

Title 236 WAC

GENERAL ADMINISTRATION, DEPARTMENT OF

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Chapter 236-10 WAC

COMPLIANCE WITH STATE ENVIRONMENTAL PROTECTION ACT

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WAC 236-10-010 Authority. This chapter is promulgated pursuant to RCW 43.21C.120. [Order 76-5, § 236-10-010, filed 5/14/76.]

WAC 236-10-015 Impact of guidelines on the department. The Department of General Administration fully endorses the intent and purpose of SEPA and will make every effort to implement and fulfill the requirements of the SEPA Guidelines in the best manner possible within the existing constraints of its dollar and manpower resources. [Order 76-5, § 236-10-015, filed 5/14/76.]

WAC 236-10-020 Scope and coverage of this chapter. (1) It is the intent of the Department of General

Administration that compliance with the guidelines of this chapter shall constitute complete procedural compliance with SEPA for any "action" as defined in WAC 197-10-040(2).

(2) The guidelines of this chapter contain no sections relating to the notice/statute of limitations provisions of RCW 43.21C.080, 43.21C.085 and 43.21C.087. To utilize these provisions, the Department of General Administration shall follow the statutory language and any applicable regulations of the Department of Ecology. [Order 76-5, § 236-10-020, filed 5/14/76.]

WAC 236-10-030 Adoption by reference. The Department of General Administration hereby adopts by reference the following sections or subsections of chapter 197-10 of the Washington Administrative Code (the "SEPA Guidelines" adopted by the State of Washington, Council on Environmental Policy)

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197-10-020:	Purpose.
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- 197-10-330: Threshold Determination Procedures—Information in Addition to Checklist.
- 197-10-340: Threshold Determination Procedures—Negative Declarations.
- 197-10-345: Assumption of Lead Agency Status by Another Agency with Jurisdiction—Prerequisites, Effect and Form of Notice.
- 197-10-350: Affirmative Threshold Determinations.
- 197-10-355: Form of Declaration of Significance/Nonsignificance.
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- 197-10-400: Duty to Begin Preparation of a Draft EIS.
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- 197-10-442: Special Considerations Regarding Contents of an EIS.
- 197-10-444: List of Elements of the Environment.
- 197-10-450: Public Awareness of Availability of Draft EIS.
- 197-10-455: Circulation of the Draft EIS—Review Period.
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- 197-10-660: Use of Previously Prepared EIS for a Different Proposed Action.
- 197-10-690: Use of a Lead Agency's EIS by Other Acting Agencies for the Same Proposal.
- 197-10-695: Draft and Final Supplements to a Revised EIS.
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- 197-10-710: EIS Combined with Existing Planning and Review Processes.
- 197-10-840: Application of Agency Guidelines to Ongoing Actions.

[Order 76-5, § 236-10-030, filed 5/14/76.]

WAC 236-10-040 Integration of SEPA procedures with other governmental operations. To clarify threshold decisions and to categorize department actions applicable to the environment protection process, typical Department of General Administration actions have been identified as follows:

(1) Category I. Projects which will almost always require EIS.

(a) Master Plan

(b) Construction Project – (Determined by Environmental Assessment)

(i) Projects requiring preparation of Major State Construction Plans.

(ii) Projects undertaken for another State agency or private applicant where the assessment process identifies significant known or potential impact(s).

(c) All Department of General Administration projects where the assessment process identifies known or potential significant environmental impact.

(d) Alteration projects entailing laboratory space which will utilize dangerous or hazardous chemicals, drugs, or radioactive materials.

(e) Procurement and/or disposal of hazardous materials or substances.

(2) Category II. Projects which may require EIS or further assessment.

(a) Construction Projects.

(i) Repair and alteration projects requiring a major change in energy requirement or source.

(ii) Repair and alteration projects affecting architectural character of buildings of recognized historical importance.

(b) Real property acquisitions already covered by EIS for the project or covered by an EIS on the master plan in which the proposed action has been identified with no significant change in scope.

(c) Construction project, with no significant change in scope, which is an integral part of a master plan for which a final EIS has been filed, and all known environmental impacts have been considered.

(d) Upgrading of existing space with significant change in use.

(3) Category III. Application for Exemptions within the Department of General Administration. Each "action" as defined in SEPA-WAC 197-10-040(2), (a) thru (c), of the department shall have a form completed and retained in the division file. This form shall show the "action" and "exemption" decisions and be signed by the Department of General Administration representative making that decision. This form shall also show any threshold decision signed by the department representative. Two copies of this completed form shall be submitted to the Division of Facilities Planning for review and approval or disapproval.

(4) Category IV. Division Exemptions. The Department of General Administration has reviewed SEPA, the Council on Environmental Protections rules and regulations adopted pursuant thereto, and its own programs and concludes that the activities of the following divisions of the department are exempt by virtue of WAC 197-10-040(2), 197-10-150 through 197-10-190. Archives and Records Management, Capitol Buildings and Grounds, Communications, Data Processing Service Center, Fiscal and Management Center, Motor Transport, Personnel Office, State Mail Service, Surplus Property Office, Purchasing, and Lease and Property. If any of the aforementioned divisions become involved in any "action" as defined in WAC 197-10-040(2), (a)

thru (c), which is not exempt, then these guidelines will apply and the division supervisor must integrate these department procedures with their operations.

(5) Category V. CEP Exemptions of Agency Activities. Pursuant to Administrative Order No. 76-12, dated June 3, 1976, issued by the Council on Environmental Policy, all of the activities of the division of banking and the division of savings and loan associations of the department of general administration under programs they administer as of December 12, 1975, except for building construction, are exempt from the threshold determination and environmental impact statement requirements of chapter 43.21C RCW and chapter 197-10 WAC. [Order 76-6, § 236-10-040, filed 8/31/76; Order 76-5, § 236-10-040, filed 5/14/76.]

WAC 236-10-050 Timing of the EIS process. Any agency submitting a Public Works Request or Space Request to the Department of General Administration shall be regarded as the lead agency. It will be the sole responsibility of any agency submitting a Public Works Request or Space Request to determine whether the action is exempt and, if not, to prepare environmental checklists, make threshold determinations, declarations of nonsignificance or significance, prepare draft and final EIS's and conduct public hearings. If an EIS is required for any Public Works Request or Space Request the working draft EIS must be prepared concurrently or prior to the completion of the Design Development Phase as defined in S.F.96.82 (Rev.7-75) Conditions of Agreement Section C, 1 thru 4. [Order 76-6, § 236-10-050, filed 8/31/76; Order 76-5, § 236-10-050, filed 5/14/76.]

WAC 236-10-060 Summary of information which may be required of a private applicant. (1) There are three areas of these guidelines where an agency is allowed to require information from a private applicant. These are:

- (a) Environmental checklist;
- (b) Threshold determination; and,
- (c) Draft and final EIS.

The Responsible Official may determine that any information supplied by a private applicant is insufficient and require further information, if in the judgment of the Responsible Official the information initially supplied was not reasonably adequate to fulfill the purpose for which it was required. An applicant may choose to voluntarily submit, at any time, information beyond that which may be required under these guidelines.

(2) Environmental Checklist. A private applicant is required to complete an environmental checklist as set forth in WAC 197-10-365 either concurrently with or after filing the application. Explanations for each "yes" and "maybe" answer indicated thereon are required. Agencies may not require a complete assessment of "mini-EIS" at this stage. (See WAC 197-10-310.)

(3) Threshold Determination. The Responsible Official shall make an initial review of a completed checklist without requiring more information from a private applicant. If, and only if, the Responsible Official determines as a result of its initial review that the information

available to it is not reasonably sufficient to determine the environmental impacts of the proposal, the Responsible Official, may require further information from the applicant, including explanation of "no" answers on the checklist. This information shall be limited to those elements on the environmental checklist for which, as determined by the Responsible Official information accessible to the Responsible Official is not reasonably sufficient to evaluate the environmental impacts of the proposal. Field investigations or research by the applicant reasonably related to determining the environmental impacts of the proposal may be required. (See WAC 197-10-330.)

(4) Draft and Final EIS Preparation. If the guidelines of the lead agency so provide, an EIS may be prepared by the applicant under the direction of the Responsible Official. (See WAC 197-10-420.) Alternatively, the Responsible Official may require a private applicant to provide data and information which is not in the possession of the lead agency relevant to any or all areas to be covered by an EIS. A private applicant shall not be required to provide information which is the subject of a pre-draft consultation request until the consulted agency has responded, or the forty-five days allowed for response by the consulted agency has expired, whichever is earlier.

(5) If the Responsible Official determines that an EIS is required the applicant will be provided the option of the following impact statement preparation methods:

(a) Applicant prepares the EIS under the supervision and to the satisfaction of the department Responsible Official.

(b)(i) Applicant posts a mutually agreed upon deposit.

(ii) The department retains a mutually agreed upon and independent consultant to prepare the document.

(iii) The consultant prepares the document under and to the satisfaction of the department Responsible Official.

(iv) The consultant is paid from the deposit and the balance of the deposit is returned. The applicant will be provided an itemized accounting of the expenditures made.

(6) Threshold Determination Appeal Procedures. In the event that the threshold determination results in an appeal by the private applicant within 15 calendar days from listing in the appropriate register, the following procedures shall be followed:

(a) The Responsible Official will review its decision with particular emphases on the areas of appeal. The Responsible Official may request further information of the applicant. The decision of the Responsible Official shall be final and shall be in writing with copies to the project file, the applicant, each protestant, and Department SEPA Public Information Center.

(b) The Responsible Official will act upon the appeal within one week of receipt. If more time is required, the applicant will be advised in writing of the anticipated schedule. [Order 76-6, § 236-10-060, filed 8/31/76; Order 76-5, § 236-10-060, filed 5/14/76.]

WAC 236-10-070 Sensitive areas. In its actions, the department shall respect "environmentally sensitive areas" and their modified exemption criteria which have been adopted and displayed by local governments pursuant to WAC 197-10-177. [Order 76-5, § 236-10-070, filed 5/14/76.]

WAC 236-10-080 Preparation of EIS by persons outside the lead agency. (1) Preparation of the EIS is the responsibility of the lead agency, by or under the direction of its responsible official. No matter who participates in the preparation of the EIS, it is nevertheless the EIS of the responsible official of the lead agency. The responsible official, prior to distributing the draft EIS, shall be satisfied that it complies with the provisions of these guidelines and the guidelines of the lead agency.

(2) An EIS may be prepared by a private applicant or agent there, or by an outside consultant retained by either a private applicant or the lead agency. In such case, the responsible official within the lead agency shall assure that the EIS is prepared in a responsible manner and with appropriate methodology. The responsible official shall direct the areas of research and examination to be undertaken, as well as the organization of the resulting document.

(3) If a person other than the lead agency is preparing the EIS, the responsible official will coordinate any pre-draft consultation procedures so that the individual preparing the EIS immediately receives all substantive information submitted by consulted agencies. The responsible official shall also attempt to obtain any information needed by the person preparing the EIS which is on file with another agency. The responsible official shall allow any private party preparing an EIS access to all public records of the lead agency which are relevant to the subject matter of the EIS, pursuant to chapter 42.17 RCW (Public Disclosure and Public Records Law; Initiative 276, (1973)).

(4) Private applicants shall participate in the preparation of the EIS; however, the final authority over content shall be the responsible official.

(5) No private applicant shall be required to participate in the preparation of an EIS except when consistent with the guidelines of the lead agency. A private applicant may, however, volunteer to provide any information or effort desired, so long as the contents and organization of the resulting EIS are supervised and approved by the responsible official as required by this section.

(6) The provisions of this section apply to both the draft and final EIS. [Order 76-5, § 236-10-080, filed 5/14/76.]

WAC 236-10-090 Designation of responsible official. (1) Within the Department of General Administration the ultimately responsible official is the Director.

(2) The Division of Facilities Planning is the Responsible Official for overall direction and control of environmental protection within the Department of General Administration and the division shall maintain the Department SEPA Public Information Center.

(3) When the Department of General Administration is the lead agency the operational responsibility for determining if the department's involvement is an "action" and if the department's "action" is "exempt" shall be controlled by the Division of Facilities Planning.

(4) All Capital Budget line items of the department will be submitted to the Division of Facilities Planning for Environmental Assessment prior to submittal to OPP & FM.

(5) All Public Work Requests, Form A15 (repair and/or remodel), originating within the department must first be submitted to the Division of Facilities Planning together with an environmental checklist and significant or non-significant declaration, or work form that the action is exempt.

(6) The Division of Facilities Planning shall review and agree or disagree with all project or program exemptions, environmental checklists, declarations of non-significance or significance and threshold determinations initiated within the department. In the event that there is disagreement with the initiator of the project the decision of the Division of Facilities Planning shall be final.

(7) The department's responsibilities as consulted agency will be coordinated by the Division of Facilities Planning. When the Department of General Administration is responding as the consulted agency to a draft EIS, etc., and when specific contents of an EIS impacts a particular (GA) division, then that EIS will be sent to the affected division head for review and response. The affected division's comments and/or recommendation will then be incorporated into the overall department response and sent to the (Department of General Administration) responsible official for final approval.

(8) A private applicant will follow the procedures as outlined in WAC 236-10-060. [Order 76-5, § 236-10-090, filed 5/14/76.]

WAC 236-10-100 SEPA public information center.

(1) The Departmental SEPA Public Information Center shall be located in the office of the Division of Facilities Planning, 106 Maple Park, Olympia, Washington 98504.

(2) The following documents shall be maintained at the agency's SEPA public information center:

(a) Copies of all declarations of non-significance filed by the agency, for a period of one year.

(b) Copies of all EISs prepared by the agency, for a period of three years. Draft EISs which have been superseded by a final EIS need not be maintained at the center.

(3) In addition, the agency shall maintain the following registers at its information center, each register including for each proposal its location, a brief (one sentence or phrase) description of the nature of the proposal, the date first listed on the register, and a contact person or office form which further information may be obtained:

(a) A "Proposed Declaration of Non-Significance Register" which shall contain a listing of all current proposed declarations of non-significance.

(b) An "EIS in Preparation Register" which shall contain a listing of all proposals for which the agency is currently preparing an EIS, and the date by which the EIS is expected to be available.

(c) An "EIS Available Register" which shall contain a listing of all draft and final EISs prepared by the agency during the previous six months, including thereon the date by which comments must be received on draft EISs, and the date for any public hearing scheduled for the proposal.

