

Title 137 WAC

DEPARTMENT OF CORRECTIONS

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Chapter 137-04 WAC INTRODUCTORY

WAC

137-04-010	Definitions.
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WAC 137-04-010 Definitions. As used in this title:

- (1) "Secretary" means the secretary of the department of corrections.
- (2) "Department" means the department of corrections.
- (3) "Inmate" means any person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released on furlough or work release.
- (4) The term "resident," as well as inmate, is used to designate a person on parole or probation status residing at a community residential facility. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-04-010, filed 1/26/82.]

WAC 137-04-015 Establishment of department. The department of corrections was established effective July 1, 1981, by chapter 136, Laws of 1981, 47th legislature. Previously, functions delegated to the department

of corrections were assigned to the adult corrections division, department of social and health services. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-04-015, filed 1/26/82.]

WAC 137-04-020 Structure of the department. (1) The executive head of the department is the secretary who is appointed by the governor with the consent of the senate, and serves at the pleasure of the governor. The secretary manages the department and is responsible for the administration of adult correctional programs, including but not limited to the operation of all state correctional institutions or facilities used for the confinement of convicted felons.

(2) The department is organized into four divisions which are headed by directors who report to the secretary. The responsibilities of these divisions are:

(a) The division of prisons is responsible for the operation of all state correctional facilities, including the Washington state penitentiary; the Washington corrections center; the Washington state reformatory; the McNeil Island penitentiary; the Purdy treatment center for women; the Cedar Creek corrections center; the Clearwater corrections center; the Firland correctional center; the Indian Ridge treatment center; the Larch corrections center; the Olympic correctional center; the Pine Lodge correctional center; the special offender center; and such other state correctional institutions, camps or facilities as may hereafter be established pursuant to law under the jurisdiction of the department for the confinement of convicted felons.

(b) The division of community services is responsible for community based services such as probation and parole and work/training release.

(c) The division of management and budget is responsible for providing a variety of services to the other divisions and offices of the department including budget and accounting, management information systems, research and analysis, management services, internal audit, and contracts and regulations.

(d) The division of institutional industries is responsible for providing a comprehensive work program for inmates, including free venture industries, tax reduction industries, institutional support industries, community work industries, and community service programs. All inmates working in prison industries are paid a wage and contribute to the cost of corrections. Inmates are assigned to these programs based on skills, aptitude, and experience.

(3) Also reporting to the secretary are the chiefs of personnel services, legal services, public information, special investigations, assistant secretary for program

development, and legislative liaison and supervisor of internal audits. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-04-020, filed 1/26/82.]

WAC 137-04-030 Use of gender and number. As used in this title, words importing the singular number may extend and be applied to several persons or things and vice versa. Words importing the masculine gender may be applied to females or organizations. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-04-030, filed 1/26/82.]

Chapter 137-08 WAC

PUBLIC RECORDS--DISCLOSURE

WAC

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137-08-080	Public disclosure coordinator.
137-08-090	Request for public records.
137-08-100	Disclosure to client's representative.
137-08-110	Fees—Inspection and copying.
137-08-120	Protection of public records.
137-08-130	Disclosure procedure.
137-08-140	Remedy for review of denial of disclosure.
137-08-150	Exemptions to public records disclosure.
137-08-160	Qualifications on nondisclosure.
137-08-170	Interagency disclosure.
137-08-180	Records index.

WAC 137-08-010 Purpose. The purpose of this chapter shall be to ensure compliance by the department of corrections with the provisions of the Public Records Disclosure Act, RCW 42.17.250 through 42.17.340. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-010, filed 1/26/82.]

WAC 137-08-020 Definitions. (1) "Public records" include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by the department regardless of physical form or characteristics.

(2) "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 paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

(3) "Department" means the department of corrections.

(4) "Client" means any person or organization about whom the department has a record.

(5) "Disclosure" means inspection and/or copying.

(6) "Denial of disclosure" denotes any exempting from disclosure of any public record. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-020, filed 1/26/82.]

WAC 137-08-060 Public records available. (1) Requests for any identifiable public record may be initiated at any office of the department during normal business hours.

(2) The department shall at all times take the most timely possible action on requests for disclosure, and shall be required to respond in writing within ten working days of receipt of the request for disclosure. The department's failure to so respond shall entitle the person seeking disclosure to petition the public records officer pursuant to WAC 137-04-140. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-060, filed 1/26/82.]

WAC 137-08-070 Public records officer. The department shall designate a public records officer, located in the state administrative office, who shall be responsible for implementing the department's rules regarding disclosure of public records, coordination of staff in this regard, and generally insuring compliance by the staff with public records disclosure requirements. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-070, filed 1/26/82.]

WAC 137-08-080 Public disclosure coordinator. Each departmental administrative unit, for example, each institution, shall designate from among its employees at least one public disclosure coordinator, who shall:

(1) Have responsibility to respond to written requests for disclosure of the department's nonexempt public records located in that office; and

(2) Refer the person requesting disclosure to any other office where the record is located, and assist further in the disclosure process; and

(3) Verify, if necessary, the identity of any person requesting information. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-080, filed 1/26/82.]

