a common project are recognized by joint authorship, with the individual who made the principal contribution listed first. Minor contributions of a professional character and extensive clerical or similar non-professional assistance may be acknowledged in footnotes or in an introductory statement. Acknowledgment through specific citations is made for unpublished as well as published material that has directly influenced the research or writing. Psychologists who compile and edit material of others for publication, publish the material in the name of the originating group, if appropriate, with their own name appearing as chairperson or editor. All contributors are to be acknowledged and named.

(7) When psychologists know of an ethical violation by another psychologist, and it seems appropriate, they informally attempt to resolve the issue by bringing the behavior to the attention of the psychologist. If the misconduct is of a minor nature and/or appears to be due to lack of sensitivity, knowledge, or experience, such an informal solution

is usually appropriate. Such informal corrective efforts are made with sensitivity to any rights to confidentiality involved. If the violation does not seem amenable to an informal solution, or is of a more serious nature, psychologists bring it to the attention of the appropriate local, state, and/or national committee on professional ethics and conduct, as well as the licensing authority of the state in which the offending psychologist is licensed.

#### AMENDATORY SECTION (Amending Order PL 522, filed 3/5/85)

WAC 308-122-640 PUBLIC STATEMENTS. Public statements, announcements of service, advertising, and promotional activities of psychologists serve the purpose of helping the public make informed judgments and choice. Psychologists represent accurately and objectively their professional qualifications, affiliations, and functions, as well as those of the institutions or organizations with which they or the statements may be associated. In public statements providing psychological information or professional opinions or providing information or professional opinions or providing information about the availability of psychological products, publications, and services, psychologists base their statements on scientifically acceptable psychological findings and techniques with full recognition of the limits and uncertainties of such evidence.

(1) When announcing or advertising professional services, psychologists may list the following information to describe the provider and services provided: name, highest relevant academic degree earned from a regionally accredited institution, date, type, and level of certification or licensure, diplomat status, professional association status, address, telephone number, office hours, a brief listing of the type of psychological services offered, an appropriate presentation of fee information, foreign languages spoken, and policy with regard to third-party payments. Additional relevant or important consumer information may be included if not prohibited by other sections of ~~((those))~~ these Ethical Principles.

(2) In announcing or advertising the availability of psychological products, publications, or services, psychologists do not present their affiliation with any organization in a manner which falsely implies sponsorship or certification of that organization. Public statements include, but are not limited to, communication by means of periodical, book, list, directory, television, radio, or motion picture. They do not contain

(a) a false, fraudulent, misleading, deceptive, or unfair statement;

(b) a misinterpretation of fact or a statement likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts;

~~((c))~~ (c) a statement intended or likely to create false or unjustified expectations of favorable results;

~~((d))~~ (d) a statement implying unusual, unique, or one-of-a-kind abilities;

~~((e))~~ (e) a statement intended or likely to appeal to a client's fears, anxieties, or emotions concerning the possible results of failure to obtain the offered services;

~~((f))~~ (f) a statement concerning the comparative desirability of offered services;

~~((g))~~ (g) a statement of direct solicitation of individual clients;

(3) Psychologists do not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity in a news item. A paid advertisement must be identified as such, unless it is apparent from the context that it is a paid advertisement. If communicated to the public by use of radio or television, an advertisement is prerecorded and approved for broadcast by the psychologist, and a recording of the actual transmission is retained by the psychologist.

(4) Announcements or advertisements of "personal growth groups," clinics, and agencies give a clear statement of purpose and a clear description of the experiences to be provided. The education, training, and experience of the staff members are appropriately specified.

(5) Psychologists associated with the development or promotion of psychological devices, books, or other products offered for commercial sale make reasonable efforts to ensure that announcements and advertisements are presented in a professional, scientifically acceptable, and factually informative manner.

~~((6))~~ (6) Psychologists do not participate for personal gain in commercial announcements or advertisements recommending to the public the purchase or use of proprietary or single-source products or services

when that participation is based solely upon their identification as psychologists:))

((7)) (6) Psychologists present the science of psychology and offer their services, products, and publications fairly and accurately, avoiding misrepresentation through sensationalism, exaggeration, or superficiality. Psychologists are guided by the primary obligation to aid the public in developing informed judgments, opinions, and choices.

((8)) (7) As teachers, psychologists ensure that statements in catalogs and course outlines are accurate and not misleading, particularly in terms of subject matter to be covered, bases for evaluating progress, and the nature of course experiences. Announcements, brochures, or advertisements describing workshops, seminars, or other educational programs accurately describe the audience for which the program is intended as well as eligibility requirements, educational objectives, and nature of the materials to be covered. These announcements also accurately represent the education, training, and experience of the psychologists presenting the programs and any fees involved.

((9)) (8) Public announcements or advertisements soliciting research participants in which clinical services or other professional services are offered as an inducement make clear the nature of the services as well as the costs and other obligations to be accepted by participants in the research.

((10)) (9) A psychologist accepts the obligation to correct others who represent the psychologist's professional qualifications, or associations with products or services, in a manner incompatible with these guidelines.

((11)) (10) Individual diagnostic and therapeutic services are provided only in the context of a professional psychological relationship. When personal advice is given by means of public lectures or demonstrations, newspaper or similar media, the psychologist utilizes the most current relevant data and exercises the highest level of professional judgment.

((12)) (11) Products that are described or presented by means of public lectures or demonstrations, newspaper or magazine articles, radio or television programs, or similar media meet the same recognized standards as exist for products used in the context of a professional relationship.

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.

**WSR 85-16-115**  
**PROPOSED RULES**  
**BOARD OF HEALTH**  
[Filed August 7, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Health intends to adopt, amend, or repeal rules concerning revision of school and day care immunization requirements, amending WAC 248-100-163 and 248-100-164;

that the agency will at 9:30 a.m., Wednesday, September 11, 1985, in the Building 12 Conference Room, Airdustrial Park, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 43.20.050.

The specific statute these rules are intended to implement is RCW 28A.31.104.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 11, 1985.

Dated: August 7, 1985  
By: John A. Beare, MD  
Director, Health Services Division

## STATEMENT OF PURPOSE

Amend WAC 248-100-163 and 248-100-164.

Title: Revision of school and day care immunization requirements.

Purpose of this Amendment: To provide rules and regulations consistent with revised RCW 28A.31.100 through 28A.31.120.

Statutory Authority: RCW 28A.31.100 through 28A.31.120 (school immunization law), and RCW 43.20.050 (State Board of Health).

Summary of Rule: Changes WAC 248-100-163(2) and 248-100-164(2) by elimination of the 45 day grace period; and all age limitations.

Responsible Person: Barbara J. Baker, Supervisor, Immunization Program, LP-19, Office of Preventive Health Services, Olympia, Washington 98504, (206) 753-3495.

Responsible Organization: Department of Social and Health Services, Division of Health, Office of Preventive Health Services.

Rule is not necessary as a result of federal law or federal or state court action.

There is no economic impact on small business(es).

### AMENDATORY SECTION (Amending Order 181, filed 7/5/79)

WAC 248-100-163 IMMUNIZATION OF SCHOOL CHILDREN AGAINST CERTAIN VACCINE-PREVENTABLE DISEASES. (1) Definitions. For purposes of this section:

(a) "Chief administrator" means the person with the authority and responsibility for the immediate supervision of the operation of a school or, in the alternative, such other person as may be designated in writing for the purpose of carrying out the requirements of ((this statute)) RCW 28A.31.118 by the statutory or corporate board of directors of the school district or school or, if none, such other persons or person with the authority and responsibility for the general supervision of the operation of the school district or school.

(b) "Full immunization" means ((immunization)) having been vaccinated against the following vaccine-preventable diseases: Diphtheria, pertussis (whooping cough), tetanus, poliomyelitis, measles (rubeola), rubella ((German measles)), and mumps in accordance with full immunization schedules and with immunizing agents approved by the state board of health in ((these regulations)) this section.

(c) "Local health department" means the city, town, county, district, or combined city-county health department, board of health, or health officer ((which provides)) providing health services.

(d) "School" means and includes each building, facility, and location at or within which any or all portions of a preschool, kindergarten, and grades one through twelve program of education and related activities are conducted for two or more children by or in behalf of any public school district and by or in behalf of any private school or private institution subject to approval by the state board of education pursuant to RCW 28A.04.120(4) and 28A.02.201 through 28A.02.260.

(e) "Immunizing agents" means any vaccine or other biologic currently licensed and approved by the Bureau of Biologics, United States Public Health Service, for immunization of persons against diphtheria, pertussis (whooping cough), tetanus (DTP, DT, Td), measles (rubeola), rubella ((German measles)), mumps, and poliomyelitis Types I, II, and III (TOPV, IPV).

(f) ((Student)) Child means ((a)) any person ((under eighteen years)) regardless of age admitted to any preschool, kindergarten, and grades one through twelve program of education in any public school district or in any private school or private institution subject to approval by the state board of education pursuant to RCW 28A.04.120(4) and 28A.02.201 through 28A.02.260.

(g) "Transfer student" means a student ((who)) previously enrolled in grades kindergarten through twelve who moves from one school district or system to another at any time during the school year. Students

transferring within a district or system are not considered transfer students for the purposes of these regulations: PROVIDED, That the school transfers records within the district.

~~((th)) "Immunization requirement" means the minimal acceptable schedule of immunizing agents as defined by the state board of health in these regulations for attendance of a child at any public or private school.~~

~~(i) "Initiation of a schedule of immunization" is defined as the process of beginning or continuing a course of immunizations. The immunizing agents administered as part of this process must have been provided not later than forty-five calendar days of the child's first day of attendance.))~~

(2) Full immunization ((requirements)) schedule.

~~((The Washington state board of health requires the following minimum immunization requirements for compliance with the school immunization law RCW 28A.31.118:))~~

~~Effective ((September 1, 1979)) July 11, 1985, and thereafter, the requirements for full immunization are as follows:~~

~~(a) For children attending kindergarten through ((sixth)) twelfth grade ((must present proof of the following no later than forty-five days after the child's first day of attendance):~~

~~At least ((3)) three doses of either DTP, DT, or Td vaccine provided that the last dose was administered at or after age ((4)) four;~~

~~At least ((3)) three doses of trivalent oral poliomyelitis vaccine (OPV) or four doses of trivalent inactivated poliomyelitis vaccine (IPV) provided ((that)) the last dose was administered at or after age ((4)) four. Not required of individuals over eighteen years of age;~~

~~One dose of live virus measles vaccine administered at or after one year of age. A student meets the measles immunization requirement as a result of having had measles (rubeola) disease. In such instances, a physician must document and certify the month and year of disease occurrence.~~

~~One dose of live virus rubella vaccine administered at or after one year of age; ((except for females twelve years of age or older)) a student meets the rubella immunization requirement by providing proof of past infection with rubella virus (an acceptable rubella antibody titer result).~~

~~One dose of live virus mumps vaccine administered at or after one year of age for students in kindergarten or first grade, whichever is the entry level.~~

~~((Effective September 1, 1980 and thereafter:~~

~~(b) Students in grades seven through twelve must present proof of the following no later than forty-five days after a student's first day of attendance:~~

~~At least 3 doses of either DTP, DT, or Td vaccine provided that the last dose was administered at or after age 4;~~

~~At least 3 doses of trivalent poliomyelitis vaccine provided that the last dose was administered at or after age 4;~~

~~One dose of live virus measles vaccine administered at or after one year of age. A student meets the measles immunization requirement as a result of having had measles (rubeola) disease. In such instances, a physician must document and certify the month and year of disease occurrence.~~

~~One dose of live virus rubella vaccine administered at or after one year of age except for females twelve years of age or older.))~~

~~One or more doses of tetanus toxoid (without diphtheria toxoid) administered for wound management will not fulfill the DTP/DT/Td requirements.~~

(b) For children attending preschool:

DTP/DT/Td\* VACCINE

| <u>AGE</u>               | <u>REQUIREMENT</u>   |
|--------------------------|--|
| <u>2 months</u>          | <u>1 dose</u>  |
| <u>4 months</u>          | <u>2 doses</u>   |
| <u>6 - 17 months</u>     | <u>3 doses</u>   |
| <u>18 - 47 months</u>    | <u>4 doses</u>   |
| <u>4 years and older</u> | <u>At least 3 doses provided the last dose was administered at or after age 4.</u> |

\*NOTE: Td vaccine is administered to children 7 years of age and older only.

TRIVALENT POLIO VACCINE

ORAL POLIO VACCINE (OPV)

| <u>AGE</u>               | <u>REQUIREMENT</u>   |
|--------------------------|--|
| <u>2 months</u>          | <u>1 dose</u>  |
| <u>4 - 17 months</u>     | <u>2 doses</u>   |
| <u>18 - 47 months</u>    | <u>3 doses</u>   |
| <u>4 years and older</u> | <u>At least 3 doses provided the last dose was administered at or after age 4.</u> |

INACTIVATED POLIO VACCINE (IPV)

| <u>AGE</u>               | <u>REQUIREMENT</u>   |
|--------------------------|--|
| <u>2 months</u>          | <u>1 dose</u>  |
| <u>4 months</u>          | <u>2 doses</u>   |
| <u>6 - 17 months</u>     | <u>3 doses</u>   |
| <u>18 - 47 months</u>    | <u>4 doses</u>   |
| <u>4 years and older</u> | <u>At least 4 doses provided the last dose was administered at or after age 4.</u> |

MEASLES\*, MUMPS, AND RUBELLA\* VACCINES

| <u>AGE</u>                | <u>REQUIREMENT</u>  |
|---------------------------|---|
| <u>15 months or older</u> | <u>1 dose of each vaccine administered at or after one year of age is acceptable.</u> |

\* NOTE: A child meets the measles immunization requirement as a result of having had measles (rubeola) disease. In such instances, a physician must document and certify the month and year of disease occurrence.

A child meets the rubella immunization requirement by providing proof of past infection with rubella virus (an acceptable rubella antibody titer result).

(3) Satisfactory progress toward full immunization or initiation and continuation of a schedule of immunization.

(a) Attendance at a school by a child ((who has)) not ((received)) receiving full immunization shall be conditioned upon the presentation of proof that the child's immunization schedule has been initiated ((according to subsection (1)(i) of these regulations)) or is being continued. The child's schedule of immunizations shall be completed according to guidelines of the 1982 American Academy of Pediatrics (AAP) Red Book or according to General Recommendations on Immunization January 14, 1983 of the Immunization Practices Advisory Committee of the United States Public Health Service (ACIP).

(b) Admission in subsequent year. A student ((who is)) admitted conditionally as provided in subsection (3)(a) of this section((;)) shall present proof of completion of the required ((immunization(s))) immunization or immunizations as soon as possible and not later than on the student's first day of attendance in the following school year. If the student has not completed the required schedule of immunization by the first day of attendance in the following school year, ((there shall be no forty-five day grace period. The "chief administrator" of the school shall immediately notify the local health department of the name and address of the student along with a report of the status of the student's immunization schedule and when the student was first conditionally admitted to school.)) and if there has been a sufficient period of time to reasonably permit the student to have completed the required immunization schedule, the ((health department)) chief administrator shall issue an order of exclusion in the manner required by subsection (7) of this section. If there has not been sufficient time to complete the schedule, the ((health department)) chief administrator shall notify the student's parents ((and the "chief administrator" of the school)) as to when the schedule must be completed. If the schedule is not completed by that date, the ((health department)) chief administrator shall issue an order of exclusion.

(4) Documentary proof.

(a) Proof of full immunization, initiation or continuation of a schedule, or exemptions shall be documented on a certificate of immunization status form (CIS). Immunization data on the certificate of immunization status form shall be based on a written personal immunization record given to the person immunized or to his or her parent or guardian by the physician or agency administering the immunization. This personal immunization record shall not be surrendered to school authorities and shall not substitute for the certificate of immunization status form.

(b) The certificate of immunization status form shall include(;) at least the following information required to fulfill the intent of RCW 28A.31.118.

(i) Name of the person;

(ii) Birthdate;

(iii) Sex;

(iv) Type of vaccine administered;

(v) Date of each dose of vaccine, specifying month and year (day optional);

(vi) Signature of parent, legal guardian, or adult in loco parentis.

(c) The revised certificate of immunization status form, DSHS 13-263 (~~shall be~~) provided by the department of social and health services (~~and will be~~), is the only acceptable form for all new enrollees registering in kindergarten through (~~sixth~~) twelfth grade (~~after September 1, 1979, and for new enrollees in all grades after September 1, 1980, and thereafter~~). For students already registered or enrolled in schools prior to (~~enactment of these regulations~~) September 1, 1979, previous certificates of immunization status forms (e.g., DSHS 13-263) or locally developed forms approved by DSHS shall be acceptable as the official certificate of immunization status: PROVIDED, That dates for the (~~latest~~) doses of DTP/Td and poliomyelitis vaccines are indicated and that dates (month and year) are provided for each dose of measles, rubella, and mumps vaccine if required. Students meet minimum immunization requirements if the last of three or more doses of DTP/Td and trivalent poliomyelitis vaccines were administered at or after age four and if requirements for measles, rubella, and mumps are met.

(d) Proof in subsequent years. Once proof of full immunization or proof of exemption from immunization has been presented, no further proof shall be required as a condition to attendance at a particular school provided (~~that~~) the certificate of immunization status form on such a child remains on file at the school.

(5) Medical exemptions.

(a) Certification of medical contraindication for one or more (~~immunization(s)~~) immunization or immunizations shall be provided on the certificate of immunization status form, certified and signed by a licensed physician.

(b) A student (~~who is~~) temporarily exempt from immunization for medical reasons shall be admitted on condition (~~that~~) required immunizations are obtained at the termination of the duration of exemption. If the medical condition is permanent or life-long, the student shall be admitted and the certificate of immunization status form filed on each such student.

(c) There shall be a mechanism for informing the parent, legal guardian, or adult in loco parentis, that in the event an outbreak of vaccine-preventable disease for which the student is exempted should occur, the student may be excluded from school for the duration of the outbreak. The school shall keep on file a list of students so exempted.

(6) Religious, philosophical, personal exemptions.

(a) A student may be exempt from immunization because of religious, philosophical, or personal objections. These exempt children shall be admitted to school and the fact of the exemption shall be recorded on the certificate of immunization status form signed by the parent, guardian, or adult in loco parentis.

(b) Each school shall keep on file the certificate of immunization status form for each child so enrolled.

(c) There shall be a mechanism for informing the parent, legal guardian, or adult in loco parentis, that in the event an outbreak of vaccine-preventable disease for which the student is exempted should occur, the student may be excluded from school for the duration of the outbreak. The school shall keep on file a list of students so exempted.

(7) Exclusion from school.

(a) Conditions for attendance not fulfilled. Any student in attendance at a school (~~who fails~~) failing to provide documentary proof of full immunization; or proof of satisfactory progress toward full immunization by initiation or continuation of a schedule of immunization; or proof of either medical, religious, philosophical, or personal objection; (~~no later than forty-five calendar days after~~) before or on

the child's first day of attendance, shall be excluded from school (~~until an acceptable certificate of immunization status form is submitted to the chief administrator of the school~~) consistent with procedures required by the state board of education, Title 180 of Washington Administrative Code.