(4) Each of the registers required by subsection (3) hereof shall be kept current and maintained at the information center for public inspection. In addition, the registers, or updates thereof containing new entries added since the last mailing, shall be mailed once every two weeks to those organizations and individuals who make written request therefor, unless no new proposals are placed on the registers, in which event a copy of the register or update shall be mailed when a new proposal is added. Agencies may charge a periodic fee for the service of mailing the registers or updates, which shall be reasonably related to the costs of reproduction and mailing.

(5) The documents required to be maintained at the information center shall be available for public inspection, and copies thereof shall be provided upon written request. Agencies may charge for copies in the manner provided by chapter 42.17 RCW, and for the cost of mailing. [Order 76-5, § 236-10-100, filed 5/14/76.]

WAC 236-10-110 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected. [Order 76-5, § 236-10-110, filed 5/14/76.]

Chapter 236-12 WAC

STATE CAPITOL GROUNDS—TRAFFIC RULES AND REGULATIONS

WAC

- 236-12-001 Promulgation.
- 236-12-010 "Director" defined.
- 236-12-011 "State capitol grounds" defined.
- 236-12-012 "Vehicle" defined.
- 236-12-020 Objectives of traffic rules and regulations.
- 236-12-030 Traffic control.
- 236-12-040 Parking spaces.
- 236-12-050 Rented and reserved parking spaces.
- 236-12-060 Tourists and visitors.
- 236-12-065 Camping.
- 236-12-070 Speed.
- 236-12-080 Regulatory signs and directions.
- 236-12-085 Marking.
- 236-12-090 Pedestrians—Right of way.
- 236-12-120 Parking within designated spaces.
- 236-12-130 Impounding.
- 236-12-140 Special traffic and parking regulations and restrictions authorized.
- 236-12-150 Advertising and solicitation activities.

PERMITS

- 236-12-200 Authorization for issuance of permits.

- 236-12-220 Allocation of rented parking space and priorities of applicants.
- 236-12-225 Liability of state.
- 236-12-250 Special event permits.
- 236-12-290 Fees for permits.
- 236-12-300 Parking fee payments.
- 236-12-320 Responsibility of person to whom permit is issued.
- 236-12-330 Violations unlawful.

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- 236-12-410 Impounding of vehicles.
- 236-12-420 Effective date.
- 236-12-430 Demonstrations, parades—Obstructing traffic—Prohibiting.
- 236-12-440 Permits for demonstrations, parades.
- 236-12-450 Prohibiting access to areas of capitol grounds.
- 236-12-460 Regulating access to capitol buildings and parking garages.
- 236-12-470 Prohibiting access to state capitol buildings and grounds while armed with dangerous weapons.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 236-12-100 Parking. [§ 9, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
- 236-12-110 Car pool permits. [§ 10, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
- 236-12-210 Numbering of parking areas—Permit designation. [§ 16, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
- 236-12-230 Allocation of reserved parking space. [§ 18, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
- 236-12-240 Visitors and guests. [§ 19, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
- 236-12-260 Permit revocations. [§ 21, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
- 236-12-270 Vehicle and drivers licenses required. [§ 22, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
- 236-12-280 Permit periods. [§ 23, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
- 236-12-310 Display of permits. [§ 26, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
- 236-12-400 Regulatory signs, markings, barricades, etc. [§ 29, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.

WAC 236-12-001 Promulgation. Pursuant to the authority granted by chapters 43.19, 46.08, and 79.24 RCW, the Director of the Department of General Administration hereby establishes the following rules and regulations to govern pedestrian and vehicular traffic and parking upon state lands which are a part of the state capitol. [Order 12, § 236-12-001, filed 12/19/73; 8/19/64.]

WAC 236-12-010 "Director" defined. Wherever used herein "Director" refers to the director of the department of general administration. [Order 12, § 236-12-010, filed 12/19/73; 8/19/64.]

WAC 236-12-011 "State capitol grounds" defined. "State capitol grounds" shall be construed to be those grounds designated by statute as state capitol grounds, including the East Capitol Campus, Sylvester Park, the old Capitol Building and Capitol Lake and its adjoining lands and roadways. [Order 76-2, § 236-12-011, filed 3/15/76; Order 12, § 236-12-011, filed 12/19/73.]

WAC 236-12-012 "Vehicle" defined. Wherever used herein "vehicle" refers to all mechanical transportation devices defined as vehicles in the Motor Vehicle

Laws and Regulations of the State of Washington including motorcycles and bicycles. The director may designate and set aside specific parking and travel areas for motorcycles and/or bicycles, and no motorcycles or bicycles may be operated or parked in areas other than those designated for vehicular use. [Order 12, § 236-12-012, filed 12/19/73.]

WAC 236-12-020 Objectives of traffic rules and regulations. The objectives of these traffic regulations are:

(1) To protect and control pedestrian and vehicular traffic;

(2) To assure access at all times for emergency equipment;

(3) To facilitate the work of state government by assuring access for its vehicles and those of its employees and visitors and by assigning the limited parking space for the most efficient use. [Order 12, § 236-12-020, filed 12/19/73; § 1, filed 8/19/64.]

WAC 236-12-030 Traffic control. The Motor Vehicle Laws and other traffic laws of the State of Washington are applicable to pedestrian and vehicular traffic on the state capitol grounds, and are hereby adopted and made a part hereof by reference as if fully set forth herein. In case of conflict between the provisions of the Motor Vehicle or other traffic laws of the State of Washington and these regulations, the provisions of the regulations shall govern. [Order 12, § 236-12-030, filed 12/19/73; § 2, filed 8/19/64.]

WAC 236-12-040 Parking spaces. The director shall formulate plans for the marking and numbering of parking areas and spaces and shall designate spaces for visitors, service vehicles, employees and others as well as areas in which parking is prohibited. [Order 12, § 236-12-040, filed 12/19/73; § 3, filed 8/19/64.]

WAC 236-12-050 Rented and reserved parking spaces. Parking is authorized only in properly designated and identified areas. Permits may be issued by the director to identify vehicles that are authorized to park in designated areas. No person shall stop, park or leave any vehicle, attended or unattended, in any parking space marked for "leased vehicles", "reserved", or "service vehicles" unless properly authorized to do so. These regulations apply to vehicles owned by the state and any other governmental unit or agency as well as to privately-owned vehicles. [Order 12, § 236-12-050, filed 12/19/73; § 4, filed 8/19/64.]

WAC 236-12-060 Tourists and visitors. Tourists, visitors and vehicles making deliveries may park without permit in areas on the capitol grounds specifically designated for their use, provided, however, that such permissive use shall be subject to the rules and regulations relating to traffic and the control thereof. Employees of the State of Washington who are employed on the state capitol grounds may not park in spaces set aside and marked for visitors, tourists and other special purposes between the hours of 8 a.m. and 4 p.m. on normal

working days, unless authorized to do so by the director. [Order 12, § 236-12-060, filed 12/19/73; § 5, filed 8/19/64.]

WAC 236-12-065 Camping. Camping on the state capitol grounds is prohibited. [Order 76-2, § 236-12-065, filed 3/15/76.]

WAC 236-12-070 Speed. Vehicles on the state capitol grounds may not be operated at a speed in excess of 20 miles per hour or in excess of such lower speed as is reasonable and prudent in the circumstances or as may be posted. Vehicles in parking garages located on the state capitol grounds may not be operated at a speed in excess of 12 miles per hour. [Order 12, § 236-12-070, filed 12/19/73; § 6, filed 8/19/64.]

WAC 236-12-080 Regulatory signs and directions. Pedestrians and drivers of vehicles shall obey regulatory signs posted by the director. Pedestrians and drivers of vehicles shall also comply with directions given in the control and regulation of traffic by uniformed state patrol officers. No person shall move or alter any sign, barricade or other structure including painted stripes or markings utilized in traffic and parking control without the authorization of the director. [Order 12, § 236-12-080, filed 12/19/73; § 7, filed 8/19/64.]

WAC 236-12-085 Marking. The marking of streets, parking lots and garages shall be as follows:

(1) yellow areas—no parking

(2) white areas—crosswalks and parking stalls [Order 12, § 236-12-085, filed 12/19/73.]

WAC 236-12-090 Pedestrians—Right of way. (1) The operator of a vehicle shall yield the right of way, slowing down or stopping, if need be, to so yield to any pedestrian crossing any street or roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(2) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the operator of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(3) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the street or roadway.

(4) Pedestrians on a street or roadway where a sidewalk is provided shall proceed upon such sidewalk. Pedestrians upon a street or roadway where no sidewalk is provided shall proceed on the extreme left-hand side of the roadway and upon meeting an oncoming vehicle shall step to their left and clear of the street or roadway. [Order 12, § 236-12-090, filed 12/19/73; § 8, filed 8/19/64.]

WAC 236-12-120 Parking within designated spaces. No vehicle shall be parked so as to occupy any portion of more than one parking space or stall as designated in the parking area, or so as to occupy any portion of a fire lane or other area in which parking is prohibited. [Order 12, § 236-12-120, filed 12/19/73; § 11, filed 8/19/64.]

WAC 236-12-130 Impounding. No disabled or inoperative vehicle shall be parked on the capitol grounds for a period in excess of twenty-four hours. Vehicles which have been parked for periods in excess of twenty-four hours and which appear to be disabled or inoperative may be impounded by order of the director or the state patrol and stored at the expense of either or both the owner and operator thereof. Vehicles may also be impounded by order of the director or the state patrol for parking in crosswalks, fire lanes, unmarked parking areas (including parking strips), loading zones (unless authorized to use), leased parking spaces (unless authorized to use by the lessee of the space) and for double parking, blocking building entrances or exits or for interfering with access to fire hydrants. Neither the state nor its officers or employees shall be liable for loss or damage of any kind resulting from such impounding and storage. [Order 12, § 236-12-130, filed 12/19/73; § 12, filed 8/19/64.]

WAC 236-12-140 Special traffic and parking regulations and restrictions authorized. Upon special occasions causing additional heavy traffic and during emergencies the director may impose emergency traffic and parking regulations and restrictions. [Order 12, § 236-12-140, filed 12/19/73; § 13, filed 8/19/64.]

WAC 236-12-150 Advertising and solicitation activities. No advertising, solicitation, or promotional activities shall be conducted or engaged in on any portion of the state capitol grounds in such a manner as to damage or destroy public property, block or close off road ways and parking areas, block or interfere with ingress and egress to the state capitol grounds or to any building situated thereon, or in any manner interfere with the conduct of state government business. Advertising and solicitation for commercial purposes shall not be conducted or engaged in on any portion of the state capitol grounds except with prior approval of the director. [Order 76-2, § 236-12-150, filed 3/15/76; Order 12, § 236-12-150, filed 12/19/73; § 14, filed 8/19/64.]

PERMITS

WAC 236-12-200 Authorization for issuance of permits. The director may issue parking permits in the parking areas of the capitol grounds designated by him to state officials, state employees, state agencies for official cars and to such other individuals as he may determine require parking facilities to aid in carrying out state business. [Order 12, § 236-12-200, filed 12/19/73; § 15, filed 8/19/64.]

WAC 236-12-220 Allocation of rented parking spaces and priorities of applicants. The rented parking spaces available on the capitol grounds shall be allocated by the director among applicants for permits in such manner as will best effectuate the objectives of these regulations. Unless in his opinion the objectives of these regulations would otherwise be better served, the director shall observe the following priorities in the issuance of permits to applicants:

(1) physically handicapped state employees and officials

(2) car pools

(3) other state employees and officials, in order of date of application except where the director determines that accomplishment of official duties requires assignment of space. [Order 12, § 236-12-220, filed 12/19/73; § 17, filed 8/19/64.]

WAC 236-12-225 Liability of state. The state assumes no liability for vehicles parked on the state capitol grounds or in parking garages located on the state capitol grounds. No bailment but only a license is created by the purchase or issuance of a permit to park on state property. [Order 12, § 236-12-225, filed 12/19/73.]

WAC 236-12-250 Special event permits. Any state official, agency or department sponsoring or making arrangements for conferences, meetings, schools, seminars or other special events which will require special traffic control and parking arrangements will confer with the director as to such arrangements. [Order 12, § 236-12-250, filed 12/19/73; § 20, filed 8/19/64.]

WAC 236-12-290 Fees for permits. The fees for rental parking shall be as follows:

PARKING FEES	AUTOMOBILE MOTORCYCLE	
(a) Covered Space (Garage)	\$ 10.00	\$ 5.00
(b) Open Space (Lots/Streets)	\$ 5.00	\$ 3.00
(c) Parking-by-the-Day	\$ 1.00	
	per day	
	maximum	

(d) No charge for visitors or tourists except where mechanical devices or meters are installed for general or specific area use. [Order 12, § 236-12-290, filed 12/19/73; Order 11, § 236-12-290, filed 5/22/72; Order 9, § 236-12-290, filed 8/14/70; § 24, filed 8/19/64.]

WAC 236-12-300 Parking fee payments. Fees are payable in advance. Payments may be made by cash or check or by payroll deduction plan. For the payroll deduction plan, monthly payments should be accomplished by the initiation of a form to be designated by the director. Since retroactive deductions are not authorized, cash or check payments must be made for any months that a payroll deduction is not withheld. Checks should be made payable to the Department of General Administration and forwarded to the Parking Division, Plaza Garage. Payment must be received not later than the tenth day of each month. [Order 12, § 236-12-300, filed 12/19/73; § 25, filed 8/19/64.]

WAC 236-12-320 Responsibility of person to whom permit is issued. The person to whom a permit is issued pursuant to these regulations shall be responsible for all violations of these rules and regulations involving the vehicle for which the permit was issued, provided, however, that such responsibility shall not relieve other persons who violate these rules and regulations. [Order 12, § 236-12-320, filed 12/19/73; § 27, filed 8/19/64.]

WAC 236-12-330 Violations unlawful. A violation of any of these rules and regulations is unlawful and constitutes a misdemeanor as provided in RCW 46.08-.170. [Order 12, § 236-12-330, filed 12/19/73; § 28, filed 8/19/64.]

GENERAL

WAC 236-12-410 Impounding of vehicles. In addition to the provisions of WAC 236-12-130, any vehicle parked upon the state capitol grounds in violation of these regulations, including the motor vehicle and other traffic laws of the State of Washington, may be impounded and taken to such place for storage as the director or the state patrol selects. The expenses of such impoundings and storage shall be charged to the owner or operator of the vehicle and paid by him prior to its release. The state and its employees administering these regulations shall not be liable for loss or damage of any kind resulting from such impounding and storage. [Order 12, § 236-12-410, filed 12/19/73; § 30, filed 8/19/64.]