WAC 137-08-090 Request for public records. (1) Unless waived by a public disclosure coordinator, all requests for the disclosure of a public record must be in writing identifying the record sought with reasonable certainty. The written request may include:

(a) The name of the person requesting the record;

(b) The time of day and calendar date on which the request is made, and;

(c) The nature of the request.

(2) A request for disclosure shall be made during customary business hours.

(3) If the public record contains material exempt from disclosure pursuant to law, including those laws cited in WAC 137-08-150, the department must provide the person requesting disclosure with a written explanation for the nondisclosure, pursuant to WAC 137-08-130.

(4) Any person continuing to seek disclosure, after having received a written explanation for nondisclosure pursuant to WAC 137-08-130, may request a review under the provisions of WAC 137-08-140.

(5) When a person's identity is relevant to an exemption, that person may be required to provide personal identification.

(6) Nothing in this section or elsewhere in this chapter shall be construed to require the department to compile statistics or other information from material contained in public records, where doing so would unduly interfere with other essential functions of the department and is not required for litigation by rules of pretrial discovery. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-090, filed 1/26/82.]

WAC 137-08-100 Disclosure to client's representative. (1) If a client requests disclosure to a representative, that request must be accompanied by a written release signed by the client, except that, as an accommodation to the client and if the legislator or attorney representing the client can provide assurance that the client has authorized disclosure, the client's record may be briefly discussed with that legislator or attorney so long as there is neither physical inspection nor copying of client records by that representative. A written release must include:

(a) The identity of the person(s) or organization(s) to whom disclosure is to be made;

(b) An identification of the record, or portion thereof, to be disclosed;

(c) A statement of when the authorization for disclosure expires.

(2) Disclosures of information to a representative shall be made to the same extent as to the client.

(3) The legal guardian of a client has any and all rights accorded to a client by this section. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-100, filed 1/26/82.]

WAC 137-08-110 Fees—Inspection and copying.

(1) No fee shall be charged for the inspection of public records.

(2) The department shall collect the following fees plus postage to reimburse itself for actual costs incident to providing copies of public records:

(a) Fifty cents per page for ten pages or less;

(b) Thirty-five cents per page from eleven to fifty pages;

(c) Twenty cents per page for over fifty pages.

(3) Nothing contained in this section shall preclude the department from agreeing to exchange or provide copies of manuals or other public records with other state or federal agencies, whenever doing so is in the best interest of the department.

(4) The secretary of the department or his designee is authorized to waive any of the foregoing copying costs. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-110, filed 1/26/82.]

WAC 137-08-120 Protection of public records.

Public records shall be disclosed only in the presence of a public disclosure coordinator or his or her designee,

who shall withdraw the records if the person requesting disclosure acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the department. This section shall not be construed to prevent the department from accommodating a client by use of the mails in the disclosure process. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-120, filed 1/26/82.]

WAC 137-08-130 Disclosure procedure. (1) The public disclosure coordinator shall review file materials prior to disclosure.

(2) If the file does not contain materials exempt from disclosure, the public disclosure coordinator shall ensure full disclosure.

(3) If the file does contain materials exempt from disclosure, the public disclosure coordinator shall deny disclosure of those exempt portions of the file, and shall, at the time of the denial, in writing, clearly specify the reasons for the denial of disclosure, including a statement of the specific exemptions or reasons authorizing the withholding of the record and a brief explanation of how the exemption or reason applies. The remaining, nonexempt materials shall be fully disclosed. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-130, filed 1/26/82.]

WAC 137-08-140 Remedy for review of denial of disclosure. (1) If the person requesting disclosure disagrees with the decision of a public disclosure coordinator denying disclosure of a public record, this person may at any time petition the department's public records officer for review of the decision denying disclosure. The form used by the public disclosure coordinator to deny disclosure of a public record shall clearly indicate this right of review.

(2) The public records officer shall review decisions denying disclosure in the most prompt fashion possible, and such review shall be deemed completed at the end of the second business day following receipt by the department of the petition for review. This shall constitute final agency action for the purposes of judicial review, pursuant to RCW 42.17.320. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-140, filed 1/26/82.]

(2) The public records officer shall review decisions denying disclosure in the most prompt fashion possible, and such review shall be deemed completed at the end of the second business day following receipt by the department of the petition for review. This shall constitute final agency action for the purposes of judicial review, pursuant to RCW 42.17.320. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-140, filed 1/26/82.]

WAC 137-08-150 Exemptions to public records disclosure.

The department reserves the right to determine if a public record requested in accordance with the procedures outlined in WAC 137-08-090 is exempt or nondisclosable under RCW 42.17.250 through 42.17.340.