(b) (~~Notification to local health department. The chief administrator of a school shall collect at the end of the forty-five day grace period and within five working days the names and addresses of students in schools who do not comply with the requirements of these regulations and forward the names to the local health department.~~)

(c) ~~Exclusion order from local health department. Upon receipt of name(s) and address(es) of student(s) failing to comply with the provisions for attendance at school from the chief administrator of a school, the local health department shall notify the chief administrator and provide the chief administrator with a written order to exclude the student(s) failing to comply with requirements of these regulations.~~

(d) ~~Exclusion letter to parents of children failing to comply. Pursuant to the written exclusion order to the chief administrator from the local health department, the local health department will provide a standard exclusion notification letter to parents of children failing to comply with attendance requirements. This exclusion notification letter shall be of a form approved by the department of social and health services and signed by the local health officer. This shall serve as the written notice to parent(s) or legal guardian(s) of each child or to the adult(s) in loco parentis to each child, who is not in compliance with the requirements of these regulations. The notice shall fully inform such person(s) of the following:~~

(i) ~~The requirements established by and pursuant to RCW 28A.31.118;~~

(ii) ~~The fact that the child will be prohibited from further attendance at the school until requirements are met;~~

(iii) ~~Due process for exclusion of the child pursuant to the state board of education's rules and regulations;~~

(iv) ~~The immunization services that are available from or through the local health department and other public agencies.~~

(e) ~~List of children excluded.~~

The (~~the~~) chief administrator(<sup>(2)</sup>) of a school shall retain a record at the school of the name, address, and date of exclusion of each child excluded from school pursuant to the requirements of these regulations for not less than three years following the date of a child's exclusion.

(~~the~~) (c) A student in attendance in a school by virtue of presenting proof of (<sup>(2)</sup>) initiation of a schedule of immunization(<sup>(2)</sup>) or by presenting documentation of medical, religious, philosophical, or personal objection may be subject to exclusion pursuant to the state board of health in chapter 248-101 of Washington administrative code in the event of exposure to a communicable disease in a school.

(8) Records.

(a) The official proof for documentation of compliance with these regulations shall be the certificate of immunization status form. The latest revised certificate of immunization status form will be required of all new enrollees registering in kindergarten through (~~sixth~~) twelfth grade after (~~September 1, 1979, and for all new enrollees in all grades after September 1, 1980~~) August 15, 1985, and thereafter.

If a child was enrolled in a school prior to (~~the effective date of these regulations~~) September 1, 1979, the certificate of immunization status form DSHS 13-263, or approved locally-developed forms, on file will serve as documentary proof for admittance if requirements are met.

Schools shall have on file an approved certificate of immunization status form for every child enrolled. When a child withdraws(;) or transfers (~~or is promoted to a new school within a school district or~~) between school districts, the chief administrator shall return the original or a copy of the certificate of immunization status form to the parent, guardian, or adult in loco parentis (~~or it may be transferred with the child's records to the new school~~). This record must not be withheld for nonpayment of school fees or any other reason.

(b) The (<sup>(2)</sup>) chief administrator(<sup>(2)</sup>) of a school shall allow agents of state and local health departments access during business hours to the (~~health~~) immunization records retained on each student or child enrolled.

(c) Personal immunization record. The immunizations required by these regulations may be obtained from any private or public source desired, provided (~~that~~) the immunization is administered and records are made in accordance with these regulations. Any person or organization administering immunizations shall furnish each person immunized, or his or her parent or legal guardian, or any adult in loco

parentis to the child, with a written record of immunization, the content of which the state board of health has prescribed.

(9) Reporting.

~~((a))~~ The ~~((b))~~ chief administrator~~((c))~~ of a school shall file a written annual report ~~((multiple carbonized form))~~ with the department of social and health services and local health departments on the immunization status of students in school by ~~((November 1))~~ October 15th of each year and on forms prescribed by the department of social and health services. In the event of a late school opening, the report will be required ~~((sixty))~~ thirty days after the first day of school.

~~((b))~~ The annual report from schools shall reflect the status of all students enrolled in September 1979, in kindergarten through sixth grade; in September 1980, the annual report will include the status of new admissions and transfer students in grades kindergarten through seven and all students in grades eight through twelve; in 1981, and thereafter the annual report will cover only new admissions and transfer students in all grades.)

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 185, filed 9/11/79)

WAC 248-100-164 IMMUNIZATION OF CHILDREN ATTENDING DAY CARE CENTERS AGAINST CERTAIN VACCINE-PREVENTABLE DISEASES. (1) DEFINITIONS. For purposes of this section:

(a) "Chief administrator" means the person with the authority and responsibility for the immediate supervision of the operation of a day care center or, in the alternative, such other person as may be designated in writing for the purpose of carrying out the requirements of ~~((these regulations))~~ RCW 28A.31.118 by the statutory or corporate board of directors of the day care center, or, if none, such other persons or person with the authority and responsibility for the general supervision of the operation of the day care center.

(b) "Full immunization" means ~~((immunization))~~ having been vaccinated against the following vaccine-preventable diseases: Diphtheria, pertussis (whooping cough), tetanus, poliomyelitis, measles (rubeola), rubella ~~((German measles))~~, and mumps in accordance with full immunization schedules and with immunizing agents approved by the state board of health in ~~((these regulations))~~ this section. ~~((Full immunization applies only to children age four and older who meet requirements as stipulated in subsection (2) of this section.))~~

(c) "Local health department" means the city, town, county, district or combined city-county health department, board of health, or health officer ~~((which provides))~~ providing health services.

(d) "Day care center" means an agency ~~((which))~~ regularly ~~((provides))~~ providing care for a group of thirteen or more children for periods of less than twenty-four hours and is licensed pursuant to chapter 74.15 RCW.

(e) "First day of attendance" means ~~((September 1, 1979, for all children enrolled in a day care center on or before that date and))~~ the actual date of first attendance ~~((for children enrolled thereafter.))~~

(f) "Immunizing agents" means any vaccine or other biologic currently licensed and approved by the Bureau of Biologics, United States Public Health Service for immunization of persons against diphtheria, pertussis (whooping cough), tetanus, (DTP, DT, Td), measles (rubeola), rubella (German measles), mumps, and poliomyelitis Type I, II, and III (TOPV, IPV).

(g) "Immunization requirement" means the minimal acceptable schedule of immunizing agents as defined by the state board of health in these regulations for attendance of a child at a day care center.

(h) "Initiation of a schedule of immunization" is defined as the process of beginning or continuing a course of immunizations. All children who have not had three doses each of DTP/DT and polio vaccines with the last doses after the fourth birthday, and one dose each of measles, mumps and rubella vaccines are to be considered "initiating or continuing" a schedule of immunization. Children who do not meet the requirements for their age group must receive at least one dose of vaccine within forty-five calendar days of the child's first day of attendance).

(2) FULL IMMUNIZATION ~~((REQUIREMENTS))~~ SCHEDULE.

Children must meet the following immunization requirements for each age:

DTP/DT/Td\* VACCINE

| AGE               | REQUIREMENT  |
|-------------------|--|
| 2 months          | 1 dose   |
| 4 months          | 2 doses  |
| 6 - 17 months     | 3 doses  |
| 18 - 47 months    | 4 doses  |
| 4 years and older | At least 3 doses provided that the last dose was administered at or after age 4. |

\*NOTE: The vaccine is administered to children 7 years of age and older only.

TRIVALENT POLIO VACCINE ~~((=TOPV))~~ ~~((TPV))~~

ORAL POLIO VACCINE (OPV)

| AGE               | REQUIREMENT  |
|-------------------|--|
| 2 months          | 1 dose   |
| 4 - 17 months     | 2 doses  |
| 18 - 47 months    | 3 doses  |
| 4 years and older | At least 3 doses provided that the last dose was administered at or after age 4. |

INACTIVATED POLIO VACCINE - (IPV)

| AGE                      | REQUIREMENT   |
|--------------------------|---|
| <u>2 months</u>          | <u>1 dose</u>   |
| <u>4 months</u>          | <u>2 doses</u>  |
| <u>6 - 17 months</u>     | <u>3 doses</u>  |
| <u>18 - 47 months</u>    | <u>4 doses</u>  |
| <u>4 years and older</u> | <u>At least 4 doses provided that the last dose was administered at or after age 4.</u> |

MEASLES\*, MUMPS, AND RUBELLA\* VACCINES

| AGE                            | REQUIREMENT  |
|--------------------------------|--|
| <del>((Under 15 months))</del> | <del>((None))</del>  |
| 15 months or older             | 1 dose of each (vaccine administered at or after <del>((12 months))</del> <u>one year</u> of age is acceptable). |

\* NOTE: ~~((1))~~ Any child who is 15 months of age or older must have:

— (a) one dose of measles vaccine by the 45th day after the child's first day of attendance, or

— (b) one dose of measles vaccine within 45 days after the child becomes 15 months of age.

The above conditions do not apply to a child who is exempt for measles vaccine. Any child not meeting the measles requirement will be excluded from the day care center in the manner required by subsection (7) of this section:

(2) Measles vaccine is not recommended prior to 15 months of age unless there is an earlier threat of exposure to measles:

(3) A child meets the measles immunization requirement as a result of having had measles (rubeola) disease. In such instances, a physician must document and certify the month and year of disease occurrence.

A child meets the rubella immunization requirement by providing proof of past infection with rubella virus (an acceptable rubella antibody titer result).

(3) SATISFACTORY PROGRESS TOWARD FULL IMMUNIZATION OR INITIATION AND CONTINUATION OF A SCHEDULE OF IMMUNIZATION.

(a) Attendance at a day care center by a child ~~((who has))~~ not ~~((received))~~ receiving full immunization shall be conditioned upon the presentation of proof that the child has initiated or is continuing on a schedule of immunization ~~((according to subsection (1)(h) of this section))~~ The child's schedule of immunizations shall be completed according to guidelines of the 1982 American Academy of Pediatrics

(AAP) Red Book or according to General Recommendations on Immunizations January 14, 1983 of the Immunization Practices Advisory Committee of the United States Public Health Service (ACIP).

(b) Admission in subsequent ~~((year(s))) year or years~~. A child ~~((who is))~~ admitted conditionally as provided in subsection (3)(a) of this section ~~((;))~~ shall present proof of completion of each dose of vaccine required in subsection (2) of this section as soon as possible and not later than twelve calendar months from the time the child is admitted conditionally. This process shall be continued until the child is fully immunized. If the child has not completed the required schedule of immunization within the required time period, ~~((the "chief administrator" of the day care center shall immediately notify the local health department of the name and address of the child along with a report of the status of the child's immunization schedule))~~ and ~~((when the child was first admitted to the day care center:))~~ if there has been a sufficient period of time to reasonably permit the child to have completed the required immunization schedule, the ~~((health department))~~ chief administrator shall issue an order of exclusion in the manner required in subsection (7) of this section. If there has not been sufficient time to complete the schedule, the ~~((health department))~~ chief administrator shall notify the child's parents ~~((and the "chief administrator" of the day care center))~~ as to when the schedule must be completed. If the schedule is not completed by that date, the ~~((health department))~~ chief administrator shall issue an order of exclusion pursuant to subsection (7) of this section.

(4) DOCUMENTARY PROOF.

(a) Proof of full immunization, initiation or continuation of a schedule, or exemptions shall be entered by the parent on a certificate of immunization status form (CIS) (DSHS 13-263). Immunization data on the certificate of immunization status form shall be based on a written personal immunization record given to the person immunized or to his or her parent or guardian by the physician or agency administering the immunization. This personal immunization record shall not be surrendered to day care center authorities and shall not substitute for the certificate of immunization status form.

(b) The certificate of immunization status form shall include at least the following information required to fulfill the intent of RCW 28A.31.118:

- (i) Name of person;
- (ii) Birthdate;
- (iii) Sex;
- (iv) Type of vaccine administered;
- (v) Date of each dose of vaccine, specifying month and year (day optional);
- (vi) Signature of parent, legal guardian, or adult in loco parentis.

(c) The revised certificate of immunization status form (DSHS 13-263) shall be provided to licensed day care centers by the department of social and health services and will be the only acceptable form for all new registrants after ~~((September 1, 1979)) August 15, 1985~~. For the child already registered or enrolled in a day care center prior to ~~((enactment))~~ revision of these regulations, previous certificates of immunization status forms (e.g., DSHS 13-263) ~~((or locally developed forms approved by DSHS))~~ shall be acceptable as the official certificate of immunization status ~~((PROVIDED, That dates for the latest doses of DTP/Td and poliomyelitis vaccines are indicated and that dates (month and year) are provided for each dose of measles, rubella, and mumps vaccine, if required))~~.

(d) Proof in subsequent years. Once proof of full immunization or proof of exemption from the immunization law has been presented, no further proof shall be required as a condition to attendance at a particular center, provided ~~((that))~~ the certificate of immunization status form on such a child remains on file at the day care center.

(5) MEDICAL EXEMPTIONS.

(a) Certification of medical contraindication for one or more ~~((immunization(s))) immunization or immunizations~~ shall be provided on the certificate of immunization status form, certified and signed by a licensed physician.

(b) A child ~~((who is))~~ temporarily exempt from immunization for medical reasons may be admitted on condition ~~((that))~~ required immunizations are obtained at the termination of the duration of exemption. If the medical condition is permanent or life-long, the student may be admitted and the certificate of immunization status filed on each child.

(c) There shall be a mechanism for informing the parent, legal guardian, or adult in loco parentis that in the event an outbreak of vaccine-preventable disease for which the child is exempted should occur, the child may be excluded from the center for the duration of the

outbreak. The day care center shall keep on file a list of children so enrolled.

(6) RELIGIOUS, PHILOSOPHICAL, PERSONAL EXEMPTIONS.

(a) A child ~~((who is))~~ exempt from immunization because of religious, philosophical, or personal objections may be admitted to a day care center and the fact of the exemption shall be recorded on the certificate of immunization status form signed by the parent, guardian, or adult in loco parentis.

(b) Each day care center shall keep on file the certificate of immunization status form for each child so enrolled.

(c) There shall be a mechanism for informing the parent, legal guardian, or adult in loco parentis that in the event an outbreak of vaccine-preventable disease for which the child is exempted should occur, the child may be excluded from the center for the duration of the outbreak. The day care center shall keep on file a list of children so enrolled.

(7) EXCLUSION FROM DAY CARE CENTER.

(a) Conditions for attendance not fulfilled. Any child in attendance at a day care center ~~((who fails))~~ failing to provide documentary proof of full immunization, or proof of initiation or continuation of a schedule of immunization, or proof of either medical, religious, philosophical, or personal objection, ~~((within forty-five calendar days after))~~ before or on the child's first day of attendance, shall be excluded from the day care center by the ~~((^))~~ chief administrator ~~((^))~~ of the day care center until an acceptable certificate of immunization status form is submitted to the ~~((^))~~ chief administrator ~~((^))~~.

~~((Notification to local health department. The "chief administrator" of a day care center shall collect, at the end of the forty-five day grace period and within five working days, the name and address of each child who does not comply with the requirements of these regulations and forward the name(s) to the local health department.~~

~~((Exclusion order from local health department. Upon receipt of name(s) and address(es) of each child failing to comply with the provisions for attendance at a day care center from the "chief administrator," the local health department shall notify the "chief administrator" and provide the "chief administrator" with a written order to exclude the children failing to comply with requirements of these regulations.~~

~~((^))~~ Exclusion letter to parents of children failing to comply. ~~((Pursuant to the written exclusion order to))~~ The ~~((^))~~ chief administrator ~~((from the local health department, the local health department))~~ will provide a standard exclusion notification letter to parents of children failing to comply with attendance requirements. This exclusion notification letter ~~((shall be of a form approved by the department of social and health services and signed by the local health officer. This))~~ shall serve as the written notice to ~~((parent(s)))~~ the parent or parents or legal ~~((guardian(s)))~~ guardian or guardians of each child or to the ~~((adult(s)))~~ adult or adults in loco parentis to each child, who is not in compliance with the requirements of these regulations. The notice shall fully inform such ~~((person(s)))~~ person or persons of the following:

(i) The requirements established by and pursuant to RCW 28A.31.118;

(ii) The fact that the child will be prohibited from further attendance at the day care center until requirements are met;

(iii) The immunization services ~~((that are))~~ available from or through the local health department and other public agencies.

~~((^))~~ (c) A child in attendance in a day care center by virtue of presenting proof of ~~((^))~~ initiation or continuation of a schedule of immunization ~~((^))~~ or by presenting documentation of medical, religious, philosophical, or personal objection may be subject to exclusion in the event of exposure in the day care center to a communicable disease for which the child is unimmunized.

(8) RECORDS.

(a) The official proof for documentation of compliance with these regulations shall be the certificate of immunization status form. The revised certificate of immunization status form will be required of all new registrants after ~~((September 1, 1979)) August 15, 1985~~.

If a child was enrolled in a day care center prior to ~~((the effective date of these regulations)) August 15, 1985~~, the certificate of immunization status form DSHS 13-263 ~~((or approved locally developed forms))~~ on file will serve as documentary proof for admittance if requirements are met.

Day care centers shall have on file an approved certificate of immunization status form for every child enrolled. When a child withdraws or transfers to a new day care center, the administrator shall return the original or a copy of the certificate of immunization status form to the parent.

(b) The ((<sup>±</sup>))chief administrator((<sup>±</sup>)) of a day care center shall allow agents of state and local health departments access during business hours to the immunization records retained on each child enrolled.

(c) Personal immunization record. The immunizations required by these regulations may be obtained from any private or public source desired, provided ((that)) the immunization is administered and records are made in accordance with these regulations. Any person or organization administering immunizations shall furnish each person immunized, or his or her parent or legal guardian, or any adult in loco parentis to the child, with a written record of immunization, the content of which the state board of health has prescribed.

(9) REPORTING.

The ((<sup>±</sup>))chief administrator((<sup>±</sup>)) of a day care center shall file a written annual report ((~~multiple carbonized form~~)) with the department of social and health services and local health departments on the immunization status of children by ((~~November 1~~)) February 1st of each year and on forms prescribed by the department of social and health services.

**WSR 85-16-116  
PROPOSED RULES  
DEPARTMENT OF  
GENERAL ADMINISTRATION  
(Division of Banking)**

[Filed August 7, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Division of Banking, Department of General Administration, intends to adopt, amend, or repeal rules concerning banks and trust companies, amending WAC 50-12-050 concerning loans made to officers, amending WAC 50-12-040, 50-48-020 and 50-44-030 concerning fees charged by the supervisor, amending WAC 50-24-100 concerning public records creating two new sections: WAC 50-12-100 concerning leases of bank premises and WAC 50-12-110 concerning limits on investment securities, and repealing WAC 50-12-010 concerning minimum reserve requirements;

that the agency will at 10:00 a.m., Wednesday, September 11, 1985, in the Office of the Supervisor of Banking, Room 219, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 30.12.060, 30.08.095, 30.04.070 and 30.04.030, respectively.

The specific statute these rules are intended to implement is RCW 30.04.210 for WAC 50-12-100.

Dated: August 7, 1985

By: L. O. Malmberg  
Acting Supervisor

**STATEMENT OF PURPOSE**

Title: WAC 50-12-050 Limiting loans to officers.

Description of Purpose: Prescribes limits on the amount and type of loans that may be made by the bank to its officers.

Statutory Authority: RCW 30.12.060, which empowers the Supervisor of Banking to prescribe limits for the total value of loans made and obligations acquired for any one officer.

Summary of Rule: Limits extensions of credit to officers to five percent of the bank's capital and unimpaired surplus or twenty-five thousand dollars, whichever is greater, and limits the aggregate value of all loans to an officer to five hundred thousand dollars. The rule also limits to these amounts loans made to an officer by an affiliated corporation.

Reasons Supporting Proposed Action: To place reasonable limits on loans to bank officers and to reduce the possibility of lending abuses.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: The supervisor and his staff.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Supervisor of Banking.

Small Business Economic Impact Statement: This rule will not have an economic impact on more than twenty percent of all financial institutions or more than ten percent of state-chartered banks and trust companies. Accordingly, an economic impact statement is not required under RCW 19.85.030.