WAC 236-12-420 Effective date. These rules and regulations shall become effective when adopted pursuant to chapter 34.04 RCW and shall remain in full force and effect until amended or changed under the provisions of said chapter. [Order 12, § 236-12-420, filed 12/19/73; § 31, filed 8/19/64.]

WAC 236-12-430 Demonstrations, parades—Obstructing traffic—Prohibiting. No person, singly or in combination with others, shall engage in demonstrations or parades in such a manner that the orderly flow of pedestrian or vehicular traffic on the state capitol grounds is disrupted. [Order 12, § 236-12-430, filed 12/19/73; Order 4, § 236-12-430, filed 2/10/69; Emergency Order 2, § 236-12-430, filed 12/18/68.]

WAC 236-12-440 Permits for demonstrations, parades. Any person or group of persons desiring to conduct a demonstration or parade on the state capitol grounds shall apply to the director for written approval. Application must be made, in writing, at least four (4) week days, excluding holidays, prior to the time the parade or demonstration is to take place. [Order 12, § 236-12-440, filed 12/19/73; Order 4, § 236-12-440, filed 2/10/69; Emergency Order 2, § 236-12-440, filed 12/18/68.]

WAC 236-12-450 Prohibiting access to areas of capitol grounds. No member of the general public shall be permitted in any area of the state capitol grounds

which is identified by a sign indicating that such area is private and not open to the public. [Order 12, § 236-12-450, filed 12/19/73; Order 3, § 236-12-450, filed 2/10/69; Emergency Order 1, § 236-12-450, filed 12/18/68.]

WAC 236-12-460 Regulating access to capitol buildings and parking garages. No person shall enter or remain in any state capitol building other than during normal office hours, unless properly authorized to do so. No person shall enter or remain in any state capitol parking garage at any time, unless properly authorized to do so. [Order 76-2, § 236-12-460, filed 3/15/76; Order 12, § 236-12-460, filed 12/19/73.]

WAC 236-12-470 Prohibiting access to state capitol buildings and grounds while armed with dangerous weapons. Unless otherwise permitted in advance by the director of General Administration, no person shall carry any firearm or other dangerous weapon on the state capitol grounds or in any building on the state capitol grounds: *Provided*, That this regulation shall not apply to duly authorized federal, state, and local law enforcement officers or to any federal, state, and local government employee authorized to carry firearms in the course of their public employment. [Order 76-7, § 236-12-470, filed 10/18/76.]

Chapter 236-16 WAC

CAPITOL LAKE & ADJOINING LANDS & ROADWAYS

WAC

236-16-001	Promulgation.
236-16-010	Definitions.
236-16-020	Motorboats—Prohibitions.
236-16-025	Water skiing, etc.—Prohibited.
236-16-030	Launching sites—Motorboat routes.
236-16-040	Compliance with laws required.
236-16-050	Operation by manual means or by sail—Construction.
236-16-060	Use of roadways.
236-16-070	Penalties.
236-16-080	Effective date.
236-16-100	Muffling device required.
236-16-110	Docks, floats, piers, etc.—Speed.
236-16-120	Application of algacides, etc.

WAC 236-16-001 Promulgation. Pursuant to the authority granted by chapter 46.08 and chapter 43.19 RCW, the Director of the Department of General Administration hereby promulgates the following rules and regulations with respect to Capitol Lake and its adjoining lands and roadways. [Promulgation, filed 4/15/65.]

WAC 236-16-010 Definitions. For the purpose of these rules:

- (1) "Boat" shall include any vehicle or device capable of being operated in the water;
- (2) "Motorboat" shall include any vehicle, device, or boat which is in itself a self-propelled unit and whether or not machinery is the principal source of propulsion;
- (3) "Operate" shall mean to navigate or otherwise use a boat or motorboat. [§ 1, filed 4/15/65.]

WAC 236-16-020 Motorboats—Prohibitions. The operation of all motorboats is prohibited in the area of Capitol Lake north of the railroad trestle crossing said lake unless prior written authorization is first obtained from the director of general administration. [Order 75-5, § 236-16-020, filed 6/23/75; § 2, filed 4/15/65.]

WAC 236-16-025 Water skiing, etc.—Prohibited. Water skiing and the use of surfboards or other similar devices pulled behind a motorboat is prohibited on all areas of Capitol Lake unless prior written authorization is first obtained from the director of general administration. [Order 75-5, § 236-16-025, filed 6/23/75. Formerly WAC 236-16-020 (part).]

WAC 236-16-030 Launching sites—Motorboat routes. All boats which shall be operated on Capitol Lake shall be launched **only** at designated launching sites approved by the director of general administration. If a motorboat is launched at any designated site north of the railroad trestle from which a motorboat is authorized to be launched, it shall proceed to the area wherein the operation of motorboats is permitted through designated approach channels only. [§ 3, filed 4/15/65.]

WAC 236-16-040 Compliance with laws required. All boats operating on Capitol Lake shall be equipped and operated in conformity with all state, county, and municipal laws, ordinances and regulations which are pertinent thereto. [§ 4, filed 4/15/65.]

WAC 236-16-050 Operation by manual means or by sail—Construction. Nothing in these rules shall be so construed as to prevent the operation of any motorboat in any prohibited area if the sole means of propulsion used is by paddle, oar, or other manual means or solely by means of canvas or sail. [§ 5, filed 4/15/65.]

WAC 236-16-060 Use of roadways. All busses, trucks, cargo trailers and similar equipment which exceed a five ton load limit and similar heavy duty vehicles are prohibited from traveling on the West Parkway Road and other roadways posted. [§ 6, filed 4/15/65.]

WAC 236-16-070 Penalties. These rules and regulations will be enforced under the provisions of RCW 46.08.160 and 46.08.170 and violations will be punished pursuant thereto. [§ 7, filed 4/15/65.]

WAC 236-16-080 Effective date. The effective date of these rules and regulations shall be when adopted pursuant to chapter 34.04 RCW and RCW 46.08.150. [§ 8, filed 4/15/65.]

WAC 236-16-100 Muffling device required. The exhaust of every internal combustion engine used on any motorboat shall be muffled by an efficient muffling device or system which reasonably muffles the noise of the exhaust. The use of a cutout, bypass, or similar muffler elimination device, is prohibited, except when used by

motorboats competing in a regatta, race, or other special event, or on trial runs and tuneups therefor, for which prior written authorization has first been obtained from the director of general administration. [Order 7, § 236-16-100, filed 7/23/69; Emergency Order 6 (part), filed 6/5/69.]

WAC 236-16-110 Docks, floats, piers, etc.—Speed. No person shall operate any motorboat at any time on Capitol Lake at a rate of speed in excess of five (5) miles per hour within a distance of fifty (50) feet from the shore or from any float, dock, pier, or other similar installation bordering on or placed in Capitol Lake unless prior written authorization is first obtained from the director of general administration. [Order 75-5, § 236-16-110, filed 6/23/75; Order 7, § 236-16-110, filed 7/23/69; Emergency Order 6 (part), filed 6/5/69.]

WAC 236-16-120 Application of algacides, etc. No person shall deposit or apply in any manner any algacide, weedicide or pesticide in the waters of Capitol Lake or to the immediate shoreline thereof, without first obtaining the prior written approval of the director of general administration. [Order 7, § 236-16-120, filed 7/23/69; Emergency Order 6 (part), filed 6/5/69.]

Chapter 236-20 WAC STATE VEHICLE MARKING REQUIREMENTS AND EXCEPTIONS

WAC

236-20-010	Promulgation.
236-20-020	Definitions.
236-20-030	Approval of distinctive insignia.
236-20-040	Exceptions to marking requirements.

WAC 236-20-010 Promulgation. The purpose of this chapter is to establish procedures for obtaining approval for the use of a distinctive departmental, office, agency, institutional or commission insignia in marking of state owned or controlled vehicles and for permitting exceptions to the vehicle marking requirements. [Order 75-8, § 236-20-010, filed 11/17/75.]

WAC 236-20-020 Definitions. Agencies—as used in this chapter, the word "Agencies" includes state departments, offices, agencies, commissions, or institutions financed in whole or in part by funds appropriated by the legislature. [Order 75-8, § 236-20-020, filed 11/17/75.]

WAC 236-20-030 Approval of distinctive insignia. Agencies may request approval of a distinctive insignia for use in lieu of the State Seal in marking vehicles. The request for approval shall be sent to the Department of General Administration and shall include the number of vehicles to be marked and a description of the heraldry aspects of the insignia. A scale drawing in color, or other example, shall accompany the request. The Department of General Administration will review the request, and, if it deems the insignia to be appropriate and the request

meritorious it will submit the insignia to the next meeting of the Automotive Policy Board for its consent. [Order 75-8, § 236-20-030, filed 11/17/75.]

WAC 236-20-040 Exceptions to marking requirements. (1) Requests for exceptions to vehicle marking requirements for vehicles used for law enforcement, confidential public health work, and public assistance fraud or support investigative purposes shall be forwarded to the Director of General Administration by the head of the Agency owning or controlling the vehicle. Vehicles will be identified by make, model, year and state license number. The justification will include type of activity in which the vehicle will be used, percentage of time used in this activity, general area where the activity will take place, and location where the vehicle will be garaged when not being used for official business. Requests for exception normally will not be granted unless the vehicle is used more than 50% of the time for law enforcement, confidential public health work, public assistance fraud or support investigative purposes.

(2) Vehicles leased or rented on a casual basis for a period less than ninety days and not issued a state exempt license plate need not be marked.

(3) Vehicles issued confidential license plates under the provisions of section 2, chapter 169, Laws of 1975 1st ex. sess. and chapter 46.08 RCW, are exempt from marking requirements.

(4) The above exceptions are the only exceptions to the marking requirements which will be granted. [Order 75-8, § 236-20-040, filed 11/17/75.]

Chapter 236-20A WAC

DISPLAY OF FLAGS—STATE CAPITOL GROUNDS

WAC

236-20A-001	Promulgation.
236-20A-004	"State Capitol Grounds" defined.
236-20A-010	Flag plazas.
236-20A-020	Display of flags on state buildings.

WAC 236-20A-001 Promulgation. Pursuant to the authority granted by chapters 34.04 and 43.19 RCW, the Director of the Department of General Administration hereby establishes the following rules and regulations to govern the display of flags on the State Capitol grounds. [Order 76-3, § 236-20-001 (codified as WAC 236-20A-001), filed 3/15/76.]

WAC 236-20A-004 "State Capitol Grounds" defined. "State Capitol Grounds" shall be construed to be those grounds designated by statute as State Capitol Grounds, including the East Capitol Campus, Sylvester Park and the Old Capitol Building. [Order 76-3, § 236-20-004 (codified as WAC 236-20A-004), filed 3/15/76.]

WAC 236-20A-010 Flag plazas. The flag plazas on the East and West Capitol Campus are designated as the official locations for display of the United States and Washington State flags on the State Capitol Grounds.

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The United States flag and the Washington State flag will be flown permanently at these locations. The American Revolution Bicentennial flag will be flown at the West Campus Flag Plaza during the American Bicentennial year.

The flags of visiting United States governors and of foreign dignitaries may be flown at the discretion of the Governor of the State of Washington.

No other flags will be flown on any poles at the East or West Capitol Flag Plazas. [Order 76-3, § 236-20-010 (codified as WAC 236-20A-010), filed 3/15/76.]

WAC 236-20A-020 Display of flags on state buildings. The United States flag and the Washington State flag may be displayed from buildings on the State Capitol grounds in such place and in such manner as the director of general administration may direct. No flags other than the United States flag and the Washington State flag may be displayed upon any pole or other place designated for the official display of flags, except as provided by law or directed by the Governor of the State of Washington. [Order 76-3, § 236-20-020 (codified as WAC 236-20A-020), filed 3/15/76.]

Chapter 236-24 WAC

WAIVER OF PUBLIC BIDDING REQUIREMENTS FOR WATER PROJECTS

WAC

236-24-010	Purpose.
236-24-020	Waiver of public bidding requirements—Procedure.
236-24-030	Approval or disapproval.

WAC 236-24-010 Purpose. The purpose of this chapter is to implement the provisions of Section 5(2), chapter 1, Laws of 1977, 1st ex. sess. [Order 77-3, § 236-24-010, filed 5/17/77.]

WAC 236-24-020 Waiver of public bidding requirements—Procedure. A request by the Department of Ecology or the Department of Social and Health Services for a waiver of any public bidding requirements for a project authorized by sections 3 or 4 of chapter 1, Laws of 1977, 1st ex. sess., and financed with funds appropriated in chapter 1, Laws of 1977, 1st ex. sess. shall be in writing and addressed to the Director, Department of General Administration. The submission shall be an original and three copies, each being signed by the agency head, and shall contain the following information:

- (1) nature of the project and its location;
- (2) the section of chapter 1, Laws of 1977, 1st ex. sess., under which the project has been authorized;
- (3) the section of chapter 1, Laws of 1977, 1st ex. sess. from which the funds to finance the project have been appropriated;
- (4) the public bidding requirements applicable to the project;
- (5) a detailed statement of the facts which constitute the emergency condition which prompted the request for a waiver;

(6) a detailed statement of the manner in which the public interest would be detrimentally affected if the public bidding requirements were to be followed for the project in question. [Order 77-3, § 236-24-020, filed 5/17/77.]

WAC 236-24-030 Approval or disapproval. The director will base his decision on the request for waiver on the information contained in the written submission and such other information as he may obtain. The decision to approve or disapprove the waiver shall be made within five (5) working days after receipt of the written submission in the Department of General Administration. The approval or disapproval will be typewritten on the written submission and signed by the director or his designee. Two signed copies will be returned to the requesting agency.

Information about the status of a request can be obtained from [from] the deputy director by telephoning 206/753-5435. [Order 77-3, § 236-24-030, filed 5/17/77.]

Chapter 236-32 WAC FISHERMEN LOAN PROGRAM

WAC	
236-32-001	Purpose
236-32-010	Earned income
236-32-020	Productive commercial fisherman
236-32-030	Financial assistance not otherwise available
236-32-040	Soundness of loan
236-32-050	Coordination with department of fisheries
236-32-060	Eligibility confirmed—Denied
236-32-070	Application " "—Attached documents
236-32-080	Loans which " "not be made
236-32-100	Denial of loans

WAC 236-32-001 Purpose. The purpose of this chapter is to implement the provisions of chapter 152, Laws of 1975 1st ex. sess. (hereinafter referred to in this chapter as the Act). [Order 76-4, § 236-32-001, filed 3/30/76.]