Nondisclosable records include, but are not limited to:

(1) Personal information in any files concerning a prisoner, probationer, or parolee to the extent required by RCW 42.17.310 (1)(a); however, disclosure may be made to that person or that person's representative, except as otherwise prohibited by these rules;

(2) Data (including information revealing the identity of persons who file complaints, except as the complainant may authorize) contained in intelligence, investigative, and other related files compiled by investigative, law enforcement or penology agencies, and state agencies vested with the responsibility to discipline members of any profession. This data is nondisclosable to the extent required by RCW 42.17.310 (1)(d) and (e), 10.97-.080 and chapter 446-20 WAC;

(3) Certain juvenile justice or juvenile care records to the extent required by chapter 13.50 RCW;

(4) Personal information in files maintained for an employee of the department to the extent required by RCW 42.17.310 (1)(b);

(5) Deliberative material, as opposed to facts upon which a decision is based, contained in preliminary drafts, notes, recommendations, and intraagency memoranda in which opinions are expressed or policies formulated or recommended; except that a specific record shall be disclosable when publicly cited by the department in connection with any action to the extent required by RCW 42.17.310 (1)(i);

(6) Records which are relevant to a controversy to which the department is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the department and the office of the attorney general privileged under RCW 5.60.060(2).

(7) Criminal history records information including conviction and nonconviction information as required by chapter 10.97 RCW. [Statutory Authority: RCW 42-17.250. 82-04-023 (Order 82-3), § 137-08-150, filed 1/26/82.]

WAC 137-08-160 Qualifications on nondisclosure.

(1) To the extent that nondisclosable information can be deleted from the specific records sought, the remainder of the records shall be disclosable.

(2) No exemptions shall be construed to require nondisclosure of statistical information not descriptive of identifiable persons, as required by RCW 42.17.310(2).

(3) Inspection and copying of any specific records otherwise nondisclosable is permissible pursuant to an order of the superior court enforcing a subpoena in accordance with the provisions of RCW 42.17.310(3), or an order of the office of hearings enforcing a subpoena. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-160, filed 1/26/82.]

WAC 137-08-170 Interagency disclosure. (1) Unless prohibited by law, information may be disclosed by the department to outside agencies, including other state of Washington agencies, or agencies of other states.

(2) Outside agencies receiving information pursuant to subsection (1) of this section shall be thereby subject to the same standards of disclosure as are required of the department. [Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-170, filed 1/26/82.]

WAC 137-08-180 Records index. (1) The department finds that it would be unduly burdensome and would interfere with agency operations to maintain an index of records because of the complexity and diversity of its operations and the resulting volume of manuals, correspondence, reports, surveys, staff studies, and other materials.

(2) The department will make available for public disclosure all indices which may at a future time be developed for agency use. [Statutory Authority: RCW 42-17.250. 82-04-023 (Order 82-3), § 137-08-180, filed 1/26/82.]

Chapter 137-12 WAC

FUNDING FOR LOCATING SPECIFIED CORRECTIONAL FACILITIES

WAC

137-12-010	Definitions.
137-12-020	Purpose.
137-12-030	Eligible political subdivisions.
137-12-040	Period of funding.
137-12-050	Funding priority.
137-12-060	Billing procedure.
137-12-070	Cutoff date.
137-12-080	Review committee.
137-12-090	Special authorizations.

WAC 137-12-010 Definitions. These phrases, when used in this chapter, shall have the following meanings:

(1) "Affected political subdivision" denotes only the cities of Monroe and Steilacoom, and Pierce, Snohomish, Mason, and Clallam/Jefferson counties.

(2) "Additional institution(s)" denotes the five hundred bed addition to the Washington state reformatory, the inclusion of the McNeil Island corrections center in the corrections system of the state of Washington, Olympic correctional center, and Birch Hall a one hundred twenty bed addition to the Washington corrections center, Shelton.

(3) "Incremental costs" denotes costs incurred by an "affected political subdivision" directly resultant from the location of an "additional institution" within its boundaries. [Statutory Authority: RCW 72.01.090. 81-19-001 (Order 2), § 137-12-010, filed 9/3/81.]

WAC 137-12-020 Purpose. The purpose of this chapter shall be to create a process for the fair and equitable disbursement of the one million two hundred thousand dollars, provided in section 48 (3)(d), chapter 340, Laws of 1981, solely for the one-time cost impact on communities associated with locating additional state correctional facilities. [Statutory Authority: RCW 72-01.090. 81-19-001 (Order 2), § 137-12-020, filed 9/3/81.]

WAC 137-12-030 Eligible political subdivisions. Costs shall be limited to incremental costs from additional institutions to affected political subdivisions. [Statutory Authority: RCW 72.01.090. 81-19-001 (Order 2), § 137-12-030, filed 9/3/81.]

WAC 137-12-040 Period of funding. Funds shall be disbursed by June 30, 1983. [Statutory Authority: RCW 72.01.090. 81-19-001 (Order 2), § 137-12-040, filed 9/3/81.]

WAC 137-12-050 Funding priority. (1) Funding to affected political subdivisions shall be prioritized as follows:

(a) Criminal-justice incremental costs, including expenditures for police, prosecutorial, judicial, and related law-enforcement activities.

(b) Certain other incremental costs, such as expansion of sewage and water treatment facilities, road wear-and-tear, and expanded fire protection, which costs are not directly related to criminal justice but are directly related to the institution's impact on the community and can be documented as such.

(c) All other incremental costs, such as elementary and secondary education and any effect on a tax base, indirectly associated with the additional institution.

(d) Hereafter in this section the described classes of incremental costs shall be referred to as class (1)(a), class (1)(b) costs and class (1)(c) costs, respectively.