Title: WAC 50-12-040 Schedule of fees for banks, trust companies, stock savings banks, mutual savings banks, and alien banks; and 50-48-020 Joint application.

Description of Purpose: Prescribe the various fees established by the supervisor for processing applications, issuing certificates, etc.

Statutory Authority: RCW 30.08.095, which empowers the Supervisor of Banking to establish by rule fees for services rendered by the Division of Banking.

Summary of Rule: Establishes a fee for an acquisition and control application of five thousand dollars, a fee for a phantom or interim bank application of five hundred dollars, a fee for an application for purchase or sale of a branch of five hundred dollars, a fee for services rendered to a bank or trust company pursuant to chapters 30.44 and 30.46 RCW of hourly charges plus actual expenses, and a fee for application for conversion from a mutual to a stock savings bank of two thousand dollars. If the actual cost of investigation and processing computed at forty dollars per employee hour plus actual expenses is greater, the financial institution or applicant shall pay this greater amount.

Reasons Supporting Proposed Action: To establish uniform fees for services, and to enable the Division of Banking to recover the estimated actual cost of these services.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: The supervisor and his staff.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Supervisor of Banking.

Small Business Economic Impact Statement: This rule will not have an economic impact on more than twenty percent of all industries or more than ten percent of state-chartered financial institutions. Accordingly, an economic impact statement is not required under RCW 19.85.030.

**Title:** WAC 50-44-030 Additional fees and charges—Special examinations—Branch offices.

**Description of Purpose:** Establishes the hourly fee for special examinations and examinations of branch banks.

**Statutory Authority:** RCW 30.04.070, which empowers the Supervisor of Banking to collect for each examination the estimated actual cost of such examination.

**Summary of Rule:** Establishes as the estimated actual cost of special examinations an hourly rate of \$40 per employee hour plus actual expenses incurred.

**Reasons Supporting Proposed Action:** To enable the Division of Banking to recover the estimated actual cost of special examinations.

**Agency Personnel Responsible for Drafting, Implementation and Enforcement:** The supervisor and his staff.

**Person or Organization Proposing Rule, and Whether Public, Private, or Governmental:** Supervisor of Banking.

**Small Business Economic Impact Statement:** This rule will not have an economic impact on more than 20% of all industries or more than 10% of state-chartered financial institutions. Accordingly, an economic impact statement is not required under RCW 19.85.030.

**Title:** WAC 50-24-100 Exemptions.

**Description of Purpose:** Provides exemptions to the general rule that all information received by the supervisor and his office from any bank, trust company, or mutual savings bank is confidential and may not be disclosed except to certain government officials.

**Statutory Authority:** RCW 30.04.030, which empowers the Supervisor of Banking to adopt uniform rules and regulations to govern the administration of Title 30 RCW.

**Summary of Rule:** Deletes references to repealed portions of the RCW and adds references to recently enacted portions.

**Person or Organization Proposing Rule, and Whether Public, Private, or Governmental:** Supervisor of Banking.

**Small Business Economic Impact Statement:** This rule as amended will not have an economic impact on more than 20% of all industries or 10% of all financial institutions. Accordingly, an economic impact statement is not required under RCW 19.85.030.

**Title:** WAC 50-12-100 Leasing bank premises—Limitations.

**Description of Purpose:** Allows a bank or trust company to lease part of its premises to third parties for business activities with certain restrictions.

**Statutory Authority:** RCW 30.04.030, which empowers the Supervisor of Banking to adopt uniform rules and regulations to govern the administration of Title 30 RCW.

**Specific Statute Rule is Intended to Implement:** RCW 30.04.210, which provides that a bank or trust company may rent other apartments in the same building as its banking offices as necessary for the convenient transaction of business and as a source of income.

**Summary of Rule:** Allows a bank or trust company to lease part of its premises to persons engaged in nonbank

or nontrust activities if the bank or its directors, officers, or employees have no financial interest in the lessee's business activities, collect no commissions or other revenues from the lessee other than rent, and exert no managerial control over the lessee or his business activities.

**Reasons Supporting Proposed Action:** To clarify the circumstances in which a bank or trust company may lease part of his business premises to a third party engaged in nonbank or nontrust business activities. The rule provides protections against inappropriate leasing arrangements with third parties conducting business activities on the bank or trust company's premises.

**Agency Personnel Responsible for Drafting, Implementation and Enforcement:** The supervisor and his staff.

**Person or Organization Proposing Rule, and Whether Public, Private, or Governmental:** Supervisor of Banking.

**Small Business Economic Impact Statement:** This rule will not have an economic impact on more than 20% of all financial institutions or more than 10% of state-chartered banks and trust companies. Accordingly, an economic impact statement is not required under RCW 19.85.030.

**Title:** WAC 50-12-110 Investment securities—Limit on holdings.

**Description of Purpose:** Limits the dollar amount of obligations of a single obligor that may be held by a bank or trust company, subject to certain exceptions.

**Statutory Authority:** RCW 30.04.030, which empowers the Supervisor of Banking to adopt uniform rules and regulations to govern the administration of Title 30 RCW.

**Summary of Rule:** Restricts the amount of obligations of a single obligor that may be purchased or held by a bank or trust company to the limits prescribed by RCW 30.04.110 except for certain obligations of the United States government including obligations associated with a department or agency of the United States government if repayment of those obligations is subject to the full faith and credit of the United States government, and except for general obligations of a state or political subdivision or the obligations of a state or political subdivision having general powers of taxation.

**Reasons Supporting Proposed Action:** To clarify the scope of RCW 30.04.110 limiting extensions of credit to any one borrower by excluding from those limitations certain obligations of governmental entities.

**Agency Personnel Responsible for Drafting, Implementation and Enforcement:** The supervisor and his staff.

**Person or Organization Proposing Rule, and Whether Public, Private, or Governmental:** Supervisor of Banking.

**Small Business Economic Impact Statement:** This rule will not have an economic impact on more than 20% of all financial institutions or more than 10% of state-chartered banks and trust companies. Accordingly, an economic impact statement is not required under RCW 19.85.030.

Title: WAC 50-12-010 Minimum reserve requirements for state banks and trust companies—Computations.

Description of Purpose: Prescribes the minimum reserve requirements necessary for the safe and sound operation of state banks and trust companies.

Statutory Authority: RCW 30.04.030, which empowers the Supervisor of Banking to adopt uniform rules and regulations to govern the administration of Title 30 RCW.

Summary of Rule: Will remove the minimum reserve requirements imposed by the state Supervisor of Banking on state banks and trust companies pursuant to preemptive federal legislation superceding reserve requirements for state-chartered banks.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: The supervisor and his staff.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Supervisor of Banking.

Small Business Economic Impact Statement: Repeal of this rule will not have an economic impact on more than 20% of all financial institutions or more than 10% of state-chartered banks and trust companies. Accordingly, an economic impact statement is not required under RCW 19.85.030.

#### AMENDATORY SECTION (Amending Order 58, filed 1/13/84)

WAC 50-12-050 LIMITING LOANS TO OFFICERS. (~~With the specific prior approval by resolution of its board of directors as required by law, a bank may make the following loans to any of its officers:~~

~~(1) A loan, to any of its officers if, at the time the loan is made:~~

~~(a) It is secured by a first lien on a dwelling which is expected, after the making of the loan, to be owned by the officer and used by him as his residence; and~~

~~(b) No other loan made by the bank to the officer under authority of this subparagraph is outstanding;~~

~~(2) In addition to (1) above, a bank may make extensions of credit to any officer of a bank to finance the education of the children of the officer; and~~

~~(3) A bank, in addition to loans made pursuant to subparagraphs (1) and (2) above, may make extensions of credit to its officers not exceeding the greater of \$25,000.00 or three percent of the bank's capital, surplus, and undivided profits. In no case shall the extension of credit to an officer under this paragraph exceed the aggregate amount of \$100,000.00, or the total liability to the bank by the officer exceed the limit prescribed by RCW 30.04.110, whichever is less.) (1) A bank or trust company may make the following loans to any of its officers:~~

~~(a) A loan secured by a first lien on a dwelling if at the time the loan is made:~~

~~(i) The dwelling secured is expected to be both owned by the officer and used by him as his residence after the loan is made; and~~

~~(ii) No other such loan made by the bank or trust company to the officer under the authority of (a) of this subsection is outstanding;~~

~~(b) A loan to finance the education of an officers' children; and~~

~~(c) Any other secured or unsecured loan including a line of credit which, at the time the loan is made, is not in excess of the greater of \$25,000 or 2.5% of capital and unimpaired surplus as defined in RCW 30.12.060(2), but in no event for an amount greater than \$100,000.~~

~~(2) A bank or trust company shall not make a loan under subsection (1) of this section to an officer which, at the time the loan is made, exceeds the greater of \$25,000 or 5% of capital and unimpaired surplus as defined in RCW 30.12.060(2) unless a resolution authorizing a loan for a greater amount is adopted by a vote of a majority of the board of directors of the bank or trust company prior to the making of such loan, and the vote and resolution is entered in the corporate minutes.~~

~~(3) In no case shall the total liability of an officer to a bank or trust company under subsection (1) of this section exceed either \$500,000, unless approved in advance for a greater amount by a majority of the board of directors prior to the making of any loan in excess of this amount, or the limit prescribed by RCW 30.04.110, whichever is less. When computing the total outstanding liability of an officer of a bank or trust company belonging to an affiliated group of two or more corporations, all loans to the officer from the affiliated corporations shall be aggregated, including but not limited to loans from:~~

~~(a) The bank or trust company's parent bank holding company; or~~

~~(b) Any other corporation held by the bank or trust company's parent bank holding company; or~~

~~(c) A subsidiary of the bank or trust company; or~~

~~(d) A subsidiary of any other corporation if such corporation is held by the bank or trust company's parent bank holding company.~~

~~(4) Any loan to an officer of a bank that does not require specific prior approval by a majority of the board of directors by resolution or otherwise pursuant to subsections (2) and (3) of this section shall be promptly reported to the board of directors and duly reflected in the minutes of the next regular board meeting.~~

~~(5) For purposes of this section, the words "loan" and "loans" shall mean all extensions of credit by the bank or trust company including but not limited to the purchase, discount, or acquisition, as security or otherwise, of any debt or obligation of any officer owed to any other person.~~

#### AMENDATORY SECTION (Amending Order 48, filed 12/1/82)

WAC 50-12-040 SCHEDULE OF FEES FOR BANKS, TRUST COMPANIES, STOCK SAVINGS BANKS, MUTUAL SAVINGS BANKS, AND ALIEN BANKS. (1) Except as provided by subsection (2) of this section, the supervisor shall collect in advance the following fees:

~~((+)) (a) \$2,000.00 for ((filing)) each application for a certificate of authority and attendant investigation for a new bank or trust company or for conversion to a state-chartered institution. ((If the cost thereof (computed on the basis of \$30.00 per employee hour devoted by the division of banking to processing and investigating the application) exceeds \$2,000.00, the applicant shall pay such excess when ascertained by the supervisor.~~

~~(2)) (b) \$1,500.00 for filing an application for certificate authorizing an alien bank to establish and operate an office in the state of Washington and attendant investigation. ((If the cost thereof (computed on the basis of \$30.00 per employee hour devoted by the division of banking to processing and investigating the application) exceeds \$1,500.00, the applicant shall pay such excess when ascertained by the supervisor.~~

~~(3)) (c) \$500.00 for filing an application for certificate authorizing an alien bank to establish and operate a bureau in the state of Washington. ((If the cost thereof (computed on the basis indicated in (1) and (2) above) exceeds \$500.00, the applicant shall pay such excess when ascertained by the supervisor.~~

~~(4)) (d) \$500.00 for filing an application for a certificate of authority for a branch and attendant investigation. ((If the cost thereof (computed on the basis of \$30.00 per employee hour devoted by the division of banking to processing and investigating the application) exceeds \$500.00, the applicant shall pay such excess when ascertained by the supervisor.~~

~~(5)) (e) \$500.00 for filing an application for a certificate conferring trust powers and attendant investigation. ((If the cost thereof (computed on the basis of \$30.00 per employee hour devoted by the division of banking to processing and investigating the application) exceeds \$500.00, the applicant shall pay such excess when ascertained by the supervisor.~~

~~(6)) (f) \$2,000.00 for filing merger, consolidation or reorganizational agreement and attendant investigation. If three or more banks are involved, then the fee for each is \$1,000.00. ((If the cost thereof (computed on the basis of \$30.00 per employee hour devoted by the division of banking to processing and investigating the application) exceeds the specified fee, the applicant surviving bank shall pay such excess when ascertained by the supervisor.~~

~~(7)) (g) \$300.00 for filing an application for a certificate of appropriate adjunct and attendant investigation. ((If the cost thereof (computed on the basis of \$30.00 per employee hour devoted by the division of banking to processing and investigating the application) exceeds \$300.00, the applicant shall pay such excess when ascertained by the supervisor.~~

~~(8)) (h) \$300.00 for filing application to relocate main office or branch and attendant investigation. ((If the cost therefor (computed on the basis of \$30.00 per employee hour devoted by the division of banking to processing and investigating the application) exceeds \$300.00, the applicant shall pay such excess when determined by the supervisor.~~

~~(9)) (i) \$100.00 for issuing each branch certificate for branch resulting from merger.~~

~~((+0)) (j) \$100.00 for filing articles of incorporation, or amendments thereof, or other certificates required to be filed with the supervisor.~~

~~((+1)) (k) \$100.00 for issuing a certificate of increase or decrease of capital stock or issuing a certificate of authority.~~

~~((+2)) (l) \$100.00 for issuing any other certificate.~~

~~(m) Fifty cents per page for furnishing copies of papers filed with the supervisor.~~

~~((+3)) (n) \$300.00 for filing an application for approval of the supervisor for a bank, trust company, mutual savings bank, or stock savings bank to provide a satellite facility or facilities which are to be used ((exclusively)) by its own customers or customers of another bank. In the event the application is for approval of the supervisor to provide more than one such satellite facility, the filing fee on such a multiple application is \$300.00 for the first such satellite facility and \$100.00 for each additional satellite facility. ((This fee shall be deemed to include the cost of processing the application and the cost of an attendant investigation, but if the cost therefor (computed at \$30.00 per employee hour plus actual expenses) exceeds the filing fee, the applicant shall pay such excess when ascertained by the supervisor.~~

~~(+4)) (o) \$100.00 for the issuance of a certificate of approval to provide a satellite facility.~~

~~((+5)) (p) \$1,000.00 for filing an application for approval of a network system of satellite facilities as defined in WAC 50-40-010(4). ((This fee shall be deemed to include the cost of processing the application and the cost of an attendant investigation, but if the actual cost of such processing and investigation (computed at \$30.00 per employee hour plus actual expenses) exceeds the filing fee, the applicant shall pay such excess when ascertained by the supervisor.~~

~~(+6)) (q) \$100.00 for each application to modify a previously approved network system made in accordance with WAC 50-40-060(1) or (2). ((The fee for application to modify a previously modified supervisor at \$30.00 per employee hour plus actual expenses, with a minimum fee of \$100.00 per application.~~

~~(+7) \$200.00) (r) \$300.00 for issuing certificate of approval for capital notes.~~

~~(s) \$5,000.00 for each application by an out-of-state holding company for acquisition and control of more than five percent of the shares of voting stock or substantially all of the assets of a bank, trust company, national banking association, or bank holding company, the principal operations of which are conducted within this state.~~

~~(t) \$500.00 for each application for a certificate of authority and attendant investigation of a phantom or interim bank created to acquire all of the capital stock of a bank or trust company.~~

~~(u) \$500.00 for each application to purchase or sell a branch. In the event such application provides for the sale or purchase of more than one branch, the fee shall be \$500.00 per branch.~~

~~(v) Hourly charges for services plus actual expenses for voluntary or involuntary liquidation of a bank or trust company pursuant to chapter 30.44 RCW or for acting as conservator of a bank or trust company pursuant to chapter 30.46 RCW.~~

~~(w) \$2,000.00 for each application for conversion from a mutual savings bank to a stock savings bank.~~

~~(2) If the cost of any of the services rendered under subsection (1) of this section is determined by the supervisor to differ significantly from the fees prescribed for those services in that section, the bank, trust company, or applicant shall pay such cost computed at \$40.00 per employee hour expended plus actual expenses incurred.~~

#### AMENDATORY SECTION (Amending Order 56, filed 10/3/83)

WAC 50-48-020 JOINT APPLICATION. An application for approval of such acquisition shall be submitted jointly by the acquiring bank holding company and the domestic institution or bank holding company to be acquired. The application need not be in any particular format, but must set forth all the information required under these regulations ((and must be accompanied by an application fee in the amount of five thousand dollars)). The application shall include a copy of the agreement setting forth the plan of merger or acquisition, including certified copies of the resolutions of the respective boards of

directors of parties to the agreement approving same. The application shall also include a statement authorizing any federal or state regulatory agency to make available to the supervisor any and all information which such agency may have relating to the applicants or any of their subsidiaries.

#### AMENDATORY SECTION (Amending Order 45, filed 12/31/81)

WAC 50-44-030 ADDITIONAL FEES AND CHARGES—SPECIAL EXAMINATIONS—BRANCH OFFICES. Each bank, mutual savings bank, trust company, or industrial loan company shall pay to the supervisor the following fees:

(1) For special examinations and reviews as determined by the supervisor, ((thirty)) forty dollars per hour; (Special examinations are for the express purpose of examining unusual conditions or circumstances, including extensions of regular examinations wherein conditions may warrant extension of time required in the examination beyond normal allotted time);

(2) For electronic data processing examination, trust examination, or other examination requiring specialized expertise, ((thirty)) forty dollars per hour;

(3) For each bank branch in operation at the time of any periodic examination, seventy-five dollars;

(4) For each industrial loan company branch in operation at the time of any periodic examination, one hundred fifty dollars.

The supervisor shall submit a statement for the foregoing charges following the completion of any applicable examination, and the charges shall be paid not later than thirty days after submission of such statement.

#### AMENDATORY SECTION (Amending Order 14, filed 5/1/73)

WAC 50-24-100 EXEMPTIONS. (1) The division of banking reserves the right to determine that a public record requested in accordance with the procedures outline in WAC 50-24-080 is exempt under the provisions of section 31, chapter 1, Laws of 1973.

(2) RCW ((43.19.060 and 43.19.070)) 30.04.075 provides as the general rule that all information received by the supervisor and his office from any bank or trust company or mutual savings bank is confidential and may not be disclosed to any person other than certain other government officials, on penalty of forfeiture of office and punishment as a gross misdemeanor.

(3) In addition, pursuant to ((section 26, chapter 1, Laws of 1973)) RCW 42.17.260, the division of banking reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.

(4) All denials of requests for public records will be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

#### NEW SECTION

WAC 50-12-100 LEASING BANK PREMISES—LIMITATIONS. A bank or trust company may lease part of the premises in which it conducts its day-to-day business pursuant to RCW 30.04.210 to persons engaged in nonbanking or nontrust business activities subject to the following limitations:

(1) No director, officer, or employee of such bank or trust company may have any direct or indirect financial interest in the lessee's business activities conducted on the premises leased;

(2) No bank or trust company may receive commissions or other revenues from the lessee other than periodic rental payments received under terms that are usual and customary in leasing space used for similar commercial purposes as determined by the supervisor;

(3) No lessee may have access to security areas of the bank or trust company's premises, nor may a lessee conduct business activities on a bank or trust company's premises other than during regular banking hours;

(4) No director, officer, or employee of a bank or trust company may be employed by, or serve in any fiduciary capacity for a corporation or other person leasing the premises of such bank or trust company for such business activities;

(5) No bank or trust company may exercise managerial control over the lessee's business activities or assume, guarantee, or otherwise become obligated for the lessee's debts or legal obligations;

(6) No bank or trust company may advertise a lessee's business activities conducted on such bank or trust company's premises as a service provided by the bank or trust company, or otherwise represent that the lessee's business activities are not independently owned and operated;

(7) No bank or trust company may use tying arrangements involving the sale of a lessee's goods or services offered on such bank or trust company's premises or in any other way require purchase of a lessee's goods or services as a condition for granting credit or performing services.