WAC 236-32-010 Earned income. In order for a person to be considered "primarily dependent upon commercial fishing for his or her earned income," more than fifty percent of earned income during at least one of the years 1972, 1973, 1974, or 1975, must have been income derived from commercial fishing.

Earned income is the gross amount of wages, salaries, professional fees, bonuses, tips, commissions and other amounts received as compensation for personal services. It is not reduced by expenses incurred in earning the income. For example, if a salary of \$800 is received, and \$300 travel expenses are incurred, the earned income would be \$800.

Even if the income was not taxed, it is earned income if it otherwise qualifies. Therefore, sick pay and income earned abroad are earned income even though they may be wholly excludable from taxable income.

If the taxpayer is in a profession, trade, or business in which both personal services and capital are material income-producing factors, earned income includes a reasonable allowance for personal services actually performed but may not exceed 30% of the net profits of the business. If no personal services are involved, none of the net profit is earned income.

If capital is not a material income producing factor in the business and all of the profits are attributable to the taxpayer's personal services, gross income is earned income. This generally applies to self employed people who do not require inventories, such as house painters, plumbers, barbers, etc.

A large investment of capital in office and other professional equipment by a doctor, dentist, or other professional is not a material income-producing factor. All fees received are earned income, and are not reduced by any expenses connected with earning them.

Interest, dividends, pensions, annuities, capital gains, and rents generally are not earned income. [Order 76-4, § 236-32-010, filed 3/30/76.]

WAC 236-32-020 Productive commercial fisherman. A productive commercial fisherman is a commercial fisherman holding a current commercial fishing license issued by the Department of Fisheries whose total commercial catch in the case area for the years 1972, 1973, and 1974 exceeds the individual total commercial case area catches for the same years experienced by two-thirds of all commercial fishermen utilizing the same type fishing gear such as purse seine, gillnet, troll, or reefnet.

The "productive commercial fisherman" determination shall be made by the Department of Fisheries based on catch data and statistics available within the Department of Fisheries. [Order 76-4, § 236-32-020, filed 3/30/76.]

WAC 236-32-030 Financial assistance not otherwise available. For purposes of determining whether the "financial assistance applied for is not otherwise available on reasonable terms" the applicant must produce written documents from at least two qualified lending institutions wherein they refuse to grant the applicant a loan for the purpose stated in section 5(1) of the Act, in the amount required, at the prevalent interest rate for such a loan. [Order 76-4, § 236-32-030, filed 3/30/76.]

WAC 236-32-040 Soundness of loan. In determining whether a loan would be "of such sound value or so reasonably secured as to assure repayment," the department shall consider the following: (1) Fishing experience of applicant;

(2) Financial statement submitted by applicant showing his assets, liabilities, and net worth;

(3) Past and prospective sources of applicant's income;

(4) Applicant's credit reputation; and

(5) Such other factors as may affect the applicant's ability to repay the loan. [Order 76-4, § 236-32-040, filed 3/30/76.]

WAC 236-32-050 Coordination with department of fisheries. Persons applying for loans under this Act shall apply to the Department of General Administration for a determination of eligibility on a form furnished by the department.

Upon receipt of the application, the department will request the Department of Fisheries to certify that the applicant: (1) Owns a commercial fishing vessel;

(2) Was licensed to fish or deliver fish in 1974 in the case area;

(3) Is currently licensed to fish or deliver fish; and

(4) Has not sought to nor, is participating in, the program administered through funds made available from the "vessel, gear, and permit reduction fund."

The department will also request information concerning catch records and assistance from the Department of Fisheries in determining whether the applicant was a productive commercial fisherman by an analysis of individual catch records for the calendar years 1972, 1973, 1974, and/or 1975.

Applicant must also at this time provide Federal income tax forms and/or such other documents that will prove that the applicant was primarily dependent upon commercial fishing for his or her earned income during at least one of the calendar years 1972, 1973, 1973 [1974], or 1975. [Order 76-4, § 236-32-050, filed 3/30/76.]

WAC 236-32-060 Eligibility confirmed—Denied.

(1) If the applicant is determined to be eligible for a loan, the Department of General Administration will furnish the applicant with forms and instructions on how to apply for a loan.

(2) If the applicant is determined to be ineligible for a loan, the Department of General Administration will return the application with an explanation of the reason(s) for the determination. [Order 76-4, § 236-32-060, filed 3/30/76.]

WAC 236-32-070 Application form—Attached documents. To apply for a loan, the applicant shall, after being determined to be eligible for a loan under this Act, apply to the department for a loan on forms furnished by the department, and will be required, to attach, or provide to the department or its representative for examination and/or retention, these documents: (1) A statement from the lender to whom the applicant owes accrued and past due interest on a loan;

(a) That the proceeds of the loan were used for construction, reconstruction, or purchase of a commercial fishing vessel; and

(b) The amount of the accrued and past due interest payments falling due during 1974 and 1975;

(2) Letters from at least two lenders that a loan for the purpose applied for is not available on reasonable terms. (See WAC 236-32-030);

(3) Proof of ownership of assets of such sound value as to reasonably assure repayment of the requested loan or which may be pledged as collateral for the loan. [Order 76-4, § 236-32-070, filed 3/30/76.]

WAC 236-32-080 Loans which cannot be made. No loan will be made under this Act: (1) To an ineligible applicant;

(2) To an applicant who is unable to furnish proofs required in WAC 236-32-090 [WAC 236-32-070] above;

(3) For less than five hundred dollars or more than ten thousand dollars;

(4) For a period exceeding two years, including renewals and extensions [extensions] thereof; and

(5) When in the opinion of the department there is no reasonable assurance that the loan, if made, would or could be repaid. [Order 76-4, § 236-32-080, filed 3/30/76.]

WAC 236-32-100 Denial of loans. Should a loan be denied to an eligible applicant, the applicant will be notified by the Department of General Administration of the reason(s) therefore. [Order 76-4, § 236-32-100, filed 3/30/76.]

Chapter 236-48 WAC DIVISION OF PURCHASING

WAC

236-48-002	Purpose.
236-48-003	Definitions.
236-48-004	Procedure followed in the solicitation of bids.
236-48-005	Exceptions to competitive formal sealed bid procedure.
236-48-009	Bids in general.
236-48-011	Public notice.
236-48-012	Bidding or quoting time.
236-48-013	Amendment of invitation to bid.
236-48-021	Vendor lists.
236-48-022	Criteria for qualification.
236-48-023	Nonacceptance.
236-48-024	Removal or suspension.
236-48-025	Appeal.
236-48-026	Reapplication or reinstatement.
236-48-035	Bid bonds.
236-48-041	Telegraphed bids.
236-48-051	Telephone bids.
236-48-061	Hand carried bids.
236-48-071	Form of bid.
236-48-079	Standard specifications.
236-48-081	Interpretation of specifications.
236-48-082	Request for samples, descriptive literature.
236-48-083	Alternate bid.
236-48-084	Pre-bid conferences.
236-48-093	Award.
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236-48-195	Weight merchandise—Surplus property.
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236-48-197	Withdrawal from sale or rejection of bids—Surplus property.
236-48-198	Sale of surplus property to state elected officials or employees.
236-48-230	Leases.
236-48-240	Late payments.
236-48-300	Enforcement of rules and regulations.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

236-48-001	Promulgation. [Promulgation, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-010	Bids—In general. [§ 1, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-020	Bidder's mailing list application. [§ 2, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-030	Bid forms. [§ 3, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-040	Telegraphed bids. [§ 4, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-050	Telephone bids. [§ 5, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-060	Hand carried bids. [§ 6, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-070	Letter bids. [§ 7, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-080	Standard specifications. [§ 8, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-090	Acceptance, rejection of bids. [§ 9, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-100	Time of bids. [§ 10, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-110	Alteration of bid prohibited. [§ 11, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-120	Handling of bids at opening. [§ 12, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-130	Delivery date guarantee. [§ 13, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-140	Complaints. [§ 14, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-150	Breach of contract. [§ 15, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-160	Penalty. [§ 16, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-200	Sale of surplus property to state elected officials or employees. [Order 75-7, § 236-48-200, filed 9/12/75.] Repealed by Order 77-1, filed 1/28/77.

WAC 236-48-002 Purpose. The purpose of this chapter is to set forth rules and regulations applicable to the purchase or sale of material, equipment, services and supplies by, through, or under authority delegated by, the State Purchasing Division. [Order 77-2, § 236-48-002, filed 1/28/77.]

WAC 236-48-003 Definitions. As used in these regulations the following terms shall have the following meanings:

(1) **Agency.** Agency shall include state institutions, colleges, community colleges and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. Agency does not include the legislature.

(2) **An Alternate.** An alternate is material, supplies, equipment or services which deviate in respect to features, performance or use from the brand, model or specification designated as the standard whether or not such deviation constitutes an improvement.

(3) **An Equal.** An equal is material, equipment, supplies or services which equal or exceed the quality, performance and use of the brand, model or specifications designated as the standard.

(4) **Bid.** Bid means an offer to perform a contract to purchase or supply material, equipment, services or supplies in response to a formal solicitation.

(5) **Bidder.** A bidder is one who submits a bid.

(6) **Buyer.** Any employee of the State Purchasing Division designated as a buyer or contract administrator by the Director, including, where appropriate, the Director and other management personnel. Also, where applicable, employees of procuring activities with similar duties.

(7) **Description.** Description means identifying information distinctly and plainly set forth and sufficiently portrayed and explained to insure that the product or service under consideration is uniquely identified.

(8) **Director.** Except where otherwise specifically noted the term "director" as used in these rules, shall mean the State Purchasing and Material Control Director.

(9) **Emergency Purchase.** Emergency purchase means a purchase made in response to unforeseen circumstances beyond the control of an agency which presents a real, immediate and extreme threat to the proper performance of essential functions and/or which may reasonably be expected to result in excessive loss or damage to property, bodily injury or loss of life.

(10) **Informality.** An informality or irregularity is one which is merely a matter of form or is some immaterial variation from the exact requirements of the invitation for bids, having no effect or merely a trivial or negligible effect on quality, quantity, or delivery of the supplies or performance of the services being procured, and the correction or waiver of which would not affect the relative standing of, or be otherwise prejudicial to bidders.

(11) **Invitation to Bid.** An invitation to bid is the procedure used in the formal, sealed bid procedure.

(12) **Request for Quotation.** A request for quotation is the procedure used when purchases are solicited in accordance with RCW 43.19.1906(1), (2) or (3). The request and the quote in response may be either written or oral as specified by the buyer.

(13) **Single Source Purchase.** A single source purchase is a purchase of goods or services which can be obtained from only one vendor.

(14) **Specifications.** Specifications shall mean the explicit requirements furnished with an invitation to bid or request for quotation upon which a purchase order or

contract is to be based. Specifications set forth the characteristics of the equipment, material, supplies or services to be purchased or sold so as to enable the bidder or vendor to determine and understand that which is to be supplied or sold. This information may be either in terms of physical characteristics or performance requirements, or both.

(15) **State Purchasing Division.** The State Purchasing Division is the division of purchasing of the Department of General Administration. Whenever a purchase or sale is made by an agency other than the State Purchasing Division, any reference to the State Purchasing Division in these regulations shall mean such agency.

(16) **Vendor.** Supplier of goods and/or services.

(17) **Purchaser.** Purchaser shall mean the State of Washington and the agency or agencies using the material, equipment, supplies or services purchased.

(18) **Purchase.** Wherever used in these regulations the term purchase shall include leasing or renting. [Order 77-2, § 236-48-003, filed 1/28/77.]

WAC 236-48-004 Procedure followed in the solicitation of bids. Whenever practicable the governing standard for state purchases is one of competitive bids in combination with a formal sealed bid procedure. The State Purchasing Division mails Invitations to Bid to a sufficient number of prospective bidders to elicit adequate competition, such vendors being drawn from established vendor lists and from any other source thought to be of advantage to the State. [Order 77-2, § 236-48-004, filed 1/28/77.]

WAC 236-48-005 Exceptions to competitive formal sealed bid procedure. (1) **Emergency Purchase.** Emergency purchases need not be procured through a formal sealed bid procedure. Unless revoked by the State Purchasing Division, all agencies have the delegated authority to make emergency purchases if notice of such a purchase and the reason therefor is transmitted to the State Purchasing Division immediately after the purchase is made.

(2) **Purchases not Exceeding \$2500.** Purchases not exceeding \$2500 may be secured by other than a formal sealed bid procedure unless the Director specifically requires a formal sealed bid.

(3) **Single Source or Special Facilities, Services or Market Conditions.** Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions may be acquired through direct negotiation.

(4) **Used Equipment.** The purchase of used equipment from private vendors is generally considered by the state purchasing division to be a purchase falling within the exception set forth in subsection (3) of this regulation. A purchasing or supply activity desiring to purchase used equipment shall be responsible to determine what used equipment is available on the market and properly record this search. In the case of a purchase involving used equipment for less than \$200, the purchase request must fully justify the acquisition of used equipment.

Appraisals are not required. In the case of purchases involving \$200 to \$2500 the agency must submit at least two written appraisals [appraisals] with the purchase request. In the case of purchases exceeding \$2500 three written appraisals are required with the purchase request. The purchase request file must contain justification for the acquisition of used equipment. All appraisals must be from competent firms or persons not associated with the vendor or purchaser which certify that the agreed upon price represents a fair market value for the equipment. The appraisals will normally be made by individuals or firms knowledgeable of a particular market, not just knowledgeable of the equipment. [Order 77-2, § 236-48-005, filed 1/28/77.]

WAC 236-48-009 Bids in general. All bids or quotes subject to the Invitation to Bid or Request for Quotations, the specifications and plans, the applicable contract terms and conditions and the rules and regulations of the State Purchasing Division set forth in this chapter. In the event of conflict among any of the above the following order shall govern: (1) Rules and regulations; (2) Specifications and plans; and (3) Applicable contract terms and conditions. [Order 77-2, § 236-48-009, filed 1/28/77.]

WAC 236-48-011 Public notice. A listing or copy of all purchases being made through formal sealed bid by or through the State Purchasing Division shall be posted in the foyer of the office of the State Purchasing Division, Room 216, General Administration Building, Olympia, Washington 98504. Purchases unique to one agency shall be posted or otherwise publicized by the purchasing office of that agency. [Order 77-2, § 236-48-011, filed 1/28/77.]