(2) All class (1)(a) costs shall be payable as soon as each such claim is approved by the secretary or his designee. All other approved claims—namely, those involving class (1)(b) or (1)(c) costs—shall be paid only after all claims have been submitted pursuant to WAC 137-12-070, except that (1)(b) costs may be prepaid if deemed necessary in the sound discretion of the secretary.

(3) Except as provided in (2), all approved claims of class (1)(a) costs shall be paid prior to any approved claims for class (1)(b) costs, and all approved claims for class (1)(b) costs shall be paid prior to any class (1)(c) costs. Payment of approved claims within class (1)(b) shall be prorated in the event that funding is insufficient to pay all approved (1)(b) claims fully, and a like procedure shall be used in respect to approved (1)(c) claims once all approved (1)(b) claims have been paid.

(4) No claims may be filed for costs reimbursed or reimbursable by prior contract with the state of Washington. [Statutory Authority: RCW 72.01.090. 81-19-001 (Order 2), § 137-12-050, filed 9/3/81.]

WAC 137-12-060 Billing procedure. (1) Requests by political subdivisions for reimbursement shall be made on the standard Washington state invoice voucher, Form A-19, with supporting documentation attached.

(2) All requests for reimbursement shall be submitted to:

Director, Division of Management and Budget,
Mail Stop FN-61
Department of Corrections
Olympia, Washington 98504.

[Statutory Authority: RCW 72.01.090. 81-19-001 (Order 2), § 137-12-060, filed 9/3/81.]

WAC 137-12-070 Cutoff date. (1) After construction of the five hundred bed new facility on the grounds

of the Washington state reformatory has been completed and that addition is occupied by inmates, the secretary may require that any and all additional requests for reimbursements be submitted to the department, as provided by WAC 137-12-060, within a specified period of time of not less than forty-five days.

(2) Notice of this requirement shall be served by certified or registered mail upon the political subdivisions. [Statutory Authority: RCW 72.01.090. 81-19-001 (Order 2), § 137-12-070, filed 9/3/81.]

WAC 137-12-080 Review committee. (1) A review committee shall be formed to assist the secretary in matters pertaining to this chapter. Such a committee shall consist of the following individuals:

(a) The capitol program administrator;
(b) The director of the division of management and budget;

(c) The director of prisons;
(d) The senior assistant attorney general assigned to the department; and

(e) The deputy secretary, who shall serve as chairman. The secretary may delegate responsibilities of this chapter to this review committee.

(2) The secretary may at his discretion utilize a hearings officer to serve as a fact finder in matters pertaining to this chapter. [Statutory Authority: RCW 72.01.090. 81-19-001 (Order 2), § 137-12-080, filed 9/3/81.]

WAC 137-12-090 Special authorizations. Notwithstanding any other provision of this chapter, the secretary may immediately authorize the following disbursements:

(1) Forty thousand dollars for a feasibility study for relocation of the dock at Steilacoom;

(2) Ten thousand dollars for contracting with Pierce County for ferry service to McNeil Island. [Statutory Authority: RCW 72.01.090. 81-19-001 (Order 2), § 137-12-090, filed 9/3/81.]

Chapter 137-36 WAC

**ADULT CORRECTIONAL INSTITUTIONS--
INMATE PERSONAL PROPERTY**

WAC	
137-36-010	Purpose.
137-36-020	Definitions.
137-36-030	Authorized items.
137-36-040	Disposition of personal property.
137-36-050	Inventory of personal property.
137-36-060	Return of personal property.
137-36-070	Implementation.

WAC 137-36-010 Purpose. The purpose of these rules is to maintain the safety, security, and discipline of adult correctional facilities operated under the jurisdiction of the department of corrections in accordance with Title 72 RCW et al., by establishing guidelines for the development of department and institution level policies and rules governing the retention of personal property by inmates to prevent the possession of illegal items and contraband within the institution. [Statutory Authority:

RCW 72.08.103, 72.09.050, 72.13.080 and 72.15.040, 83-20-035 (Order 83-08), § 137-36-010, filed 9/27/83.]

WAC 137-36-020 Definitions. (1) "Contraband" consists of all illegal items, alcoholic beverages, and other items which a resident of a correctional institution may not have in his possession, as defined in regulations adopted by the superintendent of an institution and approved by the secretary.

(2) "Illegal items" are controlled substances as defined and listed in chapter 69.50 RCW or any weapon, firearm, or any instrument which, if used, could produce serious bodily injury to the person of another.

(3) "Inmate" shall refer to those persons committed to the custody of the department of corrections and inmates transferred from other states or the federal government.

(4) "Secretary" is the secretary of the department of corrections or his/her designee(s).

(5) "Superintendent" means the superintendent of a correctional facility or his/her designee(s).

(6) "Unclaimed" means that no owner of the property has been identified or has requested, in writing, the release of the property to themselves nor has the owner of the property designated an individual to receive the property or paid the required postage to effect delivery of the property. [Statutory Authority: RCW 72.08.103, 72.09.050, 72.13.080 and 72.15.040, 83-20-035 (Order 83-08), § 137-36-020, filed 9/27/83. Formerly WAC 275-87-005.]