(8) For purposes of this section, the term "bank or trust company" includes any person or corporation under the supervision of the division of banking directly or indirectly affiliated with the lessor.

**NEW SECTION**

WAC 50-12-110 INVESTMENT SECURITIES—LIMIT ON HOLDINGS. No bank or trust company may purchase or hold obligations of a single obligor in excess of the limits prescribed by RCW 30.04.110, nor purchase or hold any obligation not authorized by Title 30 RCW, except for the following:

- (1) Obligations of the United States;
- (2) Obligations issued, insured, or guaranteed by a department or agency of the United States, including obligations of such departments or agencies representing an interest in a loan or pool of loans, if such obligation commits the full faith and credit of the United States to its repayment;
- (3) General obligations of a state or political subdivision of a state including but not limited to obligations of a county, city, town, municipal corporation, or any publicly-owned entity that is an instrumentality of a state or municipal corporation;
- (4) Obligations of any state or political subdivision of a state if a state or political subdivision of a state having general powers of taxation has unconditionally promised to make sufficient funds available for full repayment of the obligation.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 50-12-010 MINIMUM RESERVE REQUIREMENTS FOR STATE BANKS AND TRUST COMPANIES—COMPUTATIONS.

**WSR 85-16-117  
PROPOSED RULES  
UTILITIES AND TRANSPORTATION  
COMMISSION  
[Filed August 7, 1985]**

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 relating to telephone information service providers, WAC 480-120-061, 480-120-066, 480-120-081 and 480-120-106, Cause No. U-85-35. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendments on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17);

that the agency will at 9:00 a.m., Wednesday, August 14, 1985, in the Commission's Hearing Room, Sixth Floor, Highways-Licenses Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 80.01.040.

The specific statute these rules are intended to implement is chapter 80.36 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 9, 1985.

This notice is connected to and continues the matter in Notice No. WSR 85-14-055 filed with the code reviser's office on June 28, 1985.

Dated: August 7, 1985  
By: Paul Curl  
Acting Secretary

**WSR 85-16-118  
ADOPTED RULES  
UTILITIES AND TRANSPORTATION  
COMMISSION**

[Order R-234, Cause No. U-85-21—Filed August 7, 1985]

In the matter of amending WAC 480-120-106 relating to the form of telephone bills.

This action is taken pursuant to Notice No. WSR 85-14-054 filed with the code reviser on June 28, 1985. This rule change hereinafter adopted shall take effect pursuant to RCW 34.04.040(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and is intended administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to Notice No. WSR 85-14-054 the above matter was scheduled for consideration at 9:00 a.m., Wednesday, August 7, 1985, in the Commission's Hearing Room, Sixth Floor, Highways-Licenses Building, Olympia, Washington, before Chairman Sharon L. Nelson and Commissioners Robert W. Bratton and Richard D. Casad.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to August 2, 1985. Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments orally at 9:00 a.m., Wednesday, August 7, 1985, in the Commission's Hearing Room, Sixth Floor, Highways-Licenses Building, Olympia, Washington.

At the August 7, 1985, meeting the commission considered the rule change proposal. No written or oral comments were received.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-120-106 should be amended to read as set forth in Appendix A shown below and by this reference made a part hereof. WAC 480-120-106 as amended will require telephone companies to identify

separately any charges billed to customers by order of or at the direction of the Federal Communications Commission.

### ORDER

WHEREFORE, IT IS ORDERED That WAC 480-120-106 as set forth in Appendix A, be amended as a rule of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rule, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 7th day of August, 1985.

Washington Utilities and Transportation Commission  
Sharon L. Nelson, Chairman  
Robert W. Bratton, Commissioner  
Richard D. Casad, Commissioner

### APPENDIX "A"

#### AMENDATORY SECTION (Amending Order R-86, filed 6/30/76)

WAC 480-120-106 FORM OF BILLS. Bills to subscribers shall be rendered regularly and clearly list all charges. Each bill shall indicate the date it becomes delinquent and notice of means by which a subscriber can contact the nearest business office of the utility.

All bills for telephone service shall identify and set out separately any access or other charges imposed by order of or at the direction of the Federal Communications Commission. In addition, all bills for telephone service within jurisdictions where taxes are applicable will clearly delineate the amount, or the percentage rate at which said tax is computed, which represents municipal occupation, business and excise taxes that have been levied by a municipality against said utility, the effect of which is passed on as a part of the charge for telephone service.

Subscribers requesting by telephone, letter or office visit an itemized statement of all charges shall be furnished same. An itemized statement is meant to include separately, the total for exchange service, mileage charges, taxes, credits, miscellaneous or special services and toll charges, the latter showing at least date, place called and charge for each call. Any additional itemization shall be at a filed tariff charge.

Upon a showing of good cause, a subscriber may request to be allowed to pay by a certain date which is not the normally designated payment date. Good cause shall include, but not be limited to, adjustment of the payment schedule to parallel receipt of income. A utility may be exempted from this adjustment requirement by the commission.

### WSR 85-16-119 PROPOSED RULES LIQUOR CONTROL BOARD

[Filed August 7, 1985]

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 Convention defined—Hospitality rooms, display booths, receptions and similar activities—Permits required—Fees—Procedures, WAC 314-45-010;

that the agency will at 10:00 a.m., Wednesday, September 11, 1985, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 66.08.030 and 66.98.070.

The specific statute these rules are intended to implement is RCW 66.20.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 11, 1985.

Dated: August 7, 1985

By: L. H. Pedersen  
Chairman

### STATEMENT OF PURPOSE

Title: WAC 314-45-010 Convention defined—Hospitality rooms, display booths, receptions and similar activities—Permits required—Fees—Procedures.

Description of Purpose: To increase the present fee charged for processing this special permit.

Statutory Authority: RCW 66.08.030 and 66.98.070.

Statutes Implemented by the Rule: RCW 66.20.010.

Summary of Rule: WAC 314-45-010(2) as amended is summarized as follows: A manufacturer, importer, wholesaler, or agent thereof must hold a special permit issued by the board to engage in such an activity at a convention. The fee for each such special permit shall be \$25.00. Such application shall be submitted on a form prescribed by the board.

Reason Supporting Proposed Action: This is a house-keeping amendment to increase the fee for processing this special permit to coincide with the fees established in WAC 314-38-020.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Ray Hensel, Supervisor, License Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6259.

Person or Organization Proposing Rule: Washington State Liquor Control Board.

Agency Comments: None.

Necessity of Rule: This rule was not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: Cost impact for both small and large businesses would be minimal to zero.

AMENDATORY SECTION (Amending Order 46, filed 6/9/76)

WAC 314-45-010 CONVENTION DEFINED—HOSPITALITY ROOMS, DISPLAY BOOTHS, RECEPTIONS AND SIMILAR ACTIVITIES—PERMITS REQUIRED—FEES—PROCEDURES. Activities pursuant to RCW 66.20.010 (7), (8), a manufacturer, importer, wholesaler, or agent thereof, may serve or donate liquor without charge to delegates and guests at a bona fide convention of a trade association composed of licensees of the board, subject to conditions set forth in this regulation.

(1) For the purposes of this section a "convention" is defined as a bona fide session or assembly of the general membership of a trade association composed of licensees of the Board.

(2) Such manufacturer, importer, wholesaler, or agent thereof, must hold a special permit issued by the board to engage in such an activity at such convention. The fee for each such special permit shall be ((~~\$15.00~~)) \$25.00. Application for such permit shall be submitted on a form prescribed by the board. The statutory permits applicable to such activities are:

(a) A special permit provided for in RCW 66.20.010(7) which authorizes the holder thereof to serve liquor without charge to delegates and guests in a hospitality room or from a booth in a board-approved suppliers' display room at such convention.

(b) A special permit provided for in RCW 66.20.010(8) which authorizes the holder thereof to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at such convention.

(3) Any liquor served or donated as provided herein is authorized only for consumption within a specific area designated on an application for permit and approved by the board.

(4) A special permit holder who serves or donates any beer or wine on which state taxes have not been paid, must file a report of the quantity so served or donated and remit the amount of the taxes to the board, in conformity with RCW 66.20.010 (7), (8).

(5) Any spirituous liquor served or donated shall be purchased from the board or a Class H licensee.

WSR 85-16-120  
PROPOSED RULES  
SEATTLE COMMUNITY  
COLLEGE DISTRICT  
[Filed August 7, 1985]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Seattle Community College District intends to adopt, amend, or repeal rules concerning:

- Amd ch. 132F-104 WAC Seattle Community College District board of trustees—Rules and regulations.
- Amd WAC 132F-200-010 Tenure.
- Amd WAC 132F-116-170 Handicapped parking;

that the institution will at 2:00 p.m., Wednesday, September 11, 1985, in the Seattle Community College District Board Room, 300 Elliott Avenue West, Seattle, WA 98119, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 17, 1985.

The authority under which these rules are proposed is chapter 28B.50 RCW.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before September 11, 1985.

Dated: August 7, 1985  
By: Donald G. Phelps  
Chancellor

STATEMENT OF PURPOSE

Title and Number of Rule: Chapter 132F-104 WAC, Seattle Community College District board of trustees—Rules and regulations; WAC 132F-200-010 Tenure; and 132F-116-170 Handicapped parking.

Statutory Authority: RCW 28B.50.140(13).

Specific Statute that Rule is Intended to Implement: This WAC is necessary to comply with chapter 49.60 RCW.

Summary of the Rules: Chapter 132F-104 WAC provides general guidelines, timelines and deadlines for monthly board of trustees meetings. Amendments reflect board action on April 20, 1985, to revise meeting time, day of the week and month, and locations throughout the year. These changes necessitated changes in submission deadlines; WAC 132F-200-010 is the Seattle Community College District's tenure policy for academic employees. The word "or" was changed to "and" to include board policy, the internal collective bargaining agreement and the laws of Washington state as legal authorities. None of these authorities will be precluded with this change; and 132F-116-170 provides rules for use of handicapped parking space at all sites of Seattle Community College District facilities. This section is rewritten to more accurately state: What is legally considered disabled parking; what is a valid disabled parking permit; what a valid disabled parking permit entitles the bearer at Seattle Community College District facilities; provisions for payment for long-term parking; and short-term provisions.

Reasons Supporting Proposed Action: Chapter 132F-104 WAC, board of trustees action on April 20, 1985, to adjust existing days, dates and locations; WAC 132F-200-010 to assure no legal authority is precluded, the vice chancellor for business and finance suggested word change; and 132F-116-170 will clarify rules for usage of handicapped parking for both those eligible and those applying rules.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dr. Donald G. Phelps, Chancellor and Secretary to the Board of Trustees of Seattle Community College District VI, 300 Elliott Avenue West, Seattle, WA 98119.

Name of the Person or Organization Whether Private, Public or Governmental, that is Proposing the Change: Seattle Community College District VI.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: None.

This rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not applicable.

AMENDATORY SECTION (Amending Order 27, filed 10/10/75)

WAC 132F-104-010 REGULAR MEETING OF THE COMMUNITY COLLEGE DISTRICT VI BOARD OF TRUSTEES. The board of trustees will hold a regular meeting on the ~~(first Monday)~~ third Tuesday of each month for eleven months of the year, unless that

day is a legal holiday or otherwise modified by board action. In the event that the board of trustees is unable to meet on the regular meeting date, the chairman of the board may order that the meeting be rescheduled or that no regular meeting of the board be held that month. The board shall maintain and announce a tentative meeting schedule approximately six months in advance showing the date, time, and location of each meeting. Advance notice of meetings shall be given in accordance with the Open Public Meetings Act of 1971, as amended.

**AMENDATORY SECTION** (Amending Order 30, filed 6/11/76)

WAC 132F-104-020 MEETING SCHEDULE. The action session of the board of trustees meeting will begin at ~~((6:30))~~ 6:00 p.m. in accordance with the published meeting schedule. The report session of the agenda will commence following the conclusion of the action session. During this time reports will be given to the board and resource people will be invited to provide detailed background information. These meetings are open to the public according to the Open Public Meetings Act of 1971, as amended.

**AMENDATORY SECTION** (Amending Order 41 and Resolution No. 1983-16, filed 6/15/83)

WAC 132F-104-030 LOCATION OF MEETING. Board meetings will be rotated among the three campuses and the district office for a total of three meetings at each campus and two meetings at the district office, one during the summer on a month designated by the board and one during December, in accordance with the published schedule:

- (1) North Seattle Community College  
9600 College Way North  
Seattle, WA 98103
- (2) Seattle Central Community College  
1701 Broadway  
Seattle, WA 98122
- (3) South Seattle Community College  
6000 - 16th Avenue S.W.  
Seattle, WA 98106

Summer and December meetings:

~~((4))~~ Seattle Community College District  
300 Elliott Avenue West  
Seattle, WA 98119

**AMENDATORY SECTION** (Amending Order 41 and Resolution No. 1983-16, filed 6/15/83)

WAC 132F-104-812 DEADLINES. Items for regular board meeting agendas should be in the board office ~~((seven))~~ twelve days before the board meeting. Advance materials, including the agenda, background materials, and other information will be mailed to the board members and an approved board materials distribution list three work days in advance of regular meetings (including the day on which the materials are mailed and the day on which the meeting is held).

**AMENDATORY SECTION** (Amending Order 41 and Resolution No. 1983-16, filed 6/15/83)

WAC 132F-104-813 SUBMISSION ROUTES. To allow the board to have the benefit of background information and research, and to permit access for all SCCD constituencies to the board, the following submission routes to the board are available:

INITIATED BY:

SUBMITTED BY:

- (1) An individual student, group of students, or student government organization  
Student body government or other elected student representative to students' advisory representative to the board, or through the dean of students to the campus president.
- (2) An individual faculty member, group of faculty members, or the faculty organization (SCCFT).  
Faculty representative organization (SCCFT) to the faculty advisory representative to the board, or to the campus president via the dean of instruction or the district chancellor.

INITIATED BY:

SUBMITTED BY:

- (3) An individual support staff employee, group of support staff employees, or the nonsupervisory classified employees' organization (WFSE).  
For supervisory classified, per individual via the campus president or district chancellor. For WFSE members, to executive committee and WFSE advisory representative to the board.
- (4) An individual administrative employee, a group of administrative employees, or administrative organization.  
Either the campus president or the district chancellor via immediate supervisor.
- (5) Individual citizens, groups, organizations, associations, agencies, or others who are not regular members of the district community.  
Campus president if the matter concerns only one campus or ~~((to))~~ the district chancellor if the matter concerns the entire district.

**AMENDATORY SECTION** (Amending Order 41 and Resolution No. 1983-16, filed 6/15/83)

WAC 132F-104-815 BOARD DISTRIBUTION LIST. The ~~((board))~~ distribution list for the board of trustees will include the following:

|   | NO. | COPIES | TOTAL                 |
|---|-----|--------|-----------------------|
| Regular board members   | 1   | each   | 5                     |
| Advisory representatives to the board (SCCFT, WFSE, 3 ASB presidents) | 1   | "      | 5                     |
| Campus presidents' offices  | 3   | "      | 9                     |
| Chancellor's office   | 3   | "      | 3                     |
| Assistant attorney general  | 1   | "      | 1                     |
| District officers and staff   | 1   | "      | <del>((5))</del><br>9 |
| President, SCCFT  | 1   | "      | 1                     |
| Campus vice presidents, SCCFT   | 1   | "      | 3                     |
| Campus <del>((library))</del> libraries                               | 1   | "      | 3                     |
| Editor, Polaris   | 1   | "      | 1                     |
| Editor, City Collegian  | 1   | "      | 1                     |
| Editor, Sentinel  | 1   | "      | 1                     |
| Education editor, Seattle Times                                       | 1   | "      | 1                     |
| Education editor, Seattle Post-Intelligencer                          | 1   | "      | 1                     |
|   |     |        | <del>((40))</del>     |

Individuals or groups who wish to read these materials may do so in the campus presidents' offices or in the board office anytime during regular working hours.

**AMENDATORY SECTION** (Amending Order 40, filed 7/1/81)

WAC 132F-104-818 NEW BUSINESS. Items not previously discussed may be presented by any individual or group at this time. Normally, no action may be taken at this time on any item which has not appeared on the printed agenda unless ~~((they are))~~ it is of an emergency nature.

**AMENDATORY SECTION** (Amending Order 41 and Resolution No. 1983-16, filed 6/15/83)

WAC 132F-104-819 NOTIFICATION TO BOARD OFFICE. Individuals or groups are requested to notify the board office ~~((seven))~~ eight working days prior to the regular board meeting of the title and/or nature of any items which they wish to discuss under old or new business at the meeting.

**AMENDATORY SECTION** (Amending Order 41 and Resolution No. 1983-16, filed 6/15/83)

WAC 132F-200-010 TENURE. The board of trustees of Seattle Community College District VI reserves to itself the final determination of the granting of tenure to any academic employee of the district; the dismissal of a tenured academic employee; or the dismissal of a

probationer during the term of his/her contract, pursuant to the policies of the board of trustees, the agreement with Seattle Community College Federation of Teachers ((σ)) and the laws of the state of Washington.

AMENDATORY SECTION (Amending Order 29, filed 10/10/75)

WAC 132F-116-170 ((~~HANDICAPPED~~)) DISABLED PARKING. No vehicle shall park in a ((~~handicapped zone other than an assigned vehicle. To qualify for a disabled parking stall, one of the following conditions must be met:~~ (1) ~~The student must display a valid state of Washington disabled permit.~~

~~(2) Be recognized by a governmental sponsoring agency as disabled, and so noted on its authorization for parking provisions for the student.~~

~~(3) The student filing with the campus business office a statement from a medical doctor as to a condition of disability)) parking space designated for disabled persons without displaying a disabled license plate, card, or decal issued by the Washington state department of licensing (or from equivalent other jurisdictions in other states) that indicates that an occupant of the vehicle is disabled.~~

(1) Such vehicle must be used to transport the disabled person.

(2) Vehicles meeting these criteria will be allowed to park in the designated spaces upon payment of the standard nonreserved parking rate.

(3) The safety and security officer of each campus and the district office shall make alternative parking available for short-term disabilities.