WAC 236-48-012 Bidding or quoting time. The bidding or quoting time shall be as determined by the buyer involved. All Invitations to Bid shall provide sufficient time to allow bidders an opportunity to prepare and submit their bid. The buyer shall have the discretion to lengthen or shorten bid or quote times, should special circumstances or needs dictate a shorter or longer time frame. All bids must be received by the time specified for bid opening. No deviations will be allowed. Late bids will be returned unopened. [Order 77-2, § 236-48-012, filed 1/28/77.]

WAC 236-48-013 Amendment of Invitation to Bid. An Invitation to Bid may be changed or amended by the buyer involved, provided the change is issued in writing prior to the bid opening date. Such changes will be furnished to all interested vendors in the form of an addendum. Any material information provided a prospective bidder with regard to an Invitation to Bid, shall be furnished to all bidders on the vendor list receiving a copy of the original Invitation. Oral interpretations of contract terms and conditions shall not be binding on the state unless confirmed in writing by the buyer and provided to all bidders at least 24 hours before bid opening. [Order 77-2, § 236-48-013, filed 1/28/77.]

WAC 236-48-021 Vendor lists. Vendor lists are categorized according to commodities and are maintained and updated by the State Purchasing Division. Vendor lists are used by buyers to determine vendors from which to solicit bids. In order to be considered for inclusion on a vendor list, vendors must apply to the State Purchasing Division on forms available in its offices at 216 General Administration Building, Olympia, Washington 98504. [Order 77-2 § 236-48-021, filed 1/28/77.]

WAC 236-48-022 Criteria for qualification. A vendor's eligibility for inclusion on a Vendor List shall be based upon the following factors:

- (1) The financial standing and responsibility of the vendor.
- (2) The vendor's facilities for production, distribution and service.
- (3) The length of time the vendor has successfully been in business.
- (4) The vendor's performance on previous contracts.
- (5) The ready availability to the State of the vendor's sales and service capabilities.
- (6) Such other information as may be secured concerning a vendor's ability to satisfactorily perform a contract with the State. [Order 77-2, § 236-48-022, filed 1/28/77.]

WAC 236-48-023 Nonacceptance. If an application to be placed on a vendor list is refused, the applicant shall be advised in writing as to the reason for non-acceptance together with suggestions as to how the applicant might qualify in the future. [Order 77-2, § 236-48-023, filed 1/28/77.]

WAC 236-48-024 Removal or suspension. The Director may remove or suspend a vendor from any vendor list for cause. Examples of reasons for removal or suspension include but are not limited to the following:

- (1) Illegal act(s);
- (2) Failure to respond, without good cause, to three (3) consecutive Invitations to Bid of the same commodity description;
- (3) Unreasonable number of "No Bid" responses;
- (4) Any material failure to perform, e.g., delivery, quality;
- (5) Any significant detrimental change in supplier status, e.g., financial condition, lines carried, service ability;
- (6) Unauthorized product substitution, or representation of an alternate as an equal; or
- (7) Discriminatory practices. [Order 77-2, § 236-48-024, filed 1/28/77.]

WAC 236-48-025 Appeal. Any vendor removed from a vendor list or who is not placed upon the vendor list after request, may appeal the decision to the Director or his designee. If such an appeal is to be made it must be submitted in writing within ten (10) days of notification of the action taken. [Order 77-2, § 236-48-025, filed 1/28/77.]

WAC 236-48-026 Reapplication or reinstatement. If a vendor's application to be placed on a vendor list has been refused, or if a vendor has been removed from a vendor list, the vendor may re-apply to be placed on a vendor list, or apply for reinstatement when the causes for removal have been corrected. [Order 77-2, § 236-48-026, filed 1/28/77.]

WAC 236-48-035 Bid bonds. The State Purchasing Division may require a bid bond payable to the state in such amount and with such surety or sureties as may be determined by the division. Bid bonds may be in the form of a certified check, cashier's check, cash or a surety bond payable to the State of Washington. Personal or company checks are not acceptable. Bid bonds shall be retained by the state until contract(s) is executed. Surety bonds will be returned to bidders; cashier's and certified checks or cash will be returned after the bidder submits an Invoice Voucher (Form A-19) after which a state warrant in the amount of the deposit is issued. Bidders who regularly do business with the state shall be permitted to file an annual bid bond in lieu of bid bonds for individual contracts. Failure to submit a bid bond in the specified form will be a cause for rejection. When a bid bond is required the bidder shall covenant that he will enter into a contract, if offered. Violation of this covenant will result in forfeiture of the bond and payment of the same into the Washington State Treasury as and for liquidated damages. [Order 77-2, § 236-48-035, filed 1/28/77.]

WAC 236-48-041 Telegraphed bids. Telegraphed bids will not be accepted unless approved in advance by the buyer. Telegraphed withdrawals will be accepted on all bids. [Order 77-2, § 236-48-041, filed 1/28/77.]

WAC 236-48-051 Telephone bids. Telephone bids will not be accepted. Telephone withdrawals will not be accepted. [Order 77-2, § 236-48-051, filed 1/28/77.]

WAC 236-48-061 Hand carried bids. Hand carried bids must be delivered to the bid supervisor at the state purchasing division or placed in the bid depository in the state purchasing division at or before the official bid opening time. [Order 77-2, § 236-48-061, filed 1/28/77.]

WAC 236-48-071 Form of bid. To receive consideration, bids and quotes shall be made on the form provided by the state purchasing division, or on a letter containing the information and conditions of the appropriate form. If a letter form is used it must meet the satisfaction of the buyer, be properly headed and signed, properly marked on the outside of the envelope, and received by the time specified.

All bids and quotes must be filled out in ink or with typewriter and properly signed by an authorized representative of the vendor. All changes and/or erasures shall be initialed in ink. Unsigned bids or quotes will be rejected on opening. [Order 77-2, § 236-48-071, filed 1/28/77.]

WAC 236-48-079 Standard specifications. Specifications contained in the Invitation to Bid will, where practical, be nonrestrictive so as to provide an equal basis for competition and participation by an optimum number of qualified bidders. Unless otherwise specifically provided in the Invitation to Bid, reference to any equipment, material or supplies by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. All bids which offer a different trade name, make, or catalog number must state whether the item offered is an equal or an alternate, and literature which describes the item offered must be provided when available. The final decision as to whether an item is an equal or a satisfactory alternate shall rest with the State Purchasing Division. [Order 77-2, § 236-48-079, filed 1/28/77.]

WAC 236-48-081 Interpretation of specifications. In the event of discrepancies or omissions in the bid specifications, or doubt as to their meaning, the bidder shall immediately notify the State Purchasing Division in writing. In response, written instructions and/or addenda as required shall be sent to all interested parties. The State Purchasing Division will not be responsible for oral interpretations not confirmed in writing by the buyer giving the interpretation at least twenty four hours before bid opening. [Order 77-2, § 236-48-081, filed 1/28/77.]

WAC 236-48-082 Request for samples, descriptive literature. The State Purchasing Division reserves the right to ask for samples, competitive demonstrations, and/or descriptive literature at bidder's expense. If not destroyed in testing or required for quality control, bidders may request return of samples at their expense. [Order 77-2, § 236-48-082, filed 1/28/77.]

WAC 236-48-083 Alternate bid. The State Purchasing Division shall have the discretion to accept an alternate bid if it can be shown that the alternate substantially conforms to the bid specifications. If a bidder represents an article as being "an equal" when in fact it is "an alternate," his bid may be disregarded. [Order 77-2, § 236-48-083, filed 1/28/77.]

WAC 236-48-084 Pre-bid conferences. Pre-bid conferences may be scheduled to answer any questions regarding the specifications or, after interested vendors have reviewed the specifications, to discuss proposed changes. [Order 77-2, § 236-48-084, filed 1/28/77.]

WAC 236-48-093 Award. A contract shall be awarded to the lowest responsible bidder based upon the following criteria:

(1) The price, including the effect of term discounts (not less than 15 calendar days after receipt of goods) and taxes. Price may be determined by life cycle costing if so indicated in the invitation to bid.

(2) The quality of the articles proposed to be supplied, their conformity with specifications and the purposes for which they are required.

(3) The ability, capacity and skill of the bidder to perform the contract or provide the services required.

(4) The character, integrity, reputation, judgment, experience and efficiency of the bidder.

(5) Whether the bidder can perform the contract within the time specified.

(6) The quality of performance of previous contracts or services.

(7) The previous and existing compliance by the bidder with the laws relating to the contract or services.

(8) Servicing resources, capability and capacity.

(9) Lack of uniformity or interchangeability if such factors are important.

(10) The energy efficiency of the product as projected throughout the anticipated useful life of the product.

(11) Such other information as may be secured having a bearing on the decision to award the contract.

(12) All things being equal, tie bids shall be resolved by a flip of a coin in the presence of witnesses. [Order 77-2, § 236-48-093, filed 1/28/77.]

WAC 236-48-094 Partial award. A buyer shall have the discretion to award on an "all or nothing" basis or to accept any portion of the items bid, excluding others unless the bidder stipulates all or nothing on his bid. [Order 77-2, § 236-48-094, filed 1/28/77.]

WAC 236-48-095 Exception to award to lowest responsible bidder. Whenever there is a reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the State Purchasing Division may call for new bids or enter into direct negotiations to achieve the best possible price. [Order 77-2, § 236-48-095, filed 1/28/77.]

WAC 236-48-096 Preference. Preference shall be given, to the extent allowed by law, to those materials, equipment, supplies, and services provided by industries authorized and approved by the Institutional Industries Commission. Agencies are encouraged to purchase products and services manufactured or provided by sheltered workshops and programs of the Department of Social and Health Services at fair market prices as determined by the State Purchasing Division. [Order 77-2, § 236-48-096, filed 1/28/77.]

WAC 236-48-097 Standard certificate of award. A standard certificate of award, or in the case of a direct purchase, a Purchase Order or Field Order, will normally be mailed to the successful vendor. [Order 77-2, § 236-48-097, filed 1/28/77.]

WAC 236-48-098 Rejection. No notice will be sent to unsuccessful bidders. [Order 77-2, § 236-48-098, filed 1/28/77.]

WAC 236-48-099 Acceptance of terms. Acceptance shall be expressly limited to the terms and conditions of the contract/bid prescribed by the State Purchasing Division. All material alterations, additional or different terms proposed by the bidder shall be and are rejected

unless otherwise provided for in writing by the Director. [Order 77-2, § 236-48-099, filed 1/28/77.]

WAC 236-48-101 Time of bids. All bids and withdrawals must be received on or before the time specified for bid opening at the place designated in the bid documents. No deviations will be allowed and late bids or withdrawals will be returned unopened. All bids shall be date and time stamped, prior to opening. Precautions will be taken to insure security in respect of the bids. Bids which are received but which do not identify the Invitation to Bid or the time for bid opening may be opened but solely for identification purposes, and only by officially designated personnel. [Order 77-2, § 236-48-101, filed 1/28/77.]

WAC 236-48-111 Handling of bids at opening. The person designated as official bid supervisor shall decide when the time set for bid opening has arrived and shall so declare to those present. The bid supervisor shall then personally and publicly open all bids and read them out loud for recording. The bid form may not be completed, signed, amended or clarified after official opening time. The bid supervisor will, on request, read the documents in detail. Bids must remain under the control of the bid supervisor or staff. [Order 77-2, § 236-48-111, filed 1/28/77.]

WAC 236-48-121 Mistakes in bid detected prior to bid opening. Mistakes in bids detected prior to bid opening may be corrected by the bidder withdrawing the original bid and submitting a corrected bid to the State Purchasing Division before the bid opening. If there is not sufficient time prior to bid opening to withdraw the original bid and submit a corrected bid, the bidder, or an authorized representative, may correct the mistake on the face of the original bid: *Provided*, the official opening time has not yet been reached. A corrected bid must be time stamped upon resubmission. [Order 77-2, § 236-48-121, filed 1/28/77.]

WAC 236-48-122 Mistakes in bid detected during or after bid opening. Bidder mistakes in a bid detected during or after bid opening may not be corrected. If the bidder submits evidence in writing satisfactory to the Director or his designee that a mistake has been made by the bidder in the calculation of its bid the Director or his designee may allow the bid to be withdrawn: *Provided*, That the claim of mistake and the evidence in support thereof must be made and provided within three business days after the bid has been opened. Compliance with this section within the specified time limit, shall relieve the bidder of forfeiture of its bid bond. [Order 77-2, § 236-48-122, filed 1/28/77.]

WAC 236-48-123 Disclosure of bid information. After award the bids of all bidders shall be open to public inspection at the offices of the State Purchasing Division during normal office hours. Copies will be made available upon request to the bid supervisor for a reasonable charge sufficient to compensate the Division for the cost of making such copies. The State Purchasing

Division assumes no responsibility for the confidentiality of submitted bids. [Order 77-2, § 236-48-123, filed 1/28/77.]

WAC 236-48-131 Cancellation of invitation to bid or rejection of all bids. The State Purchasing Division reserves the right to reject all bids or to cancel an invitation or request, however, every effort will be made to guard against such an occurrence. Examples of reasons for cancellation of an Invitation, or Request, or rejection of all bids are:

- (1) Inadequate or ambiguous specifications.
- (2) Specifications have been revised.
- (3) Supplies or services being processed are no longer required.
- (4) Change in agency requirements.
- (5) All bids are deemed unreasonable.
- (6) Bids were not independently arrived at, or were submitted in bad faith.
- (7) A determination is made that all the necessary requirements of the bid process have not been met.
- (8) Insufficient competition.
- (9) For reasons which indicate that cancellation or rejection of all bids is clearly in the best interest of the State. [Order 77-2, § 236-48-131, filed 1/28/77.]

WAC 236-48-132 Notice of cancellation or rejection of bids. In the event of a cancellation of an Invitation or a Request, or in the event all bids are rejected, all participating bidders will be notified by mail. [Order 77-2, § 236-48-132, filed 1/28/77.]

WAC 236-48-141 Protests and appeals—Form and substance. All protests and appeals must be in writing and signed by the protestant or appellant or an authorized agent. Such writing must state all facts and arguments on which the protestant or appellant is relying as the basis for its action. Such protestant or appellant shall also attach, or supply on demand by the Director, any relevant exhibits referred to in the writing. Copies of all protests, appeals, and exhibits shall be mailed or delivered by the protestant or appellant to the bidder or bidders against whom the protest is made at the same time such protest, appeal, and exhibits are submitted to the State Purchasing Division. [Order 77-2, § 236-48-141, filed 1/28/77.]