WAC 137-36-030 Authorized items. (1) Only authorized items may be retained by an inmate in the custody of the department. All authorized items shall be retained at the owner's risk. The state of Washington shall not be liable for any loss or damage.

(2) Authorized items may be limited in quantity and value when necessary to provide accountability, contraband control, safety or sanitary conditions, storage space, inmate morale or to meet the unique needs of each institution.

(3) Each superintendent shall establish regulations setting forth specific authorized items and levels of personal property for those inmates confined to that institution. Specific personal property authorizations may be suspended to ensure the safety, medical or mental health treatment objectives of any inmate or the general population and to ensure proper maintenance of order and security of the institution.

(4) All authorized items in excess or in noncompliance with the levels established by the superintendent of each institution shall be considered contraband and shall be disposed of as provided in WAC 137-36-040. [Statutory Authority: RCW 72.08.103, 72.09.050, 72.13.080 and 72.15.040, 83-20-035 (Order 83-08), § 137-36-030, filed 9/27/83.]

WAC 137-36-040 Disposition of personal property.

(1) Contraband items will be confiscated by the superintendent and disposed of in the following manner:

(a) Items which are determined to be owned by an inmate will be mailed or transferred to a person designated by the inmate at the inmate's expense. If the inmate is without funds, refuses to pay the required postage or refuses to designate an individual to receive the property, such items shall be donated to a charitable organization.

(b) Items for which ownership cannot be determined shall be held by the superintendent for six months and then donated to a charitable organization or destroyed.

(c) Money such as currency, personal checks, and money orders, is contraband within adult correctional institutions. If money or other negotiable instrument is found in the unauthorized possession of an inmate and he/she claims or disclaims ownership or, if ownership is unknown, the money or negotiable instrument shall be confiscated immediately and shall be deposited in the inmate welfare fund at the expiration of any appeal or hearing.

The inmate shall be advised in writing of his/her right to seek review of the decision to place the money in the inmate welfare fund. The review shall be sought by writing directly to the director of the division of prisons or his/her designee(s) within ten calendar days.

(2) All illegal items owned by and/or found in the possession of an inmate shall be confiscated. Such items shall be held for evidence for law enforcement authorities. Such illegal items that do not need to be retained as evidence shall be destroyed.

(3) Abandoned personal property shall be disposed of in the following manner:

(a) All personal property, and any income or increment which is accrued thereon, held for the owner by an institution that has remained unclaimed for more than six months from the date the owner was terminated from work release, transferred to a different institution, or when the owner is unknown or deceased, from the date the property was placed in the custody of the institution, is presumed abandoned. When an inmate who has no recorded next of kin or person to whom unclaimed property can be sent, is transferred to another institution, the property shall not be presumed abandoned for a period of twelve months.

(b) All personal property, and any income or increment which has accrued thereon, shall be presumed abandoned whenever the inmate owner has been placed on escape status. Such property shall be held for three months from the date of the escape. If during that period the inmate remains on escape status and/or no other person claims ownership of the property, the property shall be deemed abandoned and may be donated to charity or destroyed in accordance with the provisions of this regulation.

(c) All personal property, other than money, which is unclaimed for the time periods set out in this regulation, shall be presumed abandoned and may be destroyed. Where a superintendent feels the property may be used or has value to a charitable nonprofit organization, the property may be donated to such an organization.

(d) Any money unclaimed for the time limits set out in this regulation shall be presumed abandoned and paid

into the revolving fund established pursuant to RCW 9.95.360.

(e) At least thirty days prior to personal property being donated or destroyed, written notice shall be given to the owner at the owner's residence or place of business or to some person of suitable age or discretion residing or employed therein. Such notice may be hand delivered or sent by certified mail. If the owner is deceased, such notice shall be sent to at least one of the owner's heirs, if known. In all other circumstances, notice shall be sent to the person previously designated by the owner as authorized to receive property.

(f) If none of the above alternatives is available, notice of the proposed donation or destruction of the property shall be published at least once in an official newspaper in the county in which the institution is located at least thirty days prior to the date fixed for the action. The notice shall be signed by the secretary and shall contain a general description of the unclaimed personal property, specifying the institution at which the property is held. [Statutory Authority: RCW 72.08.103, 72.09.050, 72.13.080 and 72.15.040. 83-20-035 (Order 83-08), § 137-36-040, filed 9/27/83. Formerly WAC 275-87-020.]

WAC 137-36-050 Inventory of personal property.

All personal property, whether confiscated, in the possession of the inmates or maintained by the institution shall be inventoried on forms established and approved by the secretary.

A continuous log will be maintained at each holding area designated for inmate personal property. The log shall identify the property contained therein as well as the custodial personnel who have access to the personal property area. [Statutory Authority: RCW 72.08.103, 72.09.050, 72.13.080 and 72.15.040. 83-20-035 (Order 83-08), § 137-36-050, filed 9/27/83.]

WAC 137-36-060 Return of personal property.

Upon formal release from the institution, all personal property in the custody of the superintendent shall be returned to the inmate. If the inmate believes that property of value belonging to him/her has been lost or damaged due to staff negligence, he/she may file a claim pursuant to RCW 4.92.100. [Statutory Authority: RCW 72.08.103, 72.09.050, 72.13.080 and 72.15.040. 83-20-035 (Order 83-08), § 137-36-060, filed 9/27/83.]