## Table of WAC Sections Affected

### KEY TO TABLE

**Symbols:**

- AMD = Amendment of existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- RE-AD = Readoption of existing section
- REP = Repeal of existing section
- REAFF = Order assuming and reaffirming rules
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule
- STMT = Statement regarding 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.

| WAC #       | AMD-P | WSR #     | WAC #       | AMD-P | WSR #     | WAC #      | AMD-P | WSR #     |
|-------------|-------|-----------|-------------|-------|-----------|------------|-------|-----------|
| 4-25-040    | AMD-P | 85-02-066 | 16-42-04001 | REP   | 85-15-024 | 16-316-474 | AMD   | 85-11-004 |
| 4-25-040    | AMD-C | 85-06-008 | 16-42-045   | REP-P | 85-09-061 | 16-316-635 | AMD-P | 85-11-081 |
| 4-25-040    | AMD-C | 85-06-054 | 16-42-045   | REP-W | 85-10-020 | 16-316-635 | AMD   | 85-14-093 |
| 4-25-140    | AMD-P | 85-02-066 | 16-42-045   | REP   | 85-15-024 | 16-316-660 | AMD-P | 85-06-052 |
| 4-25-140    | AMD-C | 85-06-008 | 16-42-05001 | REP-P | 85-09-061 | 16-316-660 | AMD   | 85-11-004 |
| 4-25-140    | AMD-C | 85-06-054 | 16-42-05001 | REP-W | 85-10-020 | 16-316-724 | AMD-P | 85-06-052 |
| 4-25-140    | AMD   | 85-11-013 | 16-42-05001 | REP   | 85-15-024 | 16-316-724 | AMD   | 85-11-004 |
| 4-25-260    | REP-P | 85-02-066 | 16-42-060   | NEW-P | 85-09-061 | 16-316-800 | AMD-P | 85-06-052 |
| 4-25-260    | REP-C | 85-06-008 | 16-42-060   | NEW-W | 85-10-020 | 16-316-800 | AMD   | 85-11-004 |
| 4-25-260    | REP-C | 85-06-054 | 16-42-060   | NEW   | 85-15-024 | 16-316-820 | AMD-P | 85-06-052 |
| 10-04-020   | AMD-P | 85-13-003 | 16-228      | AMD-C | 85-16-075 | 16-316-820 | AMD   | 85-11-004 |
| 10-04-020   | AMD-C | 85-14-013 | 16-228-010  | AMD-P | 85-13-052 | 16-316-830 | AMD-P | 85-06-052 |
| 10-08-040   | AMD-P | 85-13-003 | 16-228-235  | AMD-P | 85-13-052 | 16-316-830 | AMD   | 85-11-004 |
| 10-08-040   | AMD-C | 85-14-013 | 16-228-240  | REP-P | 85-13-052 | 16-316-906 | AMD-P | 85-07-058 |
| 10-08-150   | NEW-P | 85-13-003 | 16-228-245  | AMD-P | 85-13-052 | 16-316-906 | AMD   | 85-11-002 |
| 10-08-150   | NEW-C | 85-14-013 | 16-228-250  | AMD-P | 85-13-052 | 16-316-911 | AMD-P | 85-07-058 |
| 10-08-160   | AMD-P | 85-13-003 | 16-228-255  | AMD-P | 85-13-052 | 16-316-911 | AMD   | 85-11-002 |
| 10-08-160   | AMD-C | 85-14-013 | 16-228-260  | AMD-P | 85-13-052 | 16-316-921 | AMD-P | 85-07-058 |
| 16-42       | AMD-C | 85-03-061 | 16-228-265  | AMD-P | 85-13-052 | 16-316-921 | AMD   | 85-11-002 |
| 16-42       | AMD-C | 85-12-025 | 16-228-270  | REP-P | 85-13-052 | 16-316-945 | NEW-P | 85-07-058 |
| 16-42       | AMD-C | 85-13-047 | 16-228-275  | AMD-P | 85-13-052 | 16-316-945 | NEW   | 85-11-002 |
| 16-42-00101 | REP-P | 85-09-061 | 16-228-280  | REP-P | 85-13-052 | 16-316-950 | NEW-P | 85-07-058 |
| 16-42-00101 | REP-W | 85-10-020 | 16-228-285  | REP-P | 85-13-052 | 16-316-950 | NEW   | 85-11-002 |
| 16-42-00101 | REP   | 85-15-024 | 16-230-190  | AMD-P | 85-07-062 | 16-316-955 | NEW-P | 85-07-058 |
| 16-42-005   | NEW-P | 85-09-061 | 16-230-190  | AMD-C | 85-10-057 | 16-316-955 | NEW   | 85-11-002 |
| 16-42-005   | NEW-W | 85-10-020 | 16-230-190  | AMD-C | 85-11-052 | 16-316-960 | NEW-P | 85-07-058 |
| 16-42-005   | NEW   | 85-15-024 | 16-230-190  | AMD   | 85-12-012 | 16-316-960 | NEW   | 85-11-002 |
| 16-42-01001 | REP-P | 85-09-061 | 16-230-190  | AMD-P | 85-14-092 | 16-322-010 | AMD-P | 85-11-082 |
| 16-42-01001 | REP-W | 85-10-020 | 16-231      | AMD-C | 85-06-042 | 16-322-010 | AMD   | 85-15-017 |
| 16-42-01001 | REP   | 85-15-024 | 16-231-413  | NEW-P | 85-03-101 | 16-322-012 | AMD-P | 85-11-082 |
| 16-42-015   | AMD-P | 85-09-061 | 16-231-413  | NEW   | 85-07-029 | 16-322-012 | AMD   | 85-15-017 |
| 16-42-015   | AMD-W | 85-10-020 | 16-231-613  | NEW-P | 85-03-101 | 16-322-015 | AMD-P | 85-11-082 |
| 16-42-015   | AMD   | 85-15-024 | 16-231-613  | NEW   | 85-07-029 | 16-322-015 | AMD   | 85-15-017 |
| 16-42-017   | NEW-P | 85-09-061 | 16-231-615  | AMD-P | 85-03-101 | 16-322-020 | REP-P | 85-11-082 |
| 16-42-017   | NEW-W | 85-10-020 | 16-231-615  | AMD   | 85-07-029 | 16-322-020 | REP   | 85-15-017 |
| 16-42-017   | NEW   | 85-15-024 | 16-304-040  | AMD-P | 85-06-051 | 16-322-025 | AMD-P | 85-11-082 |
| 16-42-02001 | REP-P | 85-09-061 | 16-304-040  | AMD   | 85-11-003 | 16-322-025 | AMD   | 85-15-017 |
| 16-42-02001 | REP-W | 85-10-020 | 16-316-0601 | AMD-P | 85-06-052 | 16-322-035 | AMD-P | 85-11-082 |
| 16-42-02001 | REP   | 85-15-024 | 16-316-0601 | AMD   | 85-11-004 | 16-322-035 | AMD   | 85-15-017 |
| 16-42-022   | NEW-P | 85-09-061 | 16-316-215  | AMD-P | 85-06-052 | 16-322-040 | AMD-P | 85-11-082 |
| 16-42-022   | NEW-W | 85-10-020 | 16-316-215  | AMD   | 85-11-004 | 16-322-040 | AMD   | 85-15-017 |
| 16-42-022   | NEW   | 85-15-024 | 16-316-230  | AMD-P | 85-06-052 | 16-322-045 | AMD-P | 85-11-082 |
| 16-42-025   | AMD-P | 85-09-061 | 16-316-230  | AMD   | 85-11-004 | 16-322-045 | AMD   | 85-15-017 |
| 16-42-025   | AMD-W | 85-10-020 | 16-316-270  | AMD-P | 85-06-052 | 16-354-005 | AMD-P | 85-11-079 |
| 16-42-025   | AMD   | 85-15-024 | 16-316-270  | AMD   | 85-11-004 | 16-354-005 | AMD   | 85-15-046 |
| 16-42-03001 | REP-P | 85-09-061 | 16-316-315  | AMD-E | 85-13-035 | 16-354-010 | AMD-P | 85-11-079 |
| 16-42-03001 | REP-W | 85-10-020 | 16-316-327  | AMD-P | 85-06-052 | 16-354-010 | AMD   | 85-15-046 |
| 16-42-03001 | REP   | 85-15-024 | 16-316-327  | AMD   | 85-11-004 | 16-354-020 | AMD-P | 85-11-079 |
| 16-42-035   | AMD-P | 85-09-061 | 16-316-350  | AMD-P | 85-06-052 | 16-354-020 | AMD   | 85-15-046 |
| 16-42-035   | AMD-W | 85-10-020 | 16-316-350  | AMD   | 85-11-004 | 16-354-030 | AMD-P | 85-11-079 |
| 16-42-035   | AMD   | 85-15-024 | 16-316-440  | AMD-P | 85-06-052 | 16-354-030 | AMD   | 85-15-046 |
| 16-42-04001 | REP-P | 85-09-061 | 16-316-440  | AMD   | 85-11-004 | 16-354-040 | AMD-P | 85-11-079 |
| 16-42-04001 | REP-W | 85-10-020 | 16-316-474  | AMD-P | 85-06-052 | 16-354-040 | AMD   | 85-15-046 |

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| WAC #      |       | WSR #     | WAC #        |       | WSR #     | WAC #       |       | WSR #     |
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| 16-354-050 | AMD-P | 85-11-079 | 16-470-320   | NEW-P | 85-11-085 | 67-25-185   | REP-E | 85-13-023 |
| 16-354-050 | AMD   | 85-15-046 | 16-470-320   | NEW-W | 85-14-072 | 67-25-185   | REP-P | 85-15-077 |
| 16-354-070 | AMD-P | 85-11-079 | 16-470-320   | NEW-P | 85-15-054 | 67-25-190   | REP-E | 85-13-023 |
| 16-354-070 | AMD   | 85-15-046 | 16-470-330   | NEW-P | 85-11-085 | 67-25-190   | REP-P | 85-15-077 |
| 16-354-080 | REP-P | 85-11-079 | 16-470-330   | NEW-W | 85-14-072 | 67-25-200   | REP-E | 85-13-023 |
| 16-354-080 | REP   | 85-15-046 | 16-470-330   | NEW-P | 85-15-054 | 67-25-200   | REP-P | 85-15-077 |
| 16-354-090 | NEW-P | 85-11-079 | 16-470-340   | NEW-P | 85-11-085 | 67-25-257   | NEW-P | 85-03-081 |
| 16-354-090 | NEW   | 85-15-046 | 16-470-340   | NEW-W | 85-14-072 | 67-25-257   | NEW   | 85-06-030 |
| 16-354-100 | NEW-P | 85-11-079 | 16-470-340   | NEW-P | 85-15-054 | 67-25-360   | AMD-P | 85-15-077 |
| 16-354-100 | NEW   | 85-15-046 | 16-514-010   | NEW-P | 85-14-103 | 67-25-420   | AMD-P | 85-03-081 |
| 16-400-007 | NEW-P | 85-03-089 | 16-514-020   | NEW-P | 85-14-103 | 67-25-420   | AMD   | 85-06-030 |
| 16-400-007 | NEW   | 85-06-029 | 16-514-030   | NEW-P | 85-14-103 | 67-35-070   | AMD-P | 85-15-075 |
| 16-400-020 | REP-P | 85-03-089 | 16-514-040   | NEW-P | 85-14-103 | 67-35-100   | AMD-P | 85-15-075 |
| 16-400-020 | REP   | 85-06-029 | 16-514-041   | NEW-P | 85-14-103 | 67-35-130   | AMD-P | 85-15-075 |
| 16-409-015 | AMD-P | 85-03-090 | 16-514-050   | NEW-P | 85-14-103 | 67-35-140   | AMD-P | 85-15-075 |
| 16-409-015 | AMD   | 85-07-028 | 16-514-060   | NEW-P | 85-14-103 | 67-35-160   | AMD-P | 85-15-075 |
| 16-409-020 | AMD-P | 85-03-090 | 16-514-070   | NEW-P | 85-14-103 | 67-35-180   | AMD-P | 85-15-075 |
| 16-409-020 | AMD   | 85-07-028 | 16-514-080   | NEW-P | 85-14-103 | 67-35-190   | AMD-P | 85-15-075 |
| 16-409-030 | AMD-P | 85-03-090 | 16-529-030   | AMD   | 85-10-015 | 67-35-280   | AMD-P | 85-15-075 |
| 16-409-030 | AMD   | 85-07-028 | 16-530-010   | NEW   | 85-11-089 | 67-35-310   | AMD-P | 85-15-075 |
| 16-409-035 | AMD-P | 85-03-090 | 16-530-020   | NEW   | 85-11-089 | 67-35-350   | AMD-P | 85-15-075 |
| 16-409-035 | AMD   | 85-07-028 | 16-530-030   | NEW   | 85-11-089 | 67-35-460   | AMD-P | 85-15-075 |
| 16-409-060 | AMD-P | 85-03-090 | 16-530-040   | NEW   | 85-11-089 | 67-35-520   | AMD-P | 85-15-075 |
| 16-409-060 | AMD   | 85-07-028 | 16-530-050   | NEW   | 85-11-089 | 67-45-010   | REP-E | 85-09-039 |
| 16-409-065 | AMD-P | 85-03-090 | 16-530-060   | NEW   | 85-11-089 | 67-45-010   | REP-E | 85-15-044 |
| 16-409-065 | AMD   | 85-07-028 | 16-555-010   | NEW-P | 85-05-038 | 67-45-010   | REP-P | 85-15-076 |
| 16-409-070 | AMD-P | 85-03-090 | 16-555-010   | NEW   | 85-11-030 | 67-45-020   | REP-E | 85-09-039 |
| 16-409-070 | AMD   | 85-07-028 | 16-555-020   | NEW-P | 85-05-038 | 67-45-020   | REP-E | 85-15-044 |
| 16-409-075 | AMD-P | 85-03-090 | 16-555-020   | NEW   | 85-11-030 | 67-45-020   | REP-P | 85-15-076 |
| 16-409-075 | AMD   | 85-07-028 | 16-555-030   | NEW-P | 85-05-038 | 67-45-030   | REP-E | 85-09-039 |
| 16-409-085 | AMD-P | 85-03-090 | 16-555-030   | NEW   | 85-11-030 | 67-45-030   | REP-E | 85-15-044 |
| 16-409-085 | AMD   | 85-07-028 | 16-555-040   | NEW-P | 85-05-038 | 67-45-030   | REP-P | 85-15-076 |
| 16-409-120 | REP-P | 85-03-090 | 16-555-040   | NEW   | 85-11-030 | 67-45-040   | REP-E | 85-09-039 |
| 16-409-120 | REP   | 85-07-028 | 16-555-041   | NEW-P | 85-05-038 | 67-45-040   | REP-E | 85-15-044 |
| 16-426-001 | REP-P | 85-11-080 | 16-555-041   | NEW   | 85-11-030 | 67-45-040   | REP-P | 85-15-076 |
| 16-426-001 | REP   | 85-15-047 | 16-555-050   | NEW-P | 85-05-038 | 67-45-045   | REP-E | 85-09-039 |
| 16-426-005 | REP-P | 85-11-080 | 16-555-050   | NEW   | 85-11-030 | 67-45-045   | REP-E | 85-15-044 |
| 16-426-005 | REP   | 85-15-047 | 16-555-060   | NEW-P | 85-05-038 | 67-45-045   | REP-P | 85-15-076 |
| 16-426-010 | REP-P | 85-11-080 | 16-555-060   | NEW   | 85-11-030 | 67-45-050   | REP-E | 85-09-039 |
| 16-426-010 | REP   | 85-15-047 | 16-555-070   | NEW-P | 85-05-038 | 67-45-050   | REP-E | 85-15-044 |
| 16-426-015 | REP-P | 85-11-080 | 16-555-070   | NEW   | 85-11-030 | 67-45-050   | REP-P | 85-15-076 |
| 16-426-015 | REP   | 85-15-047 | 16-555-080   | NEW-P | 85-05-038 | 67-45-060   | REP-E | 85-09-039 |
| 16-426-020 | REP-P | 85-11-080 | 16-555-080   | NEW   | 85-11-030 | 67-45-060   | REP-E | 85-15-044 |
| 16-426-020 | REP   | 85-15-047 | 16-560-06001 | AMD-P | 85-02-054 | 67-45-060   | REP-P | 85-15-076 |
| 16-470-010 | AMD-P | 85-11-086 | 16-560-06001 | AMD   | 85-10-005 | 67-45-070   | REP-E | 85-09-039 |
| 16-470-010 | AMD-E | 85-11-087 | 16-565-010   | AMD-P | 85-11-078 | 67-45-070   | REP-E | 85-15-044 |
| 16-470-010 | AMD   | 85-15-006 | 16-565-010   | AMD   | 85-15-018 | 67-45-070   | REP-P | 85-15-076 |
| 16-470-015 | AMD-P | 85-11-084 | 16-565-020   | AMD-P | 85-11-078 | 67-45-075   | REP-E | 85-09-039 |
| 16-470-015 | AMD-E | 85-11-087 | 16-565-020   | AMD   | 85-15-018 | 67-45-075   | REP-E | 85-15-044 |
| 16-470-015 | AMD   | 85-15-007 | 16-666-140   | NEW-P | 85-10-051 | 67-45-075   | REP-P | 85-15-076 |
| 16-470-100 | AMD-P | 85-11-084 | 16-666-140   | NEW-W | 85-12-053 | 82-50-021   | AMD-P | 85-13-068 |
| 16-470-100 | AMD-E | 85-11-087 | 16-750-010   | AMD-P | 85-03-102 | 82-50-021   | AMD   | 85-16-014 |
| 16-470-100 | AMD   | 85-15-007 | 16-750-010   | AMD   | 85-07-003 | 98-40-010   | NEW-P | 85-14-108 |
| 16-470-110 | AMD-P | 85-11-084 | 50-12-010    | REP-P | 85-16-116 | 98-40-020   | NEW-P | 85-14-108 |
| 16-470-110 | AMD-E | 85-11-087 | 50-12-040    | AMD-P | 85-16-116 | 98-40-030   | NEW-P | 85-14-108 |
| 16-470-110 | AMD   | 85-15-007 | 50-12-050    | AMD-E | 85-16-030 | 98-40-040   | NEW-P | 85-14-108 |
| 16-470-120 | AMD-P | 85-11-084 | 50-12-050    | AMD-P | 85-16-116 | 98-40-050   | NEW-P | 85-14-108 |
| 16-470-120 | AMD-E | 85-11-087 | 50-12-100    | NEW-P | 85-16-116 | 98-40-060   | NEW-P | 85-14-108 |
| 16-470-120 | AMD   | 85-15-007 | 50-12-110    | NEW-P | 85-16-116 | 98-40-070   | NEW-P | 85-14-108 |
| 16-470-200 | NEW-P | 85-11-083 | 50-16-030    | AMD-P | 85-16-055 | 98-40-080   | NEW-P | 85-14-108 |
| 16-470-200 | NEW-E | 85-11-088 | 50-20-010    | AMD-P | 85-16-056 | 98-70-010   | AMD-P | 85-14-108 |
| 16-470-200 | NEW   | 85-15-008 | 50-20-050    | AMD-E | 85-15-074 | 100-100-010 | NEW   | 85-03-011 |
| 16-470-210 | NEW-P | 85-11-083 | 50-20-050    | AMD-P | 85-16-056 | 100-100-020 | NEW   | 85-03-011 |
| 16-470-210 | NEW-E | 85-11-088 | 50-20-055    | AMD-E | 85-15-074 | 100-100-030 | NEW   | 85-03-011 |
| 16-470-210 | NEW   | 85-15-008 | 50-20-055    | AMD-P | 85-16-056 | 100-100-040 | NEW   | 85-03-011 |
| 16-470-220 | NEW-P | 85-11-083 | 50-20-090    | NEW-E | 85-15-074 | 100-100-050 | NEW   | 85-03-011 |
| 16-470-220 | NEW-E | 85-11-088 | 50-20-090    | NEW-P | 85-16-056 | 100-100-060 | NEW   | 85-03-011 |
| 16-470-220 | NEW   | 85-15-008 | 50-24-100    | AMD-P | 85-16-116 | 100-100-070 | NEW   | 85-03-011 |
| 16-470-230 | NEW-P | 85-11-083 | 50-44-030    | AMD-P | 85-16-116 | 100-100-070 | AMD-P | 85-04-063 |
| 16-470-230 | NEW-E | 85-11-088 | 50-48-020    | AMD-P | 85-16-116 | 100-100-070 | AMD   | 85-09-027 |
| 16-470-230 | NEW   | 85-15-008 | 51-10        | AMD-P | 85-02-055 | 100-100-075 | NEW   | 85-09-027 |
| 16-470-300 | NEW-P | 85-11-085 | 51-10        | AMD   | 85-03-095 | 100-100-080 | NEW   | 85-03-011 |
| 16-470-300 | NEW-W | 85-14-072 | 51-10        | AMD   | 85-07-036 | 100-100-090 | NEW   | 85-03-011 |
| 16-470-300 | NEW-P | 85-15-054 | 67-25-005    | AMD-P | 85-03-081 | 100-100-100 | NEW   | 85-03-011 |
| 16-470-310 | NEW-P | 85-11-085 | 67-25-005    | AMD   | 85-06-030 | 100-100-100 | AMD-P | 85-04-063 |
| 16-470-310 | NEW-W | 85-14-072 | 67-25-180    | REP-E | 85-13-023 | 106-120     | AMD-P | 85-03-086 |
| 16-470-310 | NEW-P | 85-15-054 | 67-25-180    | REP-P | 85-15-077 | 106-120     | AMD   | 85-07-032 |