WAC 236-48-142 Protest procedure prior to award. After a bid opening, and prior to award, a bidder desiring to protest the bid of another bidder must send or deliver its protest to the buyer in charge of the bid as soon as possible after it becomes aware of the reason(s) for the protest. If the protest is mailed the protestant shall immediately notify the Buyer in charge of the bid by telephone, or some other means of instant communication, that a protest is being made.

The Buyer shall consider all of the facts available to him, and issue his decision in writing within two (2) business days after receipt of the protest, unless more time is needed. The protestant and the bidder(s) against whom the protest is made will be notified if longer time is necessary. If the protesting bidder or the bidder

against whom the protest is made is not satisfied with the decision of the buyer, he shall have the right to appeal to the Director. Such appeal must be received by the Director within five (5) business days after notification of the buyer's decision. The Director shall consider all of the facts available to him, and issue his decision in writing within three (3) business days after receipt of the appeal, unless more time is needed. The appealing bidder will be notified if longer time is necessary.

Unless an emergency exists, award of the contract, if one is to be made, will be postponed until after the Director has issued his decision. [Order 77-2, § 236-48-142, filed 1/28/77.]

WAC 236-48-143 Protest procedure after award. Protests after award will not be considered unless the protest concerns a matter which arises after the award or could not reasonably have been known or discovered prior to award. Such protests shall be made to the Director not later than five (5) business days after the award. If the protest is mailed the protestant shall immediately notify by telephone, or some other means of instant communication, the Buyer in charge of the bid and the bidder that has received the award that a protest is being made. The Director shall consider all of the facts available to him and issue his decision on the protest within five (5) business days after receipt thereof, unless more time is needed. In such event, the protestant and the bidder that has received the award shall be notified of any delay.

If the Director finds that the award should not have been made he shall notify the bidder which received the award of his intent to cancel the award and the reasons therefor. Such bidder shall then have three (3) business days in which to appeal the decision to the Director of General Administration. The Director of General Administration shall consider all of the facts available to him and issue his decision within five (5) days after receipt of the appeal, unless more time is needed. If more time is needed, the appellant and the protestant shall be so notified.

If the Director of General Administration agrees that the award should be canceled he shall order the Director of the State Purchasing Division to cancel the award three (3) business days after the decision is delivered to the bidder to whom the contract had been awarded. [Order 77-2, § 236-48-143, filed 1/28/77.]

WAC 236-48-151 Violation of contract terms. If a vendor fails to deliver, or deliver on time, or there is discrepancy in the quality and/or quantity of services or merchandise received, or there is a default in any other contract provision the purchaser shall notify the vendor. In the event of an unsatisfactory response from the vendor, the purchaser shall file a fully documented complaint with the State Purchasing Division.

The State Purchasing Division shall verify the complaint, note the same in the vendor's record and take appropriate action. Where a complaint is justified, the vendor shall be notified that an unsatisfactory condition exists and that the unsatisfactory condition must be cured within a reasonable time. If the condition is not so

cured, The State Purchasing Division shall have the discretion to do any or all of the following: to remove the vendor from the relevant Vendor List; demand performance of the contract; modify or cancel the contract and purchase elsewhere; and pursue any other legal remedies available. [Order 77-2, § 236-48-151, filed 1/28/77.]

WAC 236-48-152 Offset against vendor payments. In addition to other methods of collection available, the State Purchasing Division may offset any damages for which the vendor is responsible against payments owing to the vendor from the purchaser or any other agency which may be indebted to the vendor. [Order 77-2, § 236-48-152, filed 1/28/77.]

WAC 236-48-153 Delivery date. Whenever a specific delivery date has been stated, that date shall be an essential condition of the contract. If a vendor is unable to meet the delivery date, he shall notify the purchaser and the State Purchasing Division at the earliest possible time. [Order 77-2, § 236-48-153, filed 1/28/77.]

WAC 236-48-155 Recording of conversations. RCW 9.73.030 prohibits the recording or interception of the private conversations and communications of individuals without their knowledge and consent. A violation of this statute shall be considered grounds for cancellation of a contract and removal from all vendor lists. [Order 77-2, § 236-48-155, filed 1/28/77.]

WAC 236-48-161 Performance bonds. When required in the bid solicitation, the successful bidder shall be required by the State Purchasing Division to post a Performance Bond or a performance/payment bond. The bond shall be on a form acceptable to the State Purchasing Division. [Order 77-2, § 236-48-161, filed 1/28/77.]

WAC 236-48-162 Product fitness. The vendor shall warrant that the articles supplied under the contract shall conform to the specifications and are fit for the purpose for which such goods are ordinarily employed. [Order 77-2, § 236-48-162, filed 1/28/77.]

WAC 236-48-163 Nondiscrimination. Bidders and Vendors must agree not to discriminate against any client, employee or applicant for employment or services because of race, creed, color, national origin, sex, marital status, age or the presence of any sensory mental or physical handicap with regard to, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or recruitment advertising; lay-offs or termination; rates of pay or other forms of compensation; selection for training, rendition of services. It is further understood that any vendor who is in violation of this clause or an applicable Affirmative Action Program shall be barred forthwith from receiving awards of any contract from the State Purchasing Division unless a satisfactory showing is made that discriminatory practices or non compliance with applicable Affirmative Action Programs have terminated and that a recurrence of

such acts is unlikely. [Order 77-2, § 236-48-163, filed 1/28/77.]

WAC 236-48-164 Price escalation. Vendors shall not be entitled to a price escalation except where specifically provided for in writing in the contract. [Order 77-2, § 236-48-164, filed 1/28/77.]

WAC 236-48-165 Change in product offered. A vendor shall not be allowed to substitute material, supplies, equipment or services from that offered: *Provided, however,* if the material, supplies, equipment or services offered are no longer available to the vendor for reasons beyond its control, the State Purchasing Division may consider a request by the vendor for substitution. All such requests must be in writing, must set forth the reasons the product or service is no longer available, and must be accompanied by samples, record of performance, certified copies of tests by impartial and recognized laboratories, and such additional data as the purchaser may request. Samples and data shall be furnished sufficiently in advance to allow for investigation before a decision is made. If the change is approved, the vendor shall warrant that the substitute article is equal or better than the specified article. If the change results in any cost savings to the vendor, the cost savings shall be reflected in full in a reduction in price to the using agency. [Order 77-2, § 236-48-165, filed 1/28/77.]

WAC 236-48-166 Renewal. If basic contract provisions allow, a vendor and the State Purchasing Division may covenant and agree that the contract in question may be renewed for predetermined periods by the State Purchasing Division under the same terms and conditions of the original contract.

The Buyer shall have discretion to renew, the reasons for renewal being documented. The vendor shall be notified in writing of the intent to renew no later than 30 days prior to the termination date of the existing or renewed contract. If the vendor does not wish to have the contract renewed, he shall so notify the State Purchasing Division in writing immediately, and in any event, not less than fifteen (15) days after the notification of intent to renew. [Order 77-2, § 236-48-166, filed 1/28/77.]

WAC 236-48-167 Additions or deletions to the contract. Within reason, the State Purchasing Division may increase or decrease the quantities specified in a contract. [Order 77-2, § 236-48-167, filed 1/28/77.]

WAC 236-48-190 Surplus property disposal priorities. Excess and/or surplus property will be offered for sale or transfer according to the following priorities:

- (1) State agencies (including state universities and colleges);
- (2) Other tax supported educational agencies;
- (3) Tax supported agencies, municipalities or political subdivisions within the State of Washington;
- (4) Sale to the general public including auction, sealed bid and negotiation;

(5) Other action as needed, e.g., destruction where the item has no sale value. [Order 77-2, § 236-48-190, filed 1/28/77.]

WAC 236-48-191 Surplus property auction. Auctions shall be advertised to the general public, provisions being made for interested parties to inspect items either at the auction site or user's location. [Order 77-2, § 236-48-191, filed 1/28/77.]

WAC 236-48-192 Sealed bid—Surplus property. Public notice shall be given of the sealed bid and the date set for public bid openings. The Invitation to Bid may call for bid prices with and without trade-in. In addition, information will be provided to interested parties describing the merchandise in question, together with an opportunity for inspection of the same. [Order 77-2, § 236-48-192, filed 1/28/77.]

WAC 236-48-193 Negotiation—Surplus property. Negotiation shall be the method of disposal whenever it is determined by the Director that such procedure is the most advantageous to the State. The reasons for choosing negotiation shall be set forth in writing and placed in the file relating to the disposition. [Order 77-2, § 236-48-193, filed 1/28/77.]

WAC 236-48-194 Guarantee of quality, etc., state responsibility for—Surplus property. All sales of surplus property are "as is", and the State takes no responsibility for and makes no guarantees with respect to items sold: *Provided,* That the State shall make a statement of the condition of the merchandise, including major known defects, before sale. No sale shall be invalid due to defects discovered after sale which may have been discovered by a reasonable inspection of the property before sale. [Order 77-2, § 236-48-194, filed 1/28/77.]

WAC 236-48-195 Weight merchandise—Surplus property. If the property to be disposed of is measured by weight, the successful bidder shall furnish to the custodian of the property, a certified weight ticket showing the gross tare and net weight of the shipment with a notation on the ticket of the driver on or off of the vehicle for each load. The empty and loaded weight ticket must bear the same date. Weighing shall take place at the certified public scale nearest to the point of pickup. [Order 77-2, § 236-48-195, filed 1/28/77.]

WAC 236-48-196 Removal—Surplus property. Surplus property must be removed within a reasonable time after purchase, or if a specific time is stated, within that time. [Order 77-2, § 236-48-196, filed 1/28/77.]

WAC 236-48-197 Withdrawal from sale or rejection of bids—surplus property. The State Purchasing Division may withdraw from sale the item(s) scheduled for disposal at any time prior to the formation of a contract. The State Purchasing Division may also reject any or all bids if the best interests of the State so require. [Order 77-2, § 236-48-197, filed 1/28/77.]

WAC 236-48-198 Sale of surplus property to state elected officials or employees. Surplus property available for disposal under the provisions of RCW 43.19.1919 shall not be sold to state elected officials, officers or employees, except at public sale: *Provided, however,* an item declared surplus of a personal nature such as a chair, desk or bookcase, which in some way depicts or represents the office in which he has served, may be sold to an elected official after leaving office at private sale for its fair market value. [Order 77-2, § 236-48-198, filed 1/28/77.]

WAC 236-48-230 Leases. If an agency, in the exercise of its delegated authority, leases material, supplies, equipment, or services the state standard form lease shall be used. Any deviations therefrom must be approved as to form by the State Purchasing Division and the Attorney General's office. [Order 77-2, § 236-48-230, filed 1/28/77.]

WAC 236-48-240 Late payments. The purchaser should make payment expeditiously in order to benefit from prompt payment discounts. Complaints made to the State Purchasing Division with regard to late payment will be referred to the purchaser. For effective communication and supervision, copies of correspondence dealing with delays in payment should be directed to the buyer in charge of the contract. [Order 77-2, § 236-48-240, filed 1/28/77.]

WAC 236-48-300 Enforcement of rules and regulations. All rules and regulations will be strictly enforced and failure to comply may be a cause for the rejection of a bid or cancellation or termination of a contract. [Order 77-2, § 236-48-300, filed 1/28/77.]

Chapter 236-49 WAC

RELATIONSHIP AND PROCEDURES BETWEEN DIVISION OF PURCHASING AND STATE AGENCIES

WAC

236-49-001	Purpose.
236-49-010	Definitions.
236-49-020	State purchasing structure.
236-49-030	State purchasing—Delegation.
236-49-040	Types of purchasing.
236-49-050	Emergency purchases.

WAC 236-49-001 Purpose. The purpose of this chapter is to set forth rules and regulations governing the relationship and procedures between the state purchasing division and state agencies. [Order 77-2, § 236-49-001, filed 1/28/77.]

WAC 236-49-010 Definitions. As used in these regulations the following terms shall have the following meanings: (1) Contract Order. On A-38 (computerized) or A-17 (non-computerized) series form used to make withdrawals from existing contracts where price performance, vendor, and/or quality have been established.

(2) Director. Except where otherwise specifically noted in these regulations, Director shall mean the State Purchasing and Material Control Director.

(3) Field Order. An A-17 series form signed by an authorized agent of the State Purchasing Division, a state agency or institution, which notifies the vendor to provide the stated material, equipment, supplies or services under the terms and conditions set forth or referred to from the purchasing document.

(4) Purchasing Activity. Purchasing Activity shall mean the State Purchasing Division or the purchasing department of a college, university or community college.

(5) Purchase Order. An A-16 series form signed by an authorized agent of the State Purchasing Division which notifies the vendor to provide the stated material, equipment, supplies or services under the terms and conditions set forth or referred to on the purchasing document.

(6) Purchase Requisition. A request from a using agency or institution submitted on form A-15 for material, equipment, supplies or services which authorizes a supply or Purchasing Activity to procure stated requirements.

(7) State Purchasing Division. The State Purchasing Division means the division of purchasing of the Department of General Administration.

(8) Supply Activity. Supply activity means the supply operations of all state institutions, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, the offices of all appointive officers of the state, and departments, divisions or other academic or administrative sections within colleges and universities. Supply Activity does not include the legislature. [Order 77-2, § 236-49-010, filed 1/28/77.]

WAC 236-49-020 State purchasing structure. The State Purchasing Division has been charged by the legislature with the responsibility to purchase all material, supplies, services (except personal services) and equipment needed for the support, maintenance and use of all state institutions, colleges, community colleges and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. Primary authority for the purchase of specialized equipment, instructional and research material for their own use rests with the colleges, community colleges and universities. Primary authority for the purchase of materials, supplies and equipment for resale to other than public agencies rests with the state agency concerned. The legislature has the responsibility of making purchases necessary for the operation of the legislature. Primary authority for purchase of automatic data processing equipment rests with the Data Processing Authority.

The State Purchasing Division has authority to delegate to state agencies authorization to purchase or sell, which authorization shall specify types of material, equipment, services and supplies: *Provided,* That acceptance of the purchasing authorization by a state agency

does not relieve such agency from conformance with RCW 43.19.190 through 43.19.1939, as now or hereafter amended, from chapter 236-48 WAC, or from policies established by the director after consultation with the state supply management advisory board. The delegation of such authorization to a state agency, including an educational institution, to purchase or sell material, equipment, services, and supplies shall not be granted, or otherwise continued under a previous authorization, if such agency is not in substantial compliance with overall state purchasing and material control policies, chapter 326-48 WAC or RCW 43.19.190 through 43.19.1939.

In order to efficiently carry out the various purchasing authorities, state agencies are divided into Purchasing Activities and Supply Activities. [Order 77-2, § 236-49-020, filed 1/28/77.]