WAC 137-36-070 Implementation. The secretary may adopt rules and regulations implementing this chapter. [Statutory Authority: RCW 72.08.103, 72.09.050, 72.13.080 and 72.15.040. 83-20-035 (Order 83-08), § 137-36-070, filed 9/27/83.]

Chapter 137-48 WAC

INMATE MAIL AND COMMUNICATIONS

WAC

137-48-010 Purpose.
137-48-020 Definitions.

137-48-030 Inspection of mail.
137-48-040 Restriction of incoming and/or outgoing mail.
137-48-050 Procedures for restrictions of incoming and/or outgoing mail.
137-48-060 Mail costs.
137-48-070 Mail records.
137-48-080 Telephone usage.
137-48-090 Implementation.

WAC 137-48-010 Purpose. The purpose of these rules is to maintain the safety, security, and discipline of adult correctional facilities operated under the jurisdiction of the department of corrections in accordance with Title 72 RCW et al., by establishing guidelines for the development of department and institution level policies and rules governing the receipt and sending of mail by inmates to prevent the transmission of illegal items or contraband into or out of an institution. [Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-010, filed 9/27/83.]

WAC 137-48-020 Definitions. (1) "Contraband" consists of all illegal items, alcoholic beverages, and other items which a resident of a correctional institution may not have in his/her possession, as defined in regulations adopted by the superintendent of an institution and approved by the secretary.

(2) "Emergency situations" are critical illnesses, deaths, emotional crises, or similar situations experienced by members of the inmate's family or the inmate.

(3) "Illegal items" are controlled substances as defined and listed in chapter 69.50 RCW or any weapon, firearm, or any instrument which, if used, could produce serious bodily injury to the person of another.

(4) "Indigent inmate" means an inmate who has not been credited with more than ten dollars total from any source(s) for deposit to the inmate's trust fund during the thirty days preceding a mail request of postage to be paid by the institution or has less than a ten dollar balance in his/her trust fund account.

(5) "Inspection of mail" means the physical act of opening, touching, smelling, and/or reading of mail, the use of mechanical or chemical systems and/or the use of animals to determine the presence of contraband or illegal items.

(6) "Legal mail" is correspondence to or from courts and court staff (judges, clerks of the court, judicial law clerks, etc.), attorneys and persons working for attorneys and to established groups involved in the representation of inmates in judicial proceedings (ACLU, legal services groups, etc.), and government officials or agencies. To be considered "legal mail" the correspondence must clearly be marked "legal mail" on the outside of the envelope.

(7) "Letters" consists of personal communications and enclosures to and from inmates including, but not limited to, handwritten or typed communications.

(8) "Mail" consists of letters, publications, or packages delivered by the United States Post Office or by other means.

(9) "Packages" means the immediate container or wrapping and the contents therein in which any item is contained for consumption, use or storage by inmates,

and for purposes of this chapter, also means any shipping container or outer wrapping and the contents therein used by retailers to ship or deliver any item to inmates where it is the only such container or wrapping.

(10) "Publications" consists of reproduced handwritten or pictorial materials including books, periodicals, newspapers, and pamphlets.

(11) "Secretary" is the secretary of the department of corrections or his/her designee(s).

(12) "Superintendent" means the superintendent of a correctional facility or his/her designee(s). [Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-030, filed 9/27/83. Formerly WAC 275-96-005.]

WAC 137-48-030 Inspection of mail. (1) All mail received by or to be sent by an inmate, excluding legal mail discussed in subsection (2) of this section, may be inspected at any time by the superintendent or his/her designee(s). Mail may be disapproved for receipt or transmittal in accordance with WAC 137-48-040. No person who inspects, or participates in the inspection, of an inmates mail, shall disclose the contents except in the cause of his/her official duties.

(2) Mail which is clearly identified on the outside of the envelope as legal mail, as defined in WAC 137-48-020(13), shall be inspected only in the presence of the inmate. Legal mail shall not be read without a search warrant.

(3) Mail containing illegal items or contraband shall be held and disposed of in accordance with the procedures set forth in chapter 137-36 WAC or as otherwise stated in this chapter. [Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-030, filed 9/27/83.]

WAC 137-48-040 Restriction of incoming and/or outgoing mail. (1) Incoming mail to inmates may be disapproved for receipt for any one of the following reasons:

(a) The mail contains threats of physical harm against any person or threats of criminal activity.

(b) The mail threatens blackmail or extortion.

(c) The mail concerns sending contraband in or out of the institution.

(d) The mail contains plans to escape.

(e) The mail contains plans for activities in violation of institutional rules, such as riots.

(f) The mail concerns plans for criminal activity.

(g) The mail is in code or in a foreign language and its contents are not understood by the reader.

(h) The mail contains information which, if communicated, would create a risk of violence and/or physical harm.

(i) The mail contains contraband.

(j) The mail contains obscene material as defined in department policy directives.

(2) Outgoing mail from inmates of institutions may be disapproved for mailing for any one of the following reasons:

(a) For any one of the reasons set forth in WAC 137-48-040(1).