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| 106-120-001 | REP-P | 85-03-086 | 106-120-131  | NEW   | 85-07-032 | 132B-122-010 | NEW   | 85-08-025 |
| 106-120-001 | REP   | 85-07-032 | 106-120-132  | NEW-P | 85-03-086 | 132C-104-060 | AMD-P | 85-07-050 |
| 106-120-003 | NEW-P | 85-03-086 | 106-120-132  | NEW   | 85-07-032 | 132C-104-060 | AMD   | 85-13-024 |
| 106-120-003 | NEW   | 85-07-032 | 106-120-143  | NEW-P | 85-03-086 | 132C-120-010 | AMD-P | 85-07-051 |
| 106-120-004 | NEW-P | 85-03-086 | 106-120-143  | NEW   | 85-07-032 | 132C-120-010 | AMD   | 85-13-067 |
| 106-120-004 | NEW   | 85-07-032 | 106-120-200  | REP-P | 85-03-086 | 132C-120-015 | AMD-P | 85-07-051 |
| 106-120-005 | NEW-P | 85-03-086 | 106-120-200  | REP   | 85-07-032 | 132C-120-015 | AMD   | 85-13-067 |
| 106-120-005 | NEW   | 85-07-032 | 106-120-210  | REP-P | 85-03-086 | 132C-120-020 | AMD-P | 85-07-051 |
| 106-120-006 | NEW-P | 85-03-086 | 106-120-210  | REP   | 85-07-032 | 132C-120-020 | AMD   | 85-13-067 |
| 106-120-006 | NEW   | 85-07-032 | 106-120-220  | REP-P | 85-03-086 | 132C-120-025 | AMD-P | 85-07-051 |
| 106-120-007 | NEW-P | 85-03-086 | 106-120-220  | REP   | 85-07-032 | 132C-120-025 | AMD   | 85-13-067 |
| 106-120-007 | NEW   | 85-07-032 | 106-120-230  | REP-P | 85-03-086 | 132C-120-030 | AMD-P | 85-07-051 |
| 106-120-010 | REP-P | 85-03-086 | 106-120-230  | REP   | 85-07-032 | 132C-120-030 | AMD   | 85-13-067 |
| 106-120-010 | REP   | 85-07-032 | 106-120-240  | REP-P | 85-03-086 | 132C-120-035 | AMD-P | 85-07-051 |
| 106-120-011 | REP-P | 85-03-086 | 106-120-240  | REP   | 85-07-032 | 132C-120-035 | AMD   | 85-13-067 |
| 106-120-011 | REP   | 85-07-032 | 106-120-250  | REP-P | 85-03-086 | 132C-120-040 | AMD-P | 85-07-051 |
| 106-120-013 | REP-P | 85-03-086 | 106-120-250  | REP   | 85-07-032 | 132C-120-040 | AMD   | 85-13-067 |
| 106-120-013 | REP   | 85-07-032 | 106-120-700  | REP-P | 85-03-086 | 132C-120-045 | AMD-P | 85-07-051 |
| 106-120-020 | REP-P | 85-03-086 | 106-120-700  | REP   | 85-07-032 | 132C-120-045 | AMD   | 85-13-067 |
| 106-120-020 | REP   | 85-07-032 | 106-120-800  | REP-P | 85-03-086 | 132C-120-050 | AMD-P | 85-07-051 |
| 106-120-021 | NEW-P | 85-03-086 | 106-120-800  | REP   | 85-07-032 | 132C-120-050 | AMD   | 85-13-067 |
| 106-120-021 | NEW   | 85-07-032 | 106-120-900  | REP-P | 85-03-086 | 132C-120-055 | AMD-P | 85-07-051 |
| 106-120-022 | NEW-P | 85-03-086 | 106-120-900  | REP   | 85-07-032 | 132C-120-055 | AMD   | 85-13-067 |
| 106-120-022 | NEW   | 85-07-032 | 113-12-005   | REP-E | 85-16-067 | 132C-120-060 | AMD-P | 85-07-051 |
| 106-120-023 | NEW-P | 85-03-086 | 113-12-005   | REP-P | 85-16-089 | 132C-120-060 | AMD   | 85-13-067 |
| 106-120-023 | NEW   | 85-07-032 | 114-12-005   | REP-P | 85-10-068 | 132C-120-065 | AMD-P | 85-07-051 |
| 106-120-024 | NEW-P | 85-03-086 | 114-12-005   | REP   | 85-13-081 | 132C-120-065 | AMD   | 85-13-067 |
| 106-120-024 | NEW   | 85-07-032 | 114-12-121   | REP-P | 85-10-068 | 132C-120-070 | REP-P | 85-07-051 |
| 106-120-025 | NEW-P | 85-03-086 | 114-12-121   | REP   | 85-13-081 | 132C-120-070 | REP   | 85-13-067 |
| 106-120-025 | NEW   | 85-07-032 | 114-12-125   | NEW-P | 85-10-068 | 132C-120-075 | REP-P | 85-07-051 |
| 106-120-026 | NEW-P | 85-03-086 | 114-12-125   | NEW   | 85-13-081 | 132C-120-075 | REP   | 85-13-067 |
| 106-120-026 | NEW   | 85-07-032 | 120-04-010   | REP-P | 85-11-041 | 132C-120-080 | REP-P | 85-07-051 |
| 106-120-027 | NEW-P | 85-03-086 | 120-04-010   | REP   | 85-15-013 | 132C-120-080 | REP   | 85-13-067 |
| 106-120-027 | NEW   | 85-07-032 | 120-04-030   | REP-P | 85-11-041 | 132C-120-085 | REP-P | 85-07-051 |
| 106-120-028 | NEW-P | 85-03-086 | 120-04-030   | REP   | 85-15-013 | 132C-120-085 | REP   | 85-13-067 |
| 106-120-028 | NEW   | 85-07-032 | 120-04-050   | REP-P | 85-11-041 | 132C-120-090 | REP-P | 85-07-051 |
| 106-120-030 | REP-P | 85-03-086 | 120-04-050   | REP   | 85-15-013 | 132C-120-090 | REP   | 85-13-067 |
| 106-120-030 | REP   | 85-07-032 | 120-06-010   | REP-P | 85-11-041 | 132C-120-095 | REP-P | 85-07-051 |
| 106-120-031 | REP-P | 85-03-086 | 120-06-010   | REP   | 85-15-013 | 132C-120-095 | REP   | 85-13-067 |
| 106-120-031 | REP   | 85-07-032 | 120-06-020   | REP-P | 85-11-041 | 132C-120-100 | AMD-P | 85-07-051 |
| 106-120-032 | REP-P | 85-03-086 | 120-06-020   | REP   | 85-15-013 | 132C-120-100 | AMD   | 85-13-067 |
| 106-120-032 | REP   | 85-07-032 | 120-06-030   | REP-P | 85-11-041 | 132C-120-105 | AMD-P | 85-07-051 |
| 106-120-033 | NEW-P | 85-03-086 | 120-06-030   | REP   | 85-15-013 | 132C-120-105 | AMD   | 85-13-067 |
| 106-120-033 | NEW   | 85-07-032 | 120-06-040   | REP-P | 85-11-041 | 132C-120-110 | AMD-P | 85-07-051 |
| 106-120-040 | REP-P | 85-03-086 | 120-06-040   | REP   | 85-15-013 | 132C-120-110 | AMD   | 85-13-067 |
| 106-120-040 | REP   | 85-07-032 | 120-06-050   | REP-P | 85-11-041 | 132C-120-115 | AMD-P | 85-07-051 |
| 106-120-041 | REP-P | 85-03-086 | 120-06-050   | REP   | 85-15-013 | 132C-120-115 | AMD   | 85-13-067 |
| 106-120-041 | REP   | 85-07-032 | 120-06-060   | REP-P | 85-11-041 | 132C-120-120 | AMD-P | 85-07-051 |
| 106-120-042 | REP-P | 85-03-086 | 120-06-060   | REP   | 85-15-013 | 132C-120-120 | AMD   | 85-13-067 |
| 106-120-042 | REP   | 85-07-032 | 120-06-070   | REP-P | 85-11-041 | 132C-120-125 | AMD-P | 85-07-051 |
| 106-120-043 | REP-P | 85-03-086 | 120-06-070   | REP   | 85-15-013 | 132C-120-125 | AMD   | 85-13-067 |
| 106-120-043 | REP   | 85-07-032 | 120-06-080   | REP-P | 85-11-041 | 132C-120-130 | AMD-P | 85-07-051 |
| 106-120-050 | REP-P | 85-03-086 | 120-06-080   | REP   | 85-15-013 | 132C-120-130 | AMD   | 85-13-067 |
| 106-120-050 | REP   | 85-07-032 | 120-06-090   | REP-P | 85-11-041 | 132C-120-135 | AMD-P | 85-07-051 |
| 106-120-051 | REP-P | 85-03-086 | 120-06-090   | REP   | 85-15-013 | 132C-120-135 | AMD   | 85-13-067 |
| 106-120-051 | REP   | 85-07-032 | 120-06-100   | REP-P | 85-11-041 | 132C-120-140 | AMD-P | 85-07-051 |
| 106-120-053 | REP-P | 85-03-086 | 120-06-100   | REP   | 85-15-013 | 132C-120-140 | AMD   | 85-13-067 |
| 106-120-053 | REP   | 85-07-032 | 120-06-110   | REP-P | 85-11-041 | 132C-120-145 | AMD-P | 85-07-051 |
| 106-120-055 | REP-P | 85-03-086 | 120-06-110   | REP   | 85-15-013 | 132C-120-145 | AMD   | 85-13-067 |
| 106-120-055 | REP   | 85-07-032 | 120-06-120   | REP-P | 85-11-041 | 132C-120-150 | AMD-P | 85-07-051 |
| 106-120-056 | REP-P | 85-03-086 | 120-06-120   | REP   | 85-15-013 | 132C-120-150 | AMD   | 85-13-067 |
| 106-120-056 | REP   | 85-07-032 | 120-08-010   | REP-P | 85-11-041 | 132C-120-155 | REP-P | 85-07-051 |
| 106-120-057 | REP-P | 85-03-086 | 120-08-010   | REP   | 85-15-013 | 132C-120-155 | REP   | 85-13-067 |
| 106-120-057 | REP   | 85-07-032 | 120-52-010   | REP-P | 85-11-041 | 132C-120-160 | REP-P | 85-07-051 |
| 106-120-058 | REP-P | 85-03-086 | 120-52-010   | REP   | 85-15-013 | 132C-120-160 | REP   | 85-13-067 |
| 106-120-058 | REP   | 85-07-032 | 120-52-030   | REP-P | 85-11-041 | 132C-120-165 | REP-P | 85-07-051 |
| 106-120-060 | REP-P | 85-03-086 | 120-52-030   | REP   | 85-15-013 | 132C-120-165 | REP   | 85-13-067 |
| 106-120-060 | REP   | 85-07-032 | 120-52-050   | REP-P | 85-11-041 | 132C-120-170 | REP-P | 85-07-051 |
| 106-120-061 | REP-P | 85-03-086 | 120-52-050   | REP   | 85-15-013 | 132C-120-170 | REP   | 85-13-067 |
| 106-120-061 | REP   | 85-07-032 | 120-52-070   | REP-P | 85-11-041 | 132C-120-175 | REP-P | 85-07-051 |
| 106-120-062 | REP-P | 85-03-086 | 120-52-070   | REP   | 85-15-013 | 132C-120-175 | REP   | 85-13-067 |
| 106-120-062 | REP   | 85-07-032 | 120-52-090   | REP-P | 85-11-041 | 132C-120-180 | REP-P | 85-07-051 |
| 106-120-064 | REP-P | 85-03-086 | 120-52-090   | REP   | 85-15-013 | 132C-120-180 | REP   | 85-13-067 |
| 106-120-064 | REP   | 85-07-032 | 131-16-005   | AMD-P | 85-16-103 | 132C-120-185 | REP-P | 85-07-051 |
| 106-120-066 | REP-P | 85-03-086 | 131-16-011   | AMD-P | 85-16-103 | 132C-120-185 | REP   | 85-13-067 |
| 106-120-066 | REP   | 85-07-032 | 131-24-040   | NEW-P | 85-16-102 | 132C-120-190 | REP-P | 85-07-051 |
| 106-120-131 | NEW-P | 85-03-086 | 132B-122-010 | NEW-P | 85-04-051 | 132C-120-190 | REP   | 85-13-067 |

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| 132C-120-195 | REP-P | 85-07-051 | 132F-419-020 | NEW-P | 85-07-056 | 132R-180-020 | REP-P | 85-05-007 |
| 132C-120-195 | REP   | 85-13-067 | 132F-419-020 | NEW-C | 85-12-016 | 132R-180-020 | REP   | 85-14-078 |
| 132C-120-200 | AMD-P | 85-07-051 | 132F-419-020 | NEW   | 85-13-075 | 132R-180-030 | REP-P | 85-05-007 |
| 132C-120-200 | AMD   | 85-13-067 | 132F-419-030 | NEW-P | 85-07-056 | 132R-180-030 | REP   | 85-14-078 |
| 132C-120-205 | AMD-P | 85-07-051 | 132F-419-030 | NEW-C | 85-12-016 | 132R-180-040 | REP-P | 85-05-007 |
| 132C-120-205 | AMD   | 85-13-067 | 132F-419-030 | NEW   | 85-13-075 | 132R-180-040 | REP   | 85-14-078 |
| 132C-120-210 | AMD-P | 85-07-051 | 132F-419-040 | NEW-P | 85-07-056 | 132R-180-050 | REP-P | 85-05-007 |
| 132C-120-210 | AMD   | 85-13-067 | 132F-419-040 | NEW-C | 85-12-016 | 132R-180-050 | REP   | 85-14-078 |
| 132C-120-215 | AMD-P | 85-07-051 | 132F-419-040 | NEW   | 85-13-075 | 132R-180-060 | REP-P | 85-05-007 |
| 132C-120-215 | AMD   | 85-13-067 | 132F-419-050 | NEW-P | 85-07-056 | 132R-180-060 | REP   | 85-14-078 |
| 132C-120-220 | AMD-P | 85-07-051 | 132F-419-050 | NEW-C | 85-12-016 | 132R-180-070 | REP-P | 85-05-007 |
| 132C-120-220 | AMD   | 85-13-067 | 132F-419-050 | NEW   | 85-13-075 | 132R-180-070 | REP   | 85-14-078 |
| 132C-120-225 | AMD-P | 85-07-051 | 132F-419-060 | NEW-P | 85-07-056 | 132R-180-080 | REP-P | 85-05-007 |
| 132C-120-225 | AMD   | 85-13-067 | 132F-419-060 | NEW-C | 85-12-016 | 132R-180-080 | REP   | 85-14-078 |
| 132C-120-230 | NEW-P | 85-07-051 | 132F-419-060 | NEW   | 85-13-075 | 132R-180-090 | REP-P | 85-05-007 |
| 132C-120-230 | NEW   | 85-13-067 | 132F-419-070 | NEW-P | 85-07-056 | 132R-180-090 | REP   | 85-14-078 |
| 132C-120-235 | NEW-P | 85-07-051 | 132F-419-070 | NEW-C | 85-12-016 | 132Y-100-008 | AMD-P | 85-14-111 |
| 132C-120-235 | NEW   | 85-13-067 | 132F-419-070 | NEW   | 85-13-075 | 132Y-100-010 | NEW-P | 85-14-111 |
| 132E-116-001 | REP   | 85-04-003 | 132L-30      | AMD-P | 85-16-087 | 132Y-140-102 | REP-P | 85-16-001 |
| 132E-116-004 | REP   | 85-04-003 | 132L-30-010  | AMD-P | 85-16-087 | 132Y-140-104 | REP-P | 85-16-001 |
| 132E-116-008 | REP   | 85-04-003 | 132L-30-020  | AMD-P | 85-16-087 | 136-18-064   | NEW-P | 85-07-055 |
| 132E-116-012 | REP   | 85-04-003 | 132L-30-030  | AMD-P | 85-16-087 | 136-18-064   | NEW   | 85-11-054 |
| 132E-116-016 | REP   | 85-04-003 | 132L-30-040  | AMD-P | 85-16-087 | 136-18-066   | NEW-P | 85-07-055 |
| 132E-116-020 | REP   | 85-04-003 | 132L-30-050  | AMD-P | 85-16-087 | 136-150-050  | NEW-E | 85-11-018 |
| 132E-116-024 | REP   | 85-04-003 | 132L-30-060  | AMD-P | 85-16-087 | 136-150-050  | NEW-P | 85-14-052 |
| 132E-116-028 | REP   | 85-04-003 | 132L-30-080  | AMD-P | 85-16-087 | 136-160-024  | NEW-P | 85-07-053 |
| 132E-116-032 | REP   | 85-04-003 | 132L-30-110  | AMD-P | 85-16-087 | 136-160-024  | NEW   | 85-11-053 |
| 132E-116-036 | REP   | 85-04-003 | 132L-30-120  | AMD-P | 85-16-087 | 136-190-010  | NEW-P | 85-07-054 |
| 132E-116-040 | REP   | 85-04-003 | 132L-30-130  | AMD-P | 85-16-087 | 136-190-010  | NEW   | 85-11-055 |
| 132E-116-044 | REP   | 85-04-003 | 132L-30-140  | AMD-P | 85-16-087 | 136-190-020  | NEW-P | 85-07-054 |
| 132E-116-048 | REP   | 85-04-003 | 132L-30-150  | AMD-P | 85-16-087 | 136-190-020  | NEW   | 85-11-055 |
| 132E-116-052 | REP   | 85-04-003 | 132L-30-160  | AMD-P | 85-16-087 | 136-190-030  | NEW-P | 85-07-054 |
| 132E-116-056 | REP   | 85-04-003 | 132L-30-170  | AMD-P | 85-16-087 | 136-190-030  | NEW   | 85-11-055 |
| 132E-116-060 | REP   | 85-04-003 | 132L-30-180  | AMD-P | 85-16-087 | 136-190-040  | NEW-P | 85-07-054 |
| 132E-116-064 | REP   | 85-04-003 | 132L-30-190  | AMD-P | 85-16-087 | 136-190-040  | NEW   | 85-11-055 |
| 132E-116-068 | REP   | 85-04-003 | 132L-30-200  | AMD-P | 85-16-087 | 136-190-050  | NEW-P | 85-07-054 |
| 132E-116-072 | REP   | 85-04-003 | 132L-30-210  | AMD-P | 85-16-087 | 136-190-050  | NEW   | 85-11-055 |
| 132E-116-076 | REP   | 85-04-003 | 132L-30-230  | AMD-P | 85-16-087 | 137-08-060   | AMD-P | 85-10-066 |
| 132E-116-080 | REP   | 85-04-003 | 132L-30-260  | AMD-P | 85-16-087 | 137-08-060   | AMD   | 85-13-020 |
| 132E-116-084 | REP   | 85-04-003 | 132L-30-270  | AMD-P | 85-16-087 | 137-08-105   | NEW-P | 85-10-066 |
| 132E-116-088 | REP   | 85-04-003 | 132L-30-280  | AMD-P | 85-16-087 | 137-08-105   | NEW   | 85-13-020 |
| 132E-116-092 | REP   | 85-04-003 | 132L-30-290  | AMD-P | 85-16-087 | 137-08-110   | AMD-P | 85-10-066 |
| 132E-116-096 | REP   | 85-04-003 | 132L-30-300  | REP-P | 85-16-087 | 137-08-110   | AMD   | 85-13-020 |
| 132E-116-100 | REP   | 85-04-003 | 132L-140-020 | AMD-P | 85-14-119 | 137-08-150   | AMD-P | 85-10-066 |
| 132E-116-104 | REP   | 85-04-003 | 132Q-04-095  | NEW-P | 85-16-070 | 137-08-150   | AMD   | 85-13-020 |
| 132E-116-108 | REP   | 85-04-003 | 132R-128-010 | REP-P | 85-05-007 | 137-28-030   | AMD-P | 85-05-048 |
| 132E-116-112 | REP   | 85-04-003 | 132R-128-010 | REP   | 85-14-078 | 137-28-030   | AMD   | 85-08-026 |
| 132E-116-116 | REP   | 85-04-003 | 132R-128-020 | REP-P | 85-05-007 | 137-52-005   | NEW-P | 85-03-104 |
| 132E-116-120 | REP   | 85-04-003 | 132R-128-020 | REP   | 85-14-078 | 137-52-005   | NEW   | 85-07-042 |
| 132E-116-124 | REP   | 85-04-003 | 132R-128-030 | REP-P | 85-05-007 | 137-52-010   | NEW-P | 85-03-104 |
| 132F-104-010 | AMD-P | 85-16-120 | 132R-128-030 | REP   | 85-14-078 | 137-52-010   | NEW   | 85-07-042 |
| 132F-104-020 | AMD-P | 85-16-120 | 132R-128-040 | REP-P | 85-05-007 | 137-52-015   | NEW-P | 85-03-104 |
| 132F-104-030 | AMD-P | 85-16-120 | 132R-128-040 | REP   | 85-14-078 | 137-52-015   | NEW   | 85-07-042 |
| 132F-104-812 | AMD-P | 85-16-120 | 132R-128-050 | REP-P | 85-05-007 | 137-52-020   | NEW-P | 85-03-104 |
| 132F-104-813 | AMD-P | 85-16-120 | 132R-128-050 | REP   | 85-14-078 | 137-52-020   | NEW   | 85-07-042 |
| 132F-104-815 | AMD-P | 85-16-120 | 132R-128-060 | REP-P | 85-05-007 | 137-52-025   | NEW-P | 85-03-104 |
| 132F-104-818 | AMD-P | 85-16-120 | 132R-128-060 | REP   | 85-14-078 | 137-52-025   | NEW   | 85-07-042 |
| 132F-104-819 | AMD-P | 85-16-120 | 132R-128-070 | REP-P | 85-05-007 | 137-52-030   | NEW-P | 85-03-104 |
| 132F-116-170 | AMD-P | 85-16-120 | 132R-128-070 | REP   | 85-14-078 | 137-52-030   | NEW   | 85-07-042 |
| 132F-148-010 | AMD-P | 85-09-057 | 132R-128-080 | REP-P | 85-05-007 | 137-52-035   | NEW-P | 85-03-104 |
| 132F-148-010 | AMD   | 85-13-076 | 132R-128-080 | REP   | 85-14-078 | 137-52-035   | NEW   | 85-07-042 |
| 132F-148-020 | AMD-P | 85-09-057 | 132R-128-090 | REP-P | 85-05-007 | 137-52-040   | NEW-P | 85-03-104 |
| 132F-148-020 | AMD   | 85-13-076 | 132R-128-090 | REP   | 85-14-078 | 137-52-040   | NEW   | 85-07-042 |
| 132F-148-030 | AMD-P | 85-09-057 | 132R-128-100 | REP-P | 85-05-007 | 137-52-045   | NEW-P | 85-03-104 |
| 132F-148-030 | AMD   | 85-13-076 | 132R-128-100 | REP   | 85-14-078 | 137-52-045   | NEW   | 85-07-042 |
| 132F-148-040 | AMD-P | 85-09-057 | 132R-128-110 | REP-P | 85-05-007 | 137-52-050   | NEW-P | 85-03-104 |
| 132F-148-040 | AMD   | 85-13-076 | 132R-128-110 | REP   | 85-14-078 | 137-52-050   | NEW   | 85-07-042 |
| 132F-148-050 | AMD-P | 85-09-057 | 132R-128-120 | REP-P | 85-05-007 | 137-54-010   | NEW-P | 85-02-067 |
| 132F-148-050 | AMD   | 85-13-076 | 132R-128-120 | REP   | 85-14-078 | 137-54-010   | NEW   | 85-05-019 |
| 132F-148-060 | AMD-P | 85-09-057 | 132R-128-121 | REP-P | 85-05-007 | 137-54-020   | NEW-P | 85-02-067 |
| 132F-148-060 | AMD   | 85-13-076 | 132R-128-121 | REP   | 85-14-078 | 137-54-020   | NEW   | 85-05-019 |
| 132F-148-070 | AMD-P | 85-09-057 | 132R-128-122 | REP-P | 85-05-007 | 137-54-030   | NEW-P | 85-02-067 |
| 132F-148-070 | AMD   | 85-13-076 | 132R-128-122 | REP   | 85-14-078 | 137-54-030   | NEW   | 85-05-019 |
| 132F-200-010 | AMD-P | 85-16-120 | 132R-128-130 | REP-P | 85-05-007 | 137-54-040   | NEW-P | 85-02-067 |
| 132F-419-010 | NEW-P | 85-07-056 | 132R-128-130 | REP   | 85-14-078 | 137-54-040   | NEW   | 85-05-019 |
| 132F-419-010 | NEW-C | 85-12-016 | 132R-180-010 | REP-P | 85-05-007 | 137-60-020   | AMD   | 85-04-015 |
| 132F-419-010 | NEW   | 85-13-075 | 132R-180-010 | REP   | 85-14-078 | 137-67-010   | NEW-P | 85-15-093 |