WAC 236-49-030 State purchasing—Delegation. The State Purchasing Division shall handle all purchases and sales for state agencies except those for which the agencies have primary or delegated authority. Purchases and sales which have been delegated to Supply Activities and to Purchasing Activities are set forth in the "Washington State Purchasing Directives" issued by the State Purchasing Division. In addition, the State Purchasing Division may delegate authority to specific Supply Activities or specific Purchasing Activities for other types of purchase or sale or a specific purchase or sale. In such event the delegation must be given in writing prior to the purchase or sale. [Order 77-2, § 236-49-030, filed 1/28/77.]

WAC 236-49-040 Types of purchasing. State purchasing is divided into three major types: (1) Centralized Purchasing. Contracts for material, supplies, services, and equipment in common use by state agencies are bid on a periodic basis. Any agency which is in need of such items or services must purchase from such contracts regardless of whether authority to purchase such items or services has been delegated to it.

(2) Central Stores. The State Purchasing Division maintains central stores for the storage and distribution of a wide variety of supplies in high common use. Any agency which is in need of such supply items must purchase from central stores regardless of whether authority to purchase such supply items has been delegated to it. In addition, central stores also handles the maintenance, repair and servicing of office equipment used by state agencies in the Olympia area.

(3) Purchase of Specific Material, Supplies, Equipment or Services. Any supply activity desiring to purchase material, supplies, equipment or services for which authority has not been delegated, for which there is no existing contract, or which central stores is unable to supply, must submit a Purchase Requisition to the State Purchasing Division or appropriate purchasing activity. Such requisition must refer to any applicable Washington State specifications, standards and qualified products lists unless otherwise provided by the Director or his designee. Requests to use specifications, standards or qualified products which differ from the established Washington State specifications, standards and qualified

products must be in writing to the Director or his designee. A purchase requisition must describe the items requisitioned in such detail and in such full and explicit terms as to be easily understood by bidders. Diagrams, specimens, samples and other illustrative material should be included with a requisition, where appropriate. If a proprietary item is desired, the agency must attach adequate justification therefor. After consultation with the using agency, the State Purchasing Division may select equal or alternate items offered by bidders if the equal or alternate offered will perform the same function as the specified item if the quality is equal or greater. [Order 77-2, § 236-49-040, filed 1/28/77.]

WAC 236-49-050 Emergency purchases. Because of their nature, it is not possible in all instances for an agency to channel emergency purchases through the State Purchasing Division. In such instances, the agency making the emergency purchase shall immediately report the same to the appropriate buyer in the State Purchasing Division with a detailed written statement of the reasons therefor and a copy of the invoice voucher or field order. If the buyer does not agree that the purchase was an emergency as defined in WAC 236-48-003 he shall note on the invoice voucher or field order that the purchase is approved for payment only. If the buyer agrees that the purchase was in response to an emergency situation he shall note on the invoice voucher that the purchase is approved. Repeated unwarranted use of the emergency purchase procedure will be cause for review of that agency's procedures with the State Auditor. [Order 77-2, § 236-49-050, filed 1/28/77.]

Chapter 236-50 WAC

STATE RECORDS COMMITTEE RULES

WAC

236-50-010 Regular meeting dates.

WAC 236-50-010 Regular meeting dates. The state records committee's regular meeting dates shall be the first Wednesday of each month at 10:30 o'clock a.m. at the Archives and Records Center, Olympia, Washington. [Order 1, § 236-50-010, filed 10/15/71.]

Chapter 236-54 WAC

PUBLIC RECORDS—ARCHIVES

WAC

236-54-010	Purpose.
236-54-020	Definitions.
236-54-030	Description of central and field organization of the division of archives and records management.
236-54-040	Operations and procedures.
236-54-050	Public records available.
236-54-060	Public records officer.
236-54-070	Office hours.
236-54-080	Requests for public records—Archives—Scheduled.
236-54-090	Copying.
236-54-100	Exemptions.
236-54-110	Review of denials of public records requests.
236-54-120	Protection of public records.

236-54-130	Records index.
236-54-140	Communication with division—Address.
236-54-150	Adoption of form.
236-54-990	Appendix A—Management organization chart of state archivist.
236-54-99001	Appendix B—Form—Request for public records.

Reviser's note: See also chapter 236-56 WAC, Public Records.

WAC 236-54-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Department of General Administration, Division of Archives and Records Management with the provisions of chapter 1, Laws of 1973 (Initiative 276), Disclosure-Campaign-Finances-Lobbying-Records; and in particular with sections 25-32 of that act, dealing with public records. [Order 11, § 236-54-010, filed 12/3/73.]

WAC 236-54-020 Definitions. (1) **PUBLIC RECORDS.** "Public record" includes any writing containing information relating to the conduct of governmental 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.

(2) **WRITING.** "Writing means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or punched cards, discs, drums and other documents."

(3) **DIVISION OF ARCHIVES AND RECORDS MANAGEMENT.** The Division of Archives and Records Management is established by chapter 40.14 RCW. The Division of Archives and Records Management shall hereinafter be referred to as the "Division". Where appropriate, the term Division also refers to the staff and employees of the Division of Archives and Records Management.

(4) **ARCHIVES.** Those public records of state and local governmental agencies of continuing historical value transferred to the custody and jurisdiction of the Division of Archives after their legal, financial and administrative values have ceased.

(5) **DIVISIONAL RECORDS.** Those records pertaining to the operations of the Division of Archives and Records Management.

(6) **SCHEDULED RECORDS.** Those public records scheduled for transfer to and disposition from the records center but which remain under the jurisdiction of the agency of record origin. [Order 11, § 236-54-020, filed 12/3/73.]

WAC 236-54-030 Description of central and field organization of the Division of Archives and Records Management. **DIVISION OF ARCHIVES AND RECORDS MANAGEMENT.** The Division is an administrative service and regulatory agency. The administrative office of the Division and its staff are located at the Archives and Records Center Building, Olympia, Washington. [Order 11, § 236-54-030, filed 12/3/73.]

WAC 236-54-040 Operations and procedures. The Division of Archives and Records Management is the primary archival and records management agency of Washington State government. The Division is organized as depicted in Appendix A. Through its several sections and operating units it carries on the following functions:

(a) Manages the Archives of the State of Washington;

(b) Centralizes the Archives of the State of Washington, to make them available for reference and scholarship, and to insure their proper preservation;

(c) Inspects, inventories, catalogs, and arranges Retention and Transfer Schedules on all record files of all state departments and other agencies of state government;

(d) Insures the maintenance and security of all state public records and establishes safeguards against unauthorized removal or destruction;

(e) Establishes and operates such State Records Centers as may from time to time be authorized by appropriation for the purpose of preserving, servicing, screening and protecting all state public records which must be preserved temporarily or permanently, but which need not be retained in office space and equipment;

(f) Establishes policies and procedures for operation of the state-wide records management, essential records protection and archival programs and operation of the State Records Center, Archival, and Microfilm Bureau facilities;

(g) Operates a Central Microfilm Bureau which will microfilm, at cost, records approved for filming by the head of the office of origin and the Archivist; approves microfilming projects undertaken by state departments and all other agencies of state government; and maintains proper standards for this work;

(h) Maintains necessary facilities for the review of records approved for destruction and for their economical disposition by sale or burning; directly supervises such destruction of public records as shall be authorized by law;

(i) Provides assistance to agencies of local government in records management related matters;

(j) Manages a state-wide essential records protection program including the operation of an essential records storage facility, and serves as depository for essential record microfilms for local government agencies. [Order 11, § 236-54-040, filed 12/3/73.]

WAC 236-54-050 Public records available. All public records of the Division as defined in WAC 236-54-020 are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by section 31, chapter 1, Laws of 1973, and WAC 236-54-100. [Order 11, § 236-54-050, filed 12/3/73.]

WAC 236-54-060 Public Records Officer. (1) The divisional records shall be in the charge of the Public Records Officer designated by the Department of General Administration. The person so designated shall be located in the administrative office of the Department of General Administration. The public records officer shall

be responsible for the following: The implementation of the Division's rules and regulations regarding release of public records, coordinating the staff of the Division in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973.

(2) The archival records in the custody of the Division shall be in the charge of the State Archivist. The State Archivist shall be located in the State Archives and Records Center Building. The State Archivist shall be responsible for the following: The implementation of the Division's regulations regarding the release of archival records, coordinating the staff of the Division in this regard and generally insuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973.

(3) The scheduled records in the custody of the Division shall be in the charge of the Public Records Officer designated by the agency of record origin. The Public Records Officer of the agency of records origin shall be responsible for implementation of the agency's rules and regulations regarding the release of public records and coordinating with the staff of the State Archives in this regard insofar as records of his agency in the custody of the State Archivist are concerned. [Order 11, § 236-54-060, filed 12/3/73.]

WAC 236-54-070 Office hours. Divisional records, archives and scheduled records shall be available for inspection and copying during the customary office hours of the Division. For the purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. [Order 11, § 236-54-070, filed 12/3/73.]

WAC 236-54-080 Requests for public records—Archives—Scheduled. In accordance with requirements of chapter 1, Laws of 1973 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(A) DIVISIONAL RECORDS.

(1) A request shall be made in writing upon the form prescribed in WAC 236-54-150 which shall be available at the Division's administrative office or at the Department of General Administration's administrative office. The form shall be presented to the Department of General Administration's public records officer at his office, or if he is not available, to any member of the Division's staff at the administrative office of the Division, during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;

(d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to the Division's current index, an appropriate description of the record requested.

(B) ARCHIVES.

(1) A request shall be made in writing upon a form prescribed by the Division which shall be available at the State Archives and Records Center. The form shall be presented to the state archivist, or to any other member of the Division's staff, if the state archivist is not available, at the State Archives Building, during customary office hours. The requests shall include the same information as that supplied for public records of the Division.

(C) SCHEDULED RECORDS.

(1) Requests for scheduled records in the custody but not under the jurisdiction of the state archives, must be made through the office of record origin in accord with the rules and regulations regarding the release of public records by that agency as published in the Washington Administrative Code in compliance with chapter 1, Laws of 1973. An approved request form or letter of authorization from an appropriate agency of records origin must then be presented to the State Archivist, or a member of the Division's staff, thereby granting access. The request or letter of authorization shall include the same or nearly the same identifying information as that supplied for public records of the Division.

(d) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record request. [Order 11, § 236-54-080, filed 12/3/73.]

WAC 236-54-090 Copying. No fee shall be charged for the inspection of public records. The Division shall charge a fee of 25 cents per page of copy for providing copies of public records and for use of the Division's copy equipment. This charge is the amount necessary to reimburse the Division for its actual costs incident to such copying. [Order 11, § 236-54-090, filed 12/3/73.]

WAC 236-54-100 Exemptions. (1) The Division reserved the right to determine that a public record or archive record requested in accordance with the procedures outlined in WAC 236-54-080 is exempt under the provisions of section 31, chapter 1, Laws of 1973.

(2) In addition, pursuant to section 26, chapter 1, Laws of 1973, the Division 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 or State Archivist will fully justify such deletion in writing.

(3) All denials of requests for public records must 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. [Order 11, § 236-54-100, filed 12/3/73.]

WAC 236-54-110 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the Director of the department. The Director shall immediately consider the matter and either affirm or reverse such denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the department has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first. [Order 11, § 236-54-110, filed 12/3/73.]

WAC 236-54-120 Protection of public records. Records will be made available to the requestor subject to the following restrictions:

(a) The records may not be removed from the area designated.

(b) The quantity of records may be limited in consonance with the requested use.

(c) All possible care will be taken by the requestor to prevent damage to the records.

(d) Records may not be marked or altered in any way.

(e) Use of liquids and fountain pens and eating, drinking, and smoking while utilizing the records is prohibited.

(f) Records shall not be defaced in any way including writing on, folding or folding anew if in folded form, tracing or fastening with clips or other fasteners except those that may already exist in the file.

(g) Records may not be cut or mutilated in any way.

(h) Records must be kept in the order in which received.

(i) All copying of records will be accomplished by departmental personnel.

(j) Records will be returned to the public records officer or his designee by the requestor when no longer required and no later than the end of the customary office hours as set forth in WAC 236-54-070. [Order 11, § 236-54-120, filed 12/3/73.]

WAC 236-54-130 Records index. (1) INDEX. The Division has available to all persons a current index which provides identifying information as to the following records issued, adopted or promulgated since its inception:

"(a) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

"(b) those statements of policy and interpretations of policy, statute and the Constitution which have been adopted by the agency;

"(c) administrative staff manuals and instructions to staff that affect a member of the public;

"(d) planning policies and goals, and interim and final planning decisions;

"(e) factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and

"(f) correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or it is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party;

"(g) public records accessioned into the archive proper of the State of Washington;

"(h) scheduled records in the custody of the State Archives."

(2) AVAILABILITY. The current index promulgated by the Division shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection. [Order 11, § 236-54-130, filed 12/3/73.]

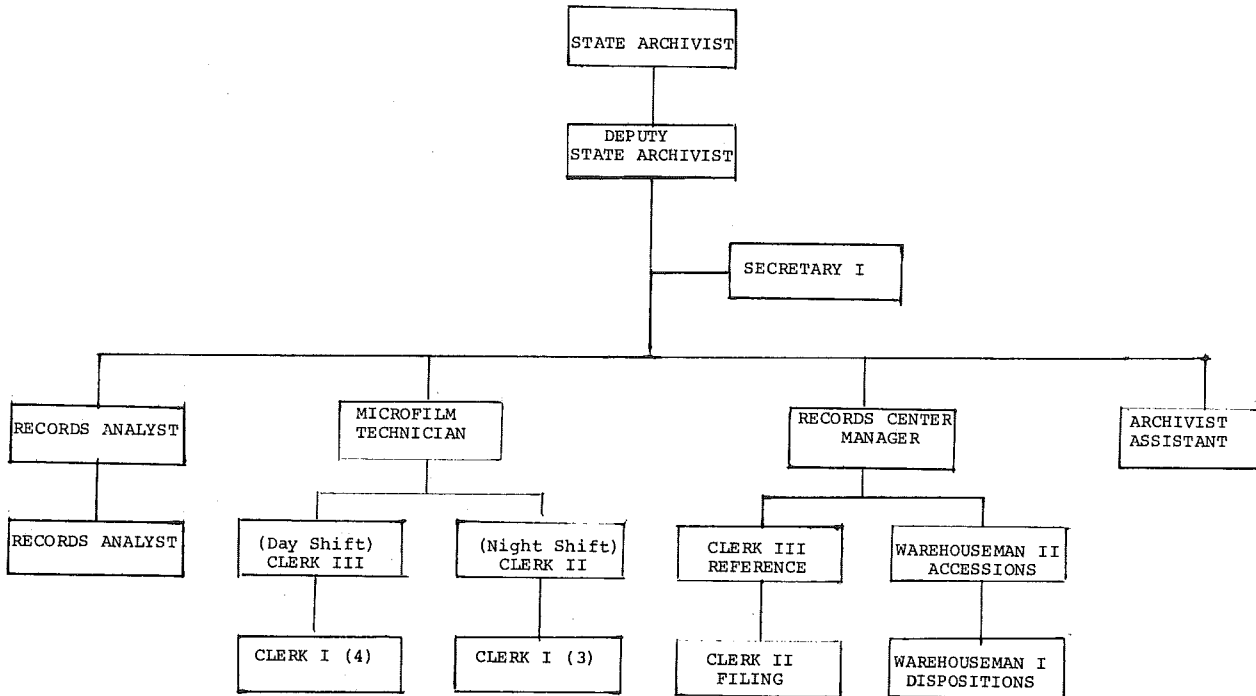
WAC 236-54-140 Communication with division—Address. All communications with the Division including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 1, Laws of 1973 and these rules; requests for copies of the Division's decisions and other matters, shall be addressed as follows: Department of General Administration, c/o Public Records Officer, General Administration Building, Olympia, Washington 98504. [Order 11, § 236-54-140, filed 12/3/73.]

