

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

DEPARTMENT OF CORRECTIONS

(agency name)

Administrative Order No. 85-07

(1) I, Amos E. Reed, director of the Department of Corrections

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to:

adopt: Chapter 137-67 WAC, Transfer of Citizens of Foreign Countries

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. 85-15-093 filed with the code reviser on July 24, 1985. These rules shall take effect:
XX thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).
at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, 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 therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

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

(b) This rule is promulgated pursuant to RCW 72.68.010 which directs that the

Secretary of the Department of Corrections (agency)

has authority to implement the provisions of RCW 43.06.350 and 72.68.010 (name of act or RCW citation)

(c) This rule is promulgated under the general rule-making authority of the (agency)

as authorized in RCW

(4) 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.

(5) This order, after being first recorded in the order register of this agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED September 3, 19 85

STATE OF WASHINGTON FILED

SEP 3 1985

By Amos E. Reed

Amos E. Reed, Secretary

Title

CODE REVISER'S OFFICE

[Form CR-7: Rev. 7/23/82]

IVSR 85-18-0661

Chapter 137-67 WAC

TRANSFER OF CITIZENS OF FOREIGN COUNTRIES

WAC

137-67-010	Purpose.
137-67-015	Definitions.
137-67-020	Request for transfer.
137-67-025	Initial notification.
137-67-030	Process for application.
137-67-035	Referral by the secretary to the Office of International Affairs, Criminal Division, Department of Justice.
137-67-040	Verification hearing.
137-67-045	Return to state custody.

NEW SECTION

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.

NEW SECTION

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) "Director" is the director of the division of prisons of the Washington state department of corrections or the director's 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.

NEW SECTION

WAC 137-67-020 REQUEST FOR TRANSFER. An inmate committed to the Washington corrections system who is a citizen 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.

NEW SECTION

WAC 137-67-025 INITIAL NOTIFICATION. At the time of admission to the Washington corrections center, or the Purly 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 noninterest 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.

NEW SECTION

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 director. All applications for international transfer will be submitted by the director to the secretary for final department approval and recommended to the governor or the governor's designee pursuant to RCW 43.06.350.

NEW SECTION

WAC 137-67-035 REFERRAL BY THE SECRETARY TO THE OFFICE OF INTERNATIONAL AFFAIRS, CRIMINAL DIVISION, DEPARTMENT OF JUSTICE. After approval of an inmate's application for transfer by the governor or the governor's designee, the secretary will refer the inmate's application to OIA.

NEW SECTION

WAC 137-67-040 VERIFICATION HEARING. Following OIA approval and approval of the treaty country, the inmate will be referred by OIA 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.

NEW SECTION

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.