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| 137-67-025 | NEW-P 85-15-093 | 139-08-600  | NEW 85-08-011   | 173-19-2511 | AMD 85-09-043   |
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| 137-67-045 | NEW-P 85-15-093 | 139-36-031  | AMD-P 85-14-095 | 173-19-260  | AMD-P 85-05-044 |
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| 139-08-480 | REP-P 85-03-077 | 173-19-230  | AMD-P 85-10-072 | 173-145-070 | NEW 85-14-002   |
| 139-08-480 | REP 85-08-011   | 173-19-230  | AMD 85-12-051   | 173-145-080 | NEW-P 85-10-071 |
| 139-08-490 | REP-P 85-03-077 | 173-19-240  | AMD-P 85-06-065 | 173-145-080 | NEW 85-14-002   |
| 139-08-490 | REP 85-08-011   | 173-19-240  | AMD 85-09-043   | 173-145-090 | NEW-P 85-10-071 |
| 139-08-510 | REP-P 85-03-077 | 173-19-250  | AMD-P 85-10-073 | 173-145-090 | NEW 85-14-002   |
| 139-08-510 | REP 85-08-011   | 173-19-250  | AMD 85-13-054   | 173-145-100 | NEW-P 85-10-071 |
| 139-08-570 | AMD-P 85-03-077 | 173-19-2501 | AMD-P 85-10-073 | 173-145-100 | NEW 85-14-002   |

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| 173-145-110  | NEW-P | 85-10-071 | 173-403-080 | AMD   | 85-06-047 | 180-33-015 | AMD   | 85-09-060 |
| 173-145-110  | NEW   | 85-14-002 | 173-403-080 | AMD-E | 85-07-011 | 180-33-015 | AMD-E | 85-09-064 |
| 173-145-120  | NEW-P | 85-10-071 | 173-405-021 | AMD   | 85-06-048 | 180-33-042 | NEW-P | 85-06-069 |
| 173-145-120  | NEW   | 85-14-002 | 173-405-041 | NEW   | 85-06-048 | 180-33-042 | NEW   | 85-09-060 |
| 173-145-130  | NEW-P | 85-10-071 | 173-410-021 | AMD   | 85-06-048 | 180-33-042 | NEW-E | 85-09-064 |
| 173-145-130  | NEW   | 85-14-002 | 173-410-042 | NEW   | 85-06-048 | 180-33-043 | NEW-P | 85-06-069 |
| 173-145-140  | NEW-P | 85-10-071 | 173-415-020 | AMD   | 85-06-048 | 180-33-043 | NEW   | 85-09-060 |
| 173-145-140  | NEW   | 85-14-002 | 173-415-041 | NEW   | 85-06-048 | 180-33-043 | NEW-E | 85-09-064 |
| 173-145-150  | NEW-P | 85-10-071 | 173-501-010 | NEW-P | 85-16-112 | 180-38-005 | NEW-E | 85-16-021 |
| 173-145-150  | NEW   | 85-14-002 | 173-501-020 | NEW-P | 85-16-112 | 180-38-005 | NEW-P | 85-16-035 |
| 173-150      | NEW-C | 85-08-032 | 173-501-030 | NEW-P | 85-16-112 | 180-38-010 | NEW-E | 85-16-021 |
| 173-150-010  | NEW   | 85-12-017 | 173-501-040 | NEW-P | 85-16-112 | 180-38-010 | NEW-P | 85-16-035 |
| 173-150-020  | NEW   | 85-12-017 | 173-501-050 | NEW-P | 85-16-112 | 180-38-020 | NEW-E | 85-16-021 |
| 173-150-030  | NEW   | 85-12-017 | 173-501-060 | NEW-P | 85-16-112 | 180-38-020 | NEW-P | 85-16-035 |
| 173-150-040  | NEW   | 85-12-017 | 173-501-070 | NEW-P | 85-16-112 | 180-38-025 | NEW-E | 85-16-021 |
| 173-150-050  | NEW   | 85-12-017 | 173-501-080 | NEW-P | 85-16-112 | 180-38-025 | NEW-P | 85-16-035 |
| 173-150-060  | NEW   | 85-12-017 | 173-501-090 | NEW-P | 85-16-112 | 180-38-030 | NEW-E | 85-16-021 |
| 173-150-070  | NEW   | 85-12-017 | 173-501-100 | NEW-P | 85-16-112 | 180-38-030 | NEW-P | 85-16-035 |
| 173-150-080  | NEW   | 85-12-017 | 173-501-900 | NEW-P | 85-16-112 | 180-38-035 | NEW-E | 85-16-021 |
| 173-150-090  | NEW   | 85-12-017 | 173-516-010 | NEW-P | 85-12-050 | 180-38-035 | NEW-P | 85-16-035 |
| 173-150-100  | NEW   | 85-12-017 | 173-516-020 | NEW-P | 85-12-050 | 180-38-040 | NEW-E | 85-16-021 |
| 173-150-110  | NEW   | 85-12-017 | 173-516-030 | NEW-P | 85-12-050 | 180-38-040 | NEW-P | 85-16-035 |
| 173-150-120  | NEW   | 85-12-017 | 173-516-040 | NEW-P | 85-12-050 | 180-38-045 | NEW-E | 85-16-021 |
| 173-150-130  | NEW   | 85-12-017 | 173-516-050 | NEW-P | 85-12-050 | 180-38-045 | NEW-P | 85-16-035 |
| 173-150-140  | NEW   | 85-12-017 | 173-516-060 | NEW-P | 85-12-050 | 180-38-050 | NEW-E | 85-16-021 |
| 173-154      | NEW-C | 85-08-033 | 173-516-070 | NEW-P | 85-12-050 | 180-38-050 | NEW-P | 85-16-035 |
| 173-154-010  | NEW   | 85-12-018 | 173-516-080 | NEW-P | 85-12-050 | 180-38-055 | NEW-E | 85-16-021 |
| 173-154-020  | NEW   | 85-12-018 | 173-516-090 | NEW-P | 85-12-050 | 180-38-055 | NEW-P | 85-16-035 |
| 173-154-030  | NEW   | 85-12-018 | 173-516-100 | NEW-P | 85-12-050 | 180-38-060 | NEW-E | 85-16-021 |
| 173-154-040  | NEW   | 85-12-018 | 174-104-010 | AMD-P | 85-06-074 | 180-38-060 | NEW-P | 85-16-035 |
| 173-154-050  | NEW   | 85-12-018 | 174-104-010 | AMD   | 85-10-049 | 180-38-065 | NEW-E | 85-16-021 |
| 173-154-060  | NEW   | 85-12-018 | 174-107-230 | REP-P | 85-14-034 | 180-38-065 | NEW-P | 85-16-035 |
| 173-154-070  | NEW   | 85-12-018 | 174-107-240 | REP-P | 85-14-034 | 180-38-070 | NEW-E | 85-16-021 |
| 173-154-080  | NEW   | 85-12-018 | 174-107-250 | REP-P | 85-14-034 | 180-38-070 | NEW-P | 85-16-035 |
| 173-154-090  | NEW   | 85-12-018 | 174-107-260 | REP-P | 85-14-034 | 180-40-215 | AMD   | 85-04-009 |
| 173-154-100  | NEW   | 85-12-018 | 174-107-270 | REP-P | 85-14-034 | 180-40-227 | NEW   | 85-04-009 |
| 173-154-110  | NEW   | 85-12-018 | 174-107-280 | REP-P | 85-14-034 | 180-40-227 | AMD-E | 85-06-035 |
| 173-216-050  | AMD   | 85-04-006 | 174-107-290 | REP-P | 85-14-034 | 180-40-227 | AMD-P | 85-06-071 |
| 173-303-071  | AMD-P | 85-05-047 | 174-107-300 | REP-P | 85-14-034 | 180-40-227 | AMD   | 85-09-049 |
| 173-303-071  | AMD   | 85-09-042 | 174-107-310 | REP-P | 85-14-034 | 180-40-245 | AMD-P | 85-09-058 |
| 173-303-9904 | AMD-P | 85-05-047 | 174-107-320 | REP-P | 85-14-034 | 180-40-245 | AMD   | 85-12-042 |
| 173-303-9904 | AMD   | 85-09-042 | 174-107-330 | REP-P | 85-14-034 | 180-40-260 | AMD-P | 85-09-058 |
| 173-304-010  | NEW-P | 85-14-027 | 174-107-340 | REP-P | 85-14-034 | 180-40-260 | AMD   | 85-12-042 |
| 173-304-011  | NEW-P | 85-14-027 | 174-107-350 | REP-P | 85-14-034 | 180-40-275 | AMD-P | 85-09-058 |
| 173-304-015  | NEW-P | 85-14-027 | 174-116-040 | AMD   | 85-03-048 | 180-50-120 | AMD   | 85-04-007 |
| 173-304-100  | NEW-P | 85-14-027 | 174-116-123 | AMD-P | 85-14-112 | 180-50-120 | AMD-P | 85-09-052 |
| 173-304-130  | NEW-P | 85-14-027 | 177-04-010  | REP-P | 85-11-042 | 180-50-120 | AMD   | 85-12-037 |
| 173-304-190  | NEW-P | 85-14-027 | 177-04-010  | REP   | 85-15-012 | 180-50-135 | AMD-P | 85-16-036 |
| 173-304-195  | NEW-P | 85-14-027 | 177-04-030  | REP-P | 85-11-042 | 180-50-315 | AMD-P | 85-09-052 |
| 173-304-200  | NEW-P | 85-14-027 | 177-04-030  | REP   | 85-15-012 | 180-50-315 | AMD   | 85-12-037 |
| 173-304-300  | NEW-P | 85-14-027 | 177-04-050  | REP-P | 85-11-042 | 180-51-050 | AMD-P | 85-09-053 |
| 173-304-400  | NEW-P | 85-14-027 | 177-04-050  | REP   | 85-15-012 | 180-51-050 | AMD   | 85-12-041 |
| 173-304-405  | NEW-P | 85-14-027 | 177-06-010  | REP-P | 85-11-042 | 180-51-055 | AMD-P | 85-09-053 |
| 173-304-410  | NEW-P | 85-14-027 | 177-06-010  | REP   | 85-15-012 | 180-51-055 | AMD   | 85-12-041 |
| 173-304-420  | NEW-P | 85-14-027 | 177-06-020  | REP-P | 85-11-042 | 180-51-060 | AMD-P | 85-09-053 |
| 173-304-430  | NEW-P | 85-14-027 | 177-06-020  | REP   | 85-15-012 | 180-51-060 | AMD   | 85-12-041 |
| 173-304-440  | NEW-P | 85-14-027 | 177-08-010  | REP-P | 85-11-042 | 180-51-062 | NEW-P | 85-09-053 |
| 173-304-450  | NEW-P | 85-14-027 | 177-08-010  | REP   | 85-15-012 | 180-51-062 | NEW   | 85-12-041 |
| 173-304-460  | NEW-P | 85-14-027 | 180-25-040  | AMD-P | 85-06-070 | 180-51-065 | AMD-P | 85-09-053 |
| 173-304-461  | NEW-P | 85-14-027 | 180-25-040  | AMD   | 85-09-059 | 180-51-065 | AMD   | 85-12-041 |
| 173-304-462  | NEW-P | 85-14-027 | 180-25-040  | AMD-E | 85-09-063 | 180-51-070 | AMD-P | 85-09-053 |
| 173-304-463  | NEW-P | 85-14-027 | 180-25-045  | AMD-P | 85-06-070 | 180-51-070 | AMD   | 85-12-041 |
| 173-304-470  | NEW-P | 85-14-027 | 180-25-045  | AMD   | 85-09-059 | 180-51-075 | AMD-P | 85-09-053 |
| 173-304-490  | NEW-P | 85-14-027 | 180-25-045  | AMD-E | 85-09-063 | 180-51-075 | AMD   | 85-12-041 |
| 173-304-600  | NEW-P | 85-14-027 | 180-25-055  | NEW-P | 85-06-070 | 180-51-080 | AMD-P | 85-09-053 |
| 173-304-700  | NEW-P | 85-14-027 | 180-25-055  | NEW   | 85-09-059 | 180-51-080 | AMD   | 85-12-041 |
| 173-304-9901 | NEW-P | 85-14-027 | 180-25-055  | NEW-E | 85-09-063 | 180-51-085 | AMD-P | 85-09-053 |
| 173-400-030  | AMD   | 85-06-046 | 180-25-990  | NEW-E | 85-16-022 | 180-51-085 | AMD   | 85-12-041 |
| 173-400-075  | AMD   | 85-06-046 | 180-27-053  | NEW   | 85-04-008 | 180-51-100 | AMD-P | 85-09-053 |
| 173-400-100  | AMD   | 85-06-046 | 180-27-054  | NEW   | 85-04-008 | 180-51-100 | AMD   | 85-12-041 |
| 173-400-115  | AMD   | 85-06-046 | 180-27-055  | REP   | 85-04-008 | 180-51-110 | AMD-P | 85-09-053 |
| 173-403-030  | AMD   | 85-06-047 | 180-27-056  | NEW   | 85-04-008 | 180-51-110 | AMD   | 85-12-041 |
| 173-403-030  | AMD-E | 85-07-011 | 180-27-058  | NEW   | 85-04-008 | 180-52-040 | REP-P | 85-16-037 |
| 173-403-050  | AMD   | 85-06-047 | 180-27-990  | NEW-P | 85-09-062 | 180-52-045 | REP-P | 85-16-037 |
| 173-403-050  | AMD-E | 85-07-011 | 180-27-990  | NEW-E | 85-09-065 | 180-52-050 | REP-P | 85-16-037 |
| 173-403-070  | AMD   | 85-06-047 | 180-27-990  | NEW   | 85-12-040 | 180-52-055 | REP-P | 85-16-037 |
| 173-403-070  | AMD-E | 85-07-011 | 180-33-015  | AMD-P | 85-06-069 | 180-52-060 | REP-P | 85-16-037 |