WAC 236-54-150 Adoption of form. The Division hereby adopts for use by all persons requesting inspection and/or copying or copies of its records, the form attached hereto as Appendix B entitled "Request for Public Record." [Order 11, § 236-54-150, filed 12/3/73.]

WAC 236-54-990 Appendix A--Management organization chart of state archivist.

APPENDIX A

AGENCY	150	General Administration
PROGRAM	030	Archives and Records Management



[Order 11, Appendix A (codified as WAC 236-54-990), filed 12/3/73.]

WAC 236-54-99001 Appendix B—Form—
Request for public records.

APPENDIX B

REQUEST FOR PUBLIC RECORDS

Name of Requestor: _____
 Address: _____ Phone: _____
 Date of Request: _____ Time of Request: _____
 Nature of Request:
 1. Index Reference _____

 Signature -----

For Office Use Only:

(1) Request Granted Record Withheld Record Withheld In Part

(2) If withheld, name the exemption contained in section 31, chapter 1, Laws of 1973 which authorizes the withholding of the record or part of record: Subsection (1) ().

(3) If withheld, briefly explain how the exemption applies to the record withheld.

(4) If request granted, time _____, day _____

[Order 11, Appendix B (codified as WAC 236-54-99001), filed 12/3/73.]

Chapter 236-56 WAC
PUBLIC RECORDS

WAC

236-56-010	Purpose.
236-56-020	Scope-conflict with other regulations.
236-56-030	Definitions.
236-56-040	Description of central and field organization of Department of General Administration.
236-56-050	Organizations, operations and procedures.
236-56-060	Public records available.
236-56-070	Public records officer.
236-56-080	Office hours.
236-56-090	Requests for public records.
236-56-100	Copying.
236-56-110	Exemptions.
236-56-120	Review of denials of public records requests.
236-56-130	Protection of public records.
236-56-140	Records index.
236-56-150	Address for requests.
236-56-160	Adoption of form.

Reviser's note: See also, chapter 236-54 WAC, Public records—Archives.

WAC 236-56-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Department of General Administration with the provisions of chapter 1, Laws of 1973 (Initiative 276) (chapter 42.17 RCW), Disclosure-Campaign-Finances-Lobbying-Records; and in particular with sections 25-32 of that act, dealing with public records. [Order 75-6, § 236-56-010, filed 8/20/75.]

WAC 236-56-020 Scope-conflict with other regulations. This chapter is intended to apply only to those divisions, sections, and agencies of the Department of General Administration for which separate rules and regulations on the subject of public records have not been or may not be promulgated. In case of any conflict between these rules and regulations, and other rules and regulations adopted for any division, section or agency of the Department of General Administration, adopted prior to or subsequent to these regulations, such other rules and regulations shall control and these rules and regulations shall be deemed inapplicable to such a division, section or agency. [Order 75-6, § 236-56-020, filed 8/20/75.]

WAC 236-56-030 Definitions. (1) **PUBLIC RECORDS.** "Public record" includes any writing containing information relating to the conduct of governmental 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.

(2) **WRITING.** "Writing" means handwriting, type-writing, 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.

(3) **DEPARTMENT OF GENERAL ADMINISTRATION.** The Department of General Administration is established by chapter 43.19 RCW. The Department

of General Administration shall hereinafter be referred to as the "Department." Where appropriate, the term Department also refers to the staff and employees of the Department of General Administration. [Order 75-6, § 236-56-030, filed 8/20/75.]

WAC 236-56-040 Description of central and field organization of Department of General Administration. The Department is an administrative, service and regulatory agency. The administrative office of the Department and its staff are located at the General Administration Building, Olympia, Washington 98504. The Department maintains permanent and temporary field offices and stations at other locations throughout the state of Washington for administrative convenience, but the central administrative office is the only place at which public records are permanently stored and the only place at which the Department will accept requests for information or copies of public records and agency decisions. [Order 75-6, § 236-56-040, filed 8/20/75.]

WAC 236-56-050 Organizations, operations and procedures. The Department of General Administration is the primary business and service agency of Washington State Government.

The Department is organized and reorganized from time-to-time pursuant to chapter 43.19 RCW and other provisions of Washington law. Detailed charts or records of the structure and organization of the Department and its divisions will be made available to the public by request on the same terms and conditions as any other public record maintained by the agency.

Through its various divisions and operating units it carries on the following functions:

(1) Purchases and/or leases all goods and services needed by all state agencies with limited exceptions; disposes of unneeded personal property of all state agencies at public or private sale; contracts for testing of all goods and provides the manner of inspection of all goods on delivery, storage and distribution;

(2) Maintains an inventory record of all state owned personal property;

(3) As the contracting agency for the State of Washington, administers and manages the Federal Surplus Property program and the U.S.D.A. Donable Food program including direct distribution;

(4) Manages the Central Stores operation for volume buying and leasing of supplies, equipment, and services for all state agencies including large warehousing facilities for centralized storage and distribution of items of common use;

(5) Acts as agent for all state agencies in the purchasing, leasing or renting of real estate needed for offices, warehouses, or similar purposes; acquires by purchase, lease and/or construction, real property to lease or sublet to state agencies; purchases land required for the four year and community colleges; performs property management for the East Capitol Site on rentals and leases and supervises income therefrom for bond redemption;

(6) Supervises the design and construction of new buildings and alterations in the capitol group and does

comprehensive planning for the capitol area; provides similar services for other state buildings and all state institutions, four year colleges and community colleges, except the University of Washington and Washington State University, and all other agencies which do not maintain their own architectural staff;

(7) Supervises and conducts comprehensive facilities planning programs for all state agencies throughout the state to provide most efficient utilization of space, consolidation and grouping of agencies, and to determine needs for additional capital projects;

(8) Maintains and has the care, custody and control of all buildings and grounds of the capitol group including the West Campus, East Capitol Site, Deschutes Basin, Deschutes Parkway and Capitol Lake including all access roads and the maintenance and care of all parking facilities;

(9) Maintains, manages and operates all parking facilities at the state capitol including promulgation of rules and regulations relative to pedestrian and vehicular traffic on the capitol grounds; supervises and manages rental income from parking facilities for bond redemption; maintains, manages and operates the Washington State Motor Pool;

(10) Maintains and operates a centralized messenger service for state agencies on and off the capitol grounds in the Olympia-Lacey-Tumwater area;

(11) Maintains and manages the General Administration Facilities and Services Revolving Fund for recovery from all state agencies of costs incurred in the rendering of services, furnishing equipment, supplies, materials, providing or allocating facilities, and for all costs of operating and maintaining, repairing, remodelling or furnishing any building structure facility and all pertinent grounds connected therewith;

(12) Supervises the chartering, examination, regulation, liquidation or merging of all state banks, mutual savings banks, small loan companies, industrial loan companies, industrial development corporations, savings and loan institutions, credit unions and similar financial institutions or companies;

(13) Operates and manages the State Archives, records center and records management program for state and local records and an essential records program to assure the continuity of civil government; operates a centralized microfilm bureau; supervises and manages within the Facilities and Services Revolving Fund the recovery of costs incurred in this program;

(14) Operates and manages the Forms Management Center; provides guidance to state agencies in forms development and design, maintains inventories of standard forms for support of all state activities; coordinates forms procurement requirements with the State Printer;

(15) Supervises, manages and operates the state Data Processing Service Center including all software and data communications, systems development and agency coordination, programming and systems, as well as operations;

(16) Manages, administers and operates statewide communications systems including statewide intercity telephone system (SCAN), WATS, CENTREXES, data communication, and similar systems; provides counsel

and assistance to all state agencies relative to development of communication systems; administers and manages coordination of state systems with other governmental entities as required;

(17) Acts in conjunction with and in support of the State Capitol Committee in the designing and developing of overall plans, amendments and modifications of the capitol campus in its entirety;

(18) Provides staff support on various matters to the Administrative Board, State Purchasing Advisory Committee, Washington State Management Improvement Council, and various other committees.

The structure, operations and procedures of the Department may change from time-to-time as prescribed by Washington law. The foregoing statements are not intended to be exhaustive or represented to be accurate in the indefinite future. Detailed information on the operation and procedures of the Department at any given time will be available at the central administrative offices of the Department and supplied upon request on the same terms and conditions as any other public record held by the Department.

Titles 236, 50 and 419 WAC all pertain to the operation of the Department of General Administration or specific divisions or sections thereof. [Order 75-6, § 236-56-050, filed 8/20/75.]

WAC 236-56-060 Public records available. All public records of the Department, as defined in WAC 236-56-020 are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided in chapter 1, Laws of 1973 (chapter 42.17 RCW) or other provisions of law. [Order 75-6, § 236-56-060, filed 8/20/75.]

WAC 236-56-070 Public records officer. The Department's public records shall be in the charge of the Public Records Officer designated by the Department. The office of the person so designated shall be located in the administrative office of the Department. The Public Records Officer shall be responsible for the following: The implementation of the Department's rules and regulations regarding release of public records, coordinating the staff of the Department in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973. [Order 75-6, § 236-56-070, filed 8/20/75.]

WAC 236-56-080 Office hours. Public records shall be available for inspection and copying during the customary office hours of the Department. For the purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. [Order 75-6, § 236-56-080, filed 8/20/75.]

WAC 236-56-090 Requests for public records. In accordance with requirements of chapter 1, Laws of 1973 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be

inspected or copies or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the Department which shall be available at its administrative office. The form shall be presented to the public records officer; or to any member of the Department's staff, if the public records officer is not available, at the administrative office of the Department during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the Department's current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested. [Order 75-6, § 236-56-090, filed 8/20/75.]

WAC 236-56-100 Copying. No fee shall be charged for the inspection of public records. The Department shall charge a fee of 25¢ per page of copy for providing copies of public records and for use of the Department's copy equipment. This charge is the amount necessary to reimburse the Department for its actual costs incident to such copying. [Order 75-6, § 236-56-100, filed 8/20/75.]

WAC 236-56-110 Exemptions. (1) The Department reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 236-56-090 is exempt under the provisions of section 31, chapter 1, Laws of 1973 (chapter 42.17 RCW) or some other applicable provision of law.

(2) In addition, pursuant to section 26, chapter 1, Laws of 1973, the Department 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.

(3) 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. [Order 75-6, § 236-56-110, filed 8/20/75.]

WAC 236-56-120 Review of denials of public records requests. (1) Any person who objects to the denial

of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request for review must be accompanied by a copy of the written statement by the public records officer or other staff member which constituted or accomplished the denial.

(2) Upon receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer to the director of the Department. The director shall consider the matter and either affirm or reverse such denial. A final decision by the director (or, in his absence, one entitled to act on his behalf) shall be made promptly and within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the Department has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first. [Order 75-6, § 236-56-120, filed 8/20/75.]

WAC 236-56-130 Protection of public records. Records will be made available to the requester subject to the following restrictions:

(a) The records may not be removed from the area designated.

(b) The quantity of records may be limited in conformance with the requested use.

(c) All possible care will be taken by the requester to prevent damage to the records.

(d) Records may not be marked or altered in any way.

(e) Use of liquids and fountain pens and eating, drinking, and smoking while utilizing the records is prohibited.

(f) Records shall not be defaced in any way including writing on, folding or folding anew if in folded form, tracing or fastening with clips or other fasteners except those that may already exist in the file.

(g) Records may not be cut or mutilated in any way.

(h) Records must be kept in the order in which received.

(i) All copying of records will be done by departmental personnel.

(j) Records will be returned to the public records officer or his designee by the requester when no longer required and no later than the end of the customary office hours as set forth in WAC 236-56-080. [Order 75-6, § 236-56-130, filed 8/20/75.]

WAC 236-56-140 Records index. (1) INDEX. The Department has available to all person [persons] a current index which provides identifying information as to the following records issued, adopted or promulgated since its inception:

(a) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) those statements of policy and interpretations of policy, statute and the Constitution which have been adopted by the agency;

(c) administrative staff manuals and instructions to staff that affect a member of the public;

(d) planning policies and goals, and interim and final planning decisions;

(e) factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies reports or surveys, whether conducted by public employees or others; and

(f) correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public a subdivision of state government, or of any private party.

(2) AVAILABILITY. The current index promulgated by the Department shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection. [Order 75-6, § 236-56-140, filed 8/20/75.]

WAC 236-56-150 Address for requests. All communications with the Department including but not limited to the submission of materials pertaining to its operation and/or the administration or enforcement of chapter 1, Laws of 1973 and these rules; requests for copies of the Department's decisions and other matters, shall be addressed as follows: Department of General Administration, attn: Public Records Officer, General Administration Building, Olympia, Washington 98504. [Order 75-6, § 236-56-150, filed 8/20/75.]

WAC 236-56-160 Adoption of form. The Department hereby adopts for use by all persons requesting inspection and/or copying or copies of its records, the form attached hereto as Appendix "A", entitled "Request for Public Record." [Form—Request for Public Records, was not attached when filed.] [Order 75-6, § 236-56-160, filed 8/20/75.]