(b) The mail is addressed to a minor whose parents or guardian have objected in writing to such correspondence; an individual previously has been sent obscene or threatening mail by the inmate and has complained or has asked that such mail not be received; the mail solicits money or goods from persons other than the immediate family of the inmate without the permission of the superintendent. This provision may not be construed to preclude the purchase of noncontraband goods or payment for such goods which have been approved by the superintendent or his designee.

(3) No letter is to be restricted for the reason that it contains critical opinions of departmental policy or departmental employees.

(4) In addition to those reasons cited in this section, publications received by inmates may be restricted if:

(a) It advocates that any ethnic, racial, or religious group is inferior for any reason and makes such group an object of ridicule and scorn; or

(b) It may reasonably be thought to precipitate a violent confrontation between the recipient(s) and a member(s) of the target group. No publications will be withheld solely on the basis of their appeal to a particular ethnic, racial, or religious group.

(5) In addition to those reasons cited in this section, packages sent either to or from an inmate are subject to the following restrictions:

(a) An inmate may receive one gift package not to exceed fifteen pounds in weight on a quarterly basis. Quarterly periods shall consist of December through February, March through May, June through August, and September through November. Rules governing the contents of quarterly packages shall be developed specifically by each institutional superintendent and approved by the secretary. The superintendent may allow exceptions from the one gift package limitation and weight limitation provided that appropriate contraband controls are maintained.

(b) The contents of the quarterly package shall be restricted to those items that are otherwise not available to the inmate through the institutional store. A replacement package may be sent during the same quarter for damaged packages that are returned to the sender by the inmate. Packages containing contraband shall be refused delivery to the inmate and will be counted as the package for that quarter.

(c) Prepaid merchandise approved by the superintendent and ordered by the inmate from any wholesaler or retailer shall not be considered one of the quarterly packages.

(d) Inmates may mail packages containing materials which have been sent to him or her in the institution or gifts consisting of his or her own hobby craft or curio work. Packages must be made and mailed at the inmate's expense.

(e) Newly admitted inmates at the Washington Corrections Center will not receive packages while assigned to the reception center. [Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order

83-09), § 137-48-040, filed 9/27/83. Formerly WAC 275-96-021 and 275-96-022.]

WAC 137-48-050 Procedures for restrictions of incoming and/or outgoing mail. (1) If an inmates's incoming or outgoing mail is restricted, notification shall be provided to the inmate and the author of the mail in writing of the specific publication, letter, or package which has been censored and the reason for this action.

(2) The inmate and author shall be advised in writing of his/her right to seek review of the decision to restrict his/her mail. The review shall be sought by writing directly to the director of the division of prisons or his/her designee(s) within ten calendar days.

(3) Upon receipt of an inmate's and/or author's appeal, the director of prisons or his/her designee shall affirm or reverse the action taken at the institution level and shall advise the inmate and/or author in writing of this action within ten working days from the receipt of the inmate's or author's written request.

(4) When a decision is rendered regarding a particular issue of a publication, that decision shall be binding for all facilities in the division of prisons.

(5) If a package contains contraband and is subject to criminal prosecution, the entire package will be turned over to the appropriate law enforcement agency. Items of contraband not subject to criminal prosecution will be disposed of in accordance with those procedures set forth in chapter 137-36 WAC. [Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-050, filed 9/27/83. Formerly WAC 275-96-070.]

WAC 137-48-060 Mail costs. (1) Except as otherwise stated in this section, mail costs shall be the responsibility of the inmate.

(2) Mail which arrives at the institution with postage due may, at the option of the superintendent, be delivered to the inmate. The institution may pay the postage due in accordance with subsection (3) of this section, or hold the mail for a reasonable period of time so as to allow the inmate to arrange for payment of the postage due. If such arrangements are not made within the time provided, the package may be donated to charity or discarded.

(3) Indigent inmates shall be authorized to receive postage for a maximum of five letters per week. This postage shall cover both legal and regular correspondence irrespective of the number of letters identified as legal mail. This shall also include costs advanced by the institution for postage due mail. [Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-060, filed 9/27/83. Formerly WAC 275-96-060.]

WAC 137-48-070 Mail records. The institution superintendent or his/her designee(s) shall be responsible for the maintenance of a continuous record showing the source and destination of legal and official correspondence to and from government officials, packages and

items of monetary value mailed by or mailed to an inmate. The secretary shall establish procedures for each institution governing the written mail record. [Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-070, filed 9/27/83.]

WAC 137-48-080 Telephone usage. (1) Telephone facilities shall be provided in appropriate numbers and locations to permit reasonable and equitable access to all inmates, except inmates of the reception center and those inmates in disciplinary segregation.

(2) The superintendent shall promulgate written regulations providing for access of inmates to additional telephone facilities in emergency situations.

(3) The superintendent shall promulgate written regulations outlining the hours of telephone availability, maximum length of calls (not less than five minutes) and any limitations on telephone use, subject to approval by the secretary. [Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-080, filed 9/27/83. Formerly WAC 275-96-065.]

WAC 137-48-090 Implementation. The secretary may adopt rules and regulations implementing this chapter. [Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-090, filed 9/27/83.]