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| 180-75-065    | AMD-E | 85-12-036 | 220-28-504     | REP-E | 85-15-035 | 220-44-08000A | NEW-E | 85-09-011 |
| 180-75-065    | AMD-P | 85-12-044 | 220-28-505     | NEW-E | 85-15-035 | 220-47-307    | AMD-P | 85-08-038 |
| 180-75-065    | AMD   | 85-16-020 | 220-28-505     | REP-E | 85-15-071 | 220-47-307    | AMD-C | 85-13-031 |
| 180-78-050    | AMD   | 85-04-010 | 220-28-506     | NEW-E | 85-15-071 | 220-47-307    | AMD   | 85-13-032 |
| 192-09-040    | AMD-P | 85-08-030 | 220-28-506     | REP-E | 85-16-081 | 220-47-311    | AMD-P | 85-08-038 |
| 192-09-040    | AMD   | 85-11-038 | 220-28-507     | NEW-E | 85-16-081 | 220-47-311    | AMD-C | 85-13-031 |
| 192-09-060    | AMD-P | 85-08-030 | 220-28-507     | REP-E | 85-16-083 | 220-47-311    | AMD   | 85-13-032 |
| 192-09-060    | AMD   | 85-11-038 | 220-28-508     | NEW-E | 85-16-083 | 220-47-312    | AMD-P | 85-08-038 |
| 192-09-063    | AMD-P | 85-08-030 | 220-32-02200M  | NEW-E | 85-04-012 | 220-47-312    | AMD-C | 85-13-031 |
| 192-09-063    | AMD   | 85-11-038 | 220-32-02200M  | REP-E | 85-04-049 | 220-47-312    | AMD   | 85-13-032 |
| 192-12-040    | AMD-P | 85-08-030 | 220-32-02200N  | NEW-E | 85-04-049 | 220-47-313    | AMD-P | 85-08-038 |
| 192-12-040    | AMD   | 85-11-038 | 220-32-03000P  | NEW-E | 85-05-035 | 220-47-313    | AMD-C | 85-13-031 |
| 192-12-070    | AMD-P | 85-08-030 | 220-32-03000P  | REP-E | 85-07-002 | 220-47-313    | AMD   | 85-13-032 |
| 192-12-070    | AMD   | 85-11-038 | 220-32-03000Q  | NEW-E | 85-07-002 | 220-47-319    | AMD-P | 85-08-038 |
| 192-12-072    | NEW-P | 85-08-030 | 220-32-03000R  | NEW-E | 85-14-005 | 220-47-319    | AMD-C | 85-13-031 |
| 192-12-072    | NEW   | 85-11-038 | 220-32-03000R  | REP-E | 85-14-022 | 220-47-319    | AMD   | 85-13-032 |
| 192-12-074    | NEW-P | 85-08-030 | 220-32-03000S  | NEW-E | 85-14-022 | 220-47-411    | AMD-P | 85-08-038 |
| 192-12-074    | NEW   | 85-11-038 | 220-32-04000W  | NEW-E | 85-08-021 | 220-47-411    | AMD-C | 85-13-031 |
| 192-12-076    | NEW-P | 85-08-030 | 220-32-04100H  | NEW-E | 85-12-028 | 220-47-411    | AMD   | 85-13-032 |
| 192-12-076    | NEW   | 85-11-038 | 220-32-04200F  | NEW-E | 85-03-044 | 220-47-412    | AMD-P | 85-08-038 |
| 192-26-010    | NEW-E | 85-14-056 | 220-32-04200F  | REP-E | 85-06-014 | 220-47-412    | AMD-C | 85-13-031 |
| 192-26-030    | NEW-E | 85-14-056 | 220-32-04200G  | NEW-E | 85-06-014 | 220-47-412    | AMD   | 85-13-032 |
| 192-26-040    | NEW-E | 85-14-056 | 220-32-04200G  | REP-E | 85-06-034 | 220-47-413    | AMD-P | 85-08-038 |
| 192-26-050    | NEW-E | 85-14-056 | 220-32-04200H  | NEW-E | 85-06-034 | 220-47-413    | AMD-C | 85-13-031 |
| 192-26-100    | NEW-E | 85-14-056 | 220-32-05100I  | NEW-E | 85-08-001 | 220-47-413    | AMD   | 85-13-032 |
| 196-04-030    | NEW   | 85-04-030 | 220-32-05100J  | NEW-E | 85-14-005 | 220-47-414    | AMD-P | 85-08-038 |
| 196-04-040    | NEW   | 85-04-030 | 220-32-05100J  | REP-E | 85-14-022 | 220-47-414    | AMD-C | 85-13-031 |
| 220-12-020    | AMD-P | 85-03-110 | 220-32-05100K  | NEW-E | 85-14-022 | 220-47-414    | AMD   | 85-13-032 |
| 220-12-020    | AMD-C | 85-09-016 | 220-32-05100K  | REP-E | 85-14-038 | 220-47-601    | NEW-E | 85-16-012 |
| 220-12-020    | AMD   | 85-09-017 | 220-32-05100L  | NEW-E | 85-14-038 | 220-47-601    | REP-E | 85-16-082 |
| 220-12-02000A | NEW-E | 85-08-005 | 220-32-05100L  | REP-E | 85-15-005 | 220-47-602    | NEW-E | 85-16-082 |
| 220-16-340    | AMD-P | 85-03-110 | 220-32-05100M  | NEW-E | 85-15-005 | 220-47-930    | REP-E | 85-03-036 |
| 220-16-340    | AMD-C | 85-09-016 | 220-32-055     | AMD-P | 85-15-053 | 220-47-931    | NEW-E | 85-03-036 |
| 220-16-340    | AMD   | 85-09-017 | 220-32-055000I | NEW-E | 85-10-043 | 220-48-005    | AMD-P | 85-04-065 |
| 220-16-34000A | NEW-E | 85-08-005 | 220-32-05500I  | REP-E | 85-13-013 | 220-48-005    | AMD   | 85-08-023 |
| 220-20-010    | AMD-P | 85-03-110 | 220-32-05500J  | NEW-E | 85-13-013 | 220-48-00500B | NEW-E | 85-09-011 |
| 220-20-010    | AMD-P | 85-04-065 | 220-32-05500N  | NEW-E | 85-11-006 | 220-48-011    | AMD-P | 85-04-065 |
| 220-20-010    | AMD   | 85-08-023 | 220-32-05500N  | REP-E | 85-14-061 | 220-48-011    | AMD   | 85-08-023 |
| 220-20-010    | AMD-C | 85-09-016 | 220-32-05500P  | NEW-E | 85-14-061 | 220-48-01100A | NEW-E | 85-09-011 |
| 220-20-010    | AMD   | 85-09-017 | 220-32-05500Q  | NEW-E | 85-14-039 | 220-48-013    | NEW-P | 85-04-065 |
| 220-20-01000J | NEW-E | 85-08-005 | 220-32-05900H  | NEW-E | 85-10-034 | 220-48-013    | NEW   | 85-08-023 |
| 220-20-01000K | NEW-E | 85-09-011 | 220-36-021     | AMD-P | 85-10-060 | 220-48-015    | AMD-P | 85-04-065 |
| 220-20-016    | AMD-P | 85-07-065 | 220-36-021     | AMD   | 85-13-073 | 220-48-015    | AMD   | 85-08-023 |
| 220-20-016    | AMD-C | 85-09-034 | 220-36-02100T  | NEW-E | 85-14-081 | 220-48-015    | NEW-E | 85-04-044 |
| 220-20-016    | AMD   | 85-11-020 | 220-36-022     | AMD-P | 85-10-060 | 220-48-01500M | NEW-E | 85-06-013 |
| 220-20-021    | AMD-P | 85-04-065 | 220-36-022     | AMD   | 85-13-073 | 220-48-01500P | NEW-E | 85-09-011 |
| 220-20-021    | AMD   | 85-08-023 | 220-36-024     | AMD-P | 85-10-060 | 220-48-01500Q | NEW-E | 85-12-009 |
| 220-20-02100B | NEW-E | 85-09-011 | 220-36-024     | AMD   | 85-13-073 | 220-48-01500Q | REP-E | 85-13-034 |
| 220-20-02100B | REP-E | 85-09-036 | 220-36-03001   | AMD-C | 85-04-005 | 220-48-01500R | NEW-E | 85-13-034 |
| 220-20-02100C | NEW-E | 85-09-036 | 220-36-03001   | AMD-C | 85-06-032 | 220-48-01500R | REP-E | 85-14-023 |
| 220-20-030    | REP-P | 85-08-038 | 220-36-03001   | AMD   | 85-06-033 | 220-48-01500S | NEW-E | 85-14-023 |
| 220-20-030    | REP-C | 85-13-031 | 220-36-031     | NEW-C | 85-04-005 | 220-48-01500S | REP-E | 85-15-016 |
| 220-20-030    | REP   | 85-13-032 | 220-36-031     | NEW-C | 85-06-032 | 220-48-06200A | NEW-E | 85-09-047 |
| 220-20-03800A | NEW-E | 85-11-039 | 220-36-031     | NEW   | 85-06-033 | 220-49-02000R | NEW-E | 85-09-012 |
| 220-20-03800A | REP-E | 85-14-060 | 220-40-021     | AMD-P | 85-10-060 | 220-52-05300P | NEW-E | 85-11-058 |
| 220-22-030    | AMD-P | 85-08-038 | 220-40-021     | AMD   | 85-13-073 | 220-52-06600G | NEW-E | 85-13-033 |
| 220-22-030    | AMD-C | 85-13-031 | 220-40-02100Y  | NEW-E | 85-14-081 | 220-56-100    | AMD-P | 85-03-110 |
| 220-22-030    | AMD   | 85-13-032 | 220-40-022     | AMD-P | 85-10-060 | 220-56-100    | AMD-C | 85-09-016 |
| 220-24-02000C | NEW-E | 85-10-010 | 220-40-022     | AMD   | 85-13-073 | 220-56-100    | AMD   | 85-09-017 |
| 220-24-02000C | REP-E | 85-11-031 | 220-40-024     | AMD-P | 85-10-060 | 220-56-10000A | NEW-E | 85-08-005 |
| 220-24-02000D | NEW-E | 85-11-031 | 220-40-024     | AMD   | 85-13-073 | 220-56-105    | AMD-P | 85-03-110 |
| 220-24-02000D | REP-E | 85-11-057 | 220-40-030     | AMD-C | 85-04-005 | 220-56-105    | AMD-C | 85-09-016 |
| 220-24-02000E | NEW-E | 85-11-057 | 220-40-030     | AMD-C | 85-06-032 | 220-56-105    | AMD   | 85-09-017 |
| 220-24-02000E | REP-E | 85-15-030 | 220-40-030     | AMD   | 85-06-033 | 220-56-10500B | NEW-E | 85-08-005 |
| 220-24-02000F | NEW-E | 85-15-030 | 220-40-031     | NEW-C | 85-04-005 | 220-56-110    | AMD-P | 85-07-065 |
| 220-24-02000F | REP-E | 85-15-065 | 220-40-031     | NEW-C | 85-06-032 | 220-56-110    | AMD-C | 85-09-034 |
| 220-24-02000G | NEW-E | 85-15-065 | 220-40-031     | NEW   | 85-06-033 | 220-56-110    | AMD   | 85-11-020 |
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| 220-24-02000H | NEW-E | 85-16-061 | 220-44-050     | AMD-P | 85-04-035 | 220-56-115    | AMD-C | 85-09-016 |
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| 220-56-240     | AMD-C | 85-09-016 | 220-57-42500F | NEW-E | 85-16-080 | 220-69-272     | AMD   | 85-11-020 |
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| 296-18-140   | REP-C | 85-16-074 | 296-18-440 | NEW-C | 85-16-074 | 296-46-495   | AMD-E | 85-14-090 |
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| 296-18-160   | REP-P | 85-13-082 | 296-18-445 | NEW-C | 85-16-074 | 296-46-910   | AMD-E | 85-14-090 |
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| 296-18-170   | REP-P | 85-13-082 | 296-18-450 | NEW-C | 85-16-074 | 296-56-60001 | AMD   | 85-10-004 |
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| 296-56-60211 | AMD-P | 85-05-043 | 296-402-060  | NEW-P | 85-14-033 | 308-37-190  | NEW   | 85-05-040 |
| 296-56-60211 | AMD   | 85-10-004 | 296-402-070  | NEW-P | 85-14-033 | 308-40-104  | AMD-P | 85-11-065 |
| 296-56-60217 | AMD-P | 85-05-043 | 296-402-080  | NEW-P | 85-14-033 | 308-40-104  | AMD-C | 85-14-032 |
| 296-56-60217 | AMD   | 85-10-004 | 296-402-090  | NEW-P | 85-14-033 | 308-40-104  | AMD   | 85-16-113 |
| 296-56-60219 | AMD-P | 85-05-043 | 296-402-100  | NEW-P | 85-14-033 | 308-40-111  | REP-C | 85-06-007 |
| 296-56-60219 | AMD   | 85-10-004 | 296-402-110  | NEW-P | 85-14-033 | 308-40-111  | REP   | 85-07-046 |
| 296-56-60227 | AMD-P | 85-05-043 | 296-402-120  | NEW-P | 85-14-033 | 308-42-122  | NEW-P | 85-03-107 |
| 296-56-60227 | AMD   | 85-10-004 | 296-402-130  | NEW-P | 85-14-033 | 308-42-122  | NEW   | 85-10-002 |
| 296-56-60233 | AMD-P | 85-05-043 | 296-402-140  | NEW-P | 85-14-033 | 308-42-136  | NEW-P | 85-03-107 |
| 296-56-60233 | AMD   | 85-10-004 | 296-402-150  | NEW-P | 85-14-033 | 308-42-136  | NEW-P | 85-08-042 |
| 296-56-60235 | AMD-P | 85-05-043 | 296-402-160  | NEW-P | 85-14-033 | 308-42-136  | NEW   | 85-11-049 |
| 296-56-60235 | AMD   | 85-10-004 | 296-402-170  | NEW-P | 85-14-033 | 308-42-200  | REP-P | 85-14-109 |
| 296-56-60237 | AMD-P | 85-05-043 | 296-402-180  | NEW-P | 85-14-033 | 308-42-200  | REP-E | 85-14-110 |
| 296-56-60237 | AMD   | 85-10-004 | 296-402-190  | NEW-P | 85-14-033 | 308-48-100  | AMD-P | 85-14-025 |
| 296-62-05403 | AMD-P | 85-05-043 | 304-12-140   | AMD-P | 85-16-065 | 308-48-320  | REP-P | 85-15-101 |
| 296-62-05403 | AMD   | 85-10-004 | 304-12-155   | REP-P | 85-16-065 | 308-48-320  | REP-E | 85-15-109 |
| 296-62-05405 | AMD-P | 85-05-043 | 304-12-170   | REP-P | 85-16-065 | 308-48-590  | AMD-P | 85-15-101 |
| 296-62-05405 | AMD   | 85-10-004 | 304-12-180   | REP-P | 85-16-065 | 308-50-060  | REP-P | 85-06-055 |
| 296-62-05411 | AMD-P | 85-05-043 | 304-12-190   | REP-P | 85-16-065 | 308-50-060  | REP   | 85-10-024 |
| 296-62-05411 | AMD   | 85-10-004 | 304-12-191   | REP-P | 85-16-065 | 308-50-070  | REP-P | 85-06-055 |
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| 296-62-05413 | AMD   | 85-10-004 | 304-12-220   | REP-P | 85-16-065 | 308-50-080  | REP-P | 85-06-055 |
| 296-62-05421 | AMD-P | 85-05-043 | 304-12-225   | REP-P | 85-16-065 | 308-50-080  | REP   | 85-10-024 |
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| 296-62-05425 | AMD-P | 85-05-043 | 304-12-305   | REP-P | 85-16-065 | 308-50-300  | REP-P | 85-06-055 |
| 296-62-05425 | AMD   | 85-10-004 | 304-12-310   | REP-P | 85-16-065 | 308-50-300  | REP   | 85-10-024 |
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| 296-62-07302 | AMD   | 85-10-004 | 304-25       | AMD-P | 85-16-066 | 308-50-320  | AMD   | 85-10-024 |
| 296-62-07306 | AMD-P | 85-05-043 | 304-25-010   | AMD-P | 85-16-066 | 308-50-380  | NEW   | 85-05-020 |
| 296-62-07306 | AMD   | 85-10-004 | 304-25-510   | AMD-P | 85-16-066 | 308-50-390  | NEW-P | 85-06-055 |
| 296-62-07353 | AMD-P | 85-05-043 | 304-25-560   | AMD-P | 85-16-066 | 308-50-390  | NEW   | 85-10-024 |
| 296-62-07353 | AMD   | 85-10-004 | 304-25-570   | AMD-P | 85-16-066 | 308-50-400  | NEW-P | 85-06-055 |
| 296-62-130   | AMD-P | 85-05-043 | 308-04-001   | AMD-E | 85-03-082 | 308-50-400  | NEW   | 85-10-024 |
| 296-62-130   | AMD   | 85-10-004 | 308-04-001   | AMD-P | 85-13-078 | 308-50-410  | NEW-P | 85-06-055 |
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| 296-65-003   | NEW-E | 85-16-019 | 308-11-050   | AMD   | 85-03-045 | 308-51-190  | REP-E | 85-15-105 |
| 296-65-005   | NEW-E | 85-16-019 | 308-11-100   | AMD   | 85-03-045 | 308-51-190  | REP-P | 85-16-093 |
| 296-65-010   | NEW-E | 85-16-019 | 308-11-120   | AMD   | 85-03-045 | 308-52-138  | AMD   | 85-03-083 |
| 296-65-015   | NEW-E | 85-16-019 | 308-12-031   | AMD   | 85-05-010 | 308-52-255  | AMD-P | 85-07-066 |
| 296-65-020   | NEW-E | 85-16-019 | 308-12-040   | AMD   | 85-05-010 | 308-52-255  | AMD   | 85-11-048 |
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| 296-65-045   | NEW-E | 85-16-019 | 308-13-005   | NEW   | 85-04-029 | 308-53-160  | REP   | 85-16-054 |
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| 296-116-070  | AMD   | 85-15-032 | 308-13-015   | AMD   | 85-04-029 | 308-53-165  | AMD   | 85-16-054 |
| 296-116-070  | AMD-E | 85-16-057 | 308-13-020   | AMD   | 85-04-029 | 308-53-211  | REP   | 85-04-055 |
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| 296-116-120  | AMD   | 85-15-033 | 308-13-025   | NEW   | 85-04-029 | 308-53-270  | AMD   | 85-16-054 |
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| 308-78-045  | AMD   | 85-04-027 | 308-120-325  | AMD-C | 85-16-050 | 308-171-020 | NEW    | 85-05-008 |
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| 308-93-060  | AMD-E | 85-14-079 | 308-120-420  | AMD-C | 85-16-050 | 308-171-200 | NEW-W  | 85-02-053 |
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| 308-96A-080 | NEW   | 85-11-014 | 308-124H-065 | NEW-P | 85-16-051 | 314-12-125  | REVIEW | 85-12-054 |
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