

Chapter 137-67 WAC

TRANSFER OF CITIZENS OF FOREIGN COUNTRIES

WAC

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WAC 137-67-010 Purpose. The rules in this chapter establish the process for inmates of adult correctional institutions to apply for transfer to their countries of citizenship or origin in accordance with RCW 43.06.350.

[Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-010, filed 9/3/85.]

WAC 137-67-015 Definitions. (1) "Department" is the department of corrections.

(2) "Adult correctional institution" and "institution" is a facility identified in RCW 72.01.050(2) and any similar facility hereafter established.

(3) "Secretary" is the secretary of the department of corrections or the secretary's designee.

(4) "Deputy secretary" is the deputy secretary, prisons division, of the Washington state department of corrections or his/her designee.

(5) "Superintendent" is a superintendent of an adult correctional institution or the superintendent's designee.

(6) "Treaty nation" is a country which has entered into a treaty with the United States on the execution of penal sentences.

(7) "Treaty" is a treaty under which an offender, sentenced in the courts of one country, may be transferred to the country of which the offender is a citizen or national, for the purpose of serving the sentence.

(8) "Country of origin or citizenship" is the country in which the inmate was born or in which the inmate has duly recognized citizenship.

(9) "OIA" is the Office of International Affairs, Criminal Division, United States Department of Justice.

(10) "United States" is the United States of America.

(11) "Detainer" is a hold or request for notification placed by any local, state, or federal law enforcement, penal, or prosecutorial agency based on untried charges, parole or probation violation, escape, unexpired sentence, bond-jumping, or any other fugitive matter.

[Statutory Authority: RCW 72.01.090. 07-12-073, § 137-67-015, filed 6/5/07, effective 7/6/07; 03-21-088, § 137-67-015, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-015, filed 9/3/85.]

WAC 137-67-020 Request for transfer. An inmate committed to the Washington corrections system who is a cit-

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izen of a foreign country may make an application for a voluntary transfer to the inmate's country of origin or citizenship, provided the following conditions exist:

(1) The inmate is able to establish citizenship in a treaty nation;

(2) The inmate voluntarily requests the transfer;

(3) There is no unresolved detainer lodged against the inmate;

(4) There is no pending fine or restitution obligation imposed on the inmate by a court of competent jurisdiction in the United States;

(5) There is no pending or actual sentence for civil contempt against the inmate; and

(6) There is no pending appeal or collateral attack on the underlying sentence or sentences which form the basis of the inmate's custody.

[Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-020, filed 9/3/85.]

WAC 137-67-025 Initial notification. At the time of admission to the Washington corrections center, or the Washington corrections center for women, the orientation information given to all inmates will include information on international offender transfers. An inmate who is a citizen of a treaty nation will be informed of the existing treaty and be provided with the opportunity to indicate an interest or non-interest in a transfer to the inmate's country of origin or citizenship on an application form provided by the department. Whenever possible, the form will be bilingual or translated into the inmate's native language. The application will be processed consistent with the purpose and provisions of the applicable treaty.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-67-025, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-025, filed 9/3/85.]

WAC 137-67-030 Process for application. After the inmate's foreign country citizenship has been verified and that country has been identified as a treaty nation, the superintendent will forward the inmate's application for transfer and the verification of citizenship to the deputy secretary. All applications for international transfer will be submitted by the deputy secretary to the secretary for final department approval and recommended to the governor or the governor's designee pursuant to RCW 43.06.350.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-67-030, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-030, filed 9/3/85.]

WAC 137-67-035 Referral by the secretary to the Office of Enforcement Operations, International Prisoner Transfer Program, Criminal Division, U.S. Department of Justice. After approval of an inmate's application for

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transfer by the governor or the governor's designee, the secretary will refer the inmate's application to the International Prisoner Transfer Program (IPTP).

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-67-035, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-035, filed 9/3/85.]

WAC 137-67-040 Verification hearing. Following IPTP approval and approval of the treaty country, the inmate will be referred by IPTP to a United States magistrate or a United States district court judge, or other appointed United States official to assure and document the inmate's voluntary request for transfer. Federal authorities will complete the necessary procedures to effect voluntary transfer under the applicable treaty and laws of the United States.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-67-040, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-040, filed 9/3/85.]

WAC 137-67-045 Return to state custody. If for any reason an inmate's transfer is determined to be invalid, the state of Washington will reaccept the inmate for imprisonment for the remainder of the inmate's original sentence.

[Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-045, filed 9/3/85.]