Chapter 137-56 WAC

COMMUNITY RESIDENTIAL PROGRAMS, WORK/ TRAINING RELEASE

WAC

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137-56-240	Termination hearing—Decision.
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137-56-260	Time limits.
137-56-270	Exceptions.

WAC 137-56-005 Purpose. The purpose of this chapter is to set forth the rules and regulations governing the administration of the department's work/training

release programs. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-005, filed 4/5/82. Formerly Title 275 WAC.]

WAC 137-56-010 Definitions. (1) "Secretary" is the secretary of the department of corrections.

(2) "Director" is the director, division of community services, department of corrections.

(3) "Assistant director" is the assistant director of community residential programs.

(4) "Community residential programs administrator" is the staff member assigned by the assistant director to administer and supervise the work/training release programs.

(5) "Work/training release facility supervisor" is a staff member assigned by the community residential programs administrator to administer and supervise a specific work/training release facility and includes his/her designee.

(6) "Work/training release counselor" is a staff member assigned by the work/training release facility supervisor to supervise and counsel a caseload of work/training release inmates or residents at a specific work/training release facility.

(7) "Contract staff" is the staff member(s) of an agency under contract to the department of corrections to provide housing and supervision for work/training release inmates or residents.

(8) "Work/training release coordinator" is a staff member assigned by the superintendent of an adult correctional institution to act as liaison between the institution and work/training release facility personnel.

(9) "Work/training release inmate or resident" is an inmate of a major adult correctional institution who has been approved and placed in a work/training release plan, or probationer/parolee placed by the courts or the board of prison terms and paroles in a work/training release facility.

(10) "Sponsor-escort" is a responsible citizen assigned to escort and supervise an inmate or resident during official and social activities outside of the work/training release facility.

(11) "Work/training release facility" is an institution or other establishment approved for housing and supervision of work/training release inmates or residents during the inmate's or resident's stay in a work/training release program.

(12) "One working day" is a nine hour day, 8:00 a.m. to 5:00 p.m. excluding weekends and holidays. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-010, filed 4/5/82. Formerly chapter 275-92 WAC.]

WAC 137-56-020 Secretary's authority to grant or deny. The secretary or his or her designee may grant or deny work/training release as authorized by chapter 72.65 RCW subject to the rules of this chapter. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-020, filed 4/5/82. Formerly WAC 275-92-315.]

WAC 137-56-030 Reasons for which given. Work/training release may be authorized for one or more of the following:

(1) To take full-time or part-time employment;

(2) To take vocational training, including attendance at an accredited college.

(3) To make application to or be interviewed by prospective employers or to enroll in an academic or vocational training program (known as temporary work/training release). [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-030, filed 4/5/82. Formerly WAC 275-92-320.]

WAC 137-56-040 Application—Who may apply.

(1) An inmate may apply for work/training release provided that:

(a) He or she has minimum security status;

(b) His or her minimum term has been fixed by the board of prison terms and paroles;

(c) He or she has less than two years to serve on the minimum term including anticipated good time credits.

(2) Persons convicted of rape in the first degree shall not be eligible for work/training release at any time during the first three years of confinement.

(3) Persons convicted of murder first degree are not eligible for work/training release, without the written approval of the secretary. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-040, filed 4/5/82. Formerly WAC 275-92-325.]

WAC 137-56-050 Application—Consideration. (1)

The inmate shall submit his or her application for work/training release to his or her counselor on forms prescribed by the department.

(2) The classification committee shall make its recommendations to the superintendent, giving written documentation of the information which the committee relied on and giving reasons for the recommendation.

(3) Work/training release applications shall be evaluated without regard for color, national origin, or creed.

(4) Probationers/parolees may be referred by the superior court or board of prison terms and paroles. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-050, filed 4/5/82. Formerly WAC 275-92-330.]

WAC 137-56-060 Application—Decision. (1) If the superintendent approves the work/training application, he or she shall forward copies of the application and plan to the work/training release facility to which the inmate requests transfer; and to the assistant director, community resident programs.

(2) If the superintendent disapproves the work/training release application, he or she shall return the application to the counselor, stating his or her reasons for denial and set a date when the inmate may reapply. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-060, filed 4/5/82. Formerly WAC 275-92-335.]

WAC 137-56-070 Plan--Investigation. (1) Upon receipt of an approved work/training release application and plan from the superintendent, the work/training release facility supervisor or his or her designee shall complete an investigation.

(2) The work/training release investigation will verify the plan as it pertains to employment, financial resources, training, community reaction, and any other factors which may affect the inmate's or resident's ability to successfully complete a work/training release program.

(3) The work/training release plan investigation will be forwarded by the work/training release facility supervisor to the assistant director, community residential programs, or his or her designee, with a recommendation for or against approval of the plan. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-070, filed 4/5/82. Formerly WAC 275-92-340.]

WAC 137-56-080 Plan--Approval or denial. (1) The assistant director, community residential programs, or his or her designee has the authority to approve or disapprove a plan.

(2) Upon approval of a plan, the on-site representative, classification unit in headquarters, shall issue a transfer order.

(3) If approved, the inmate or resident shall sign and agree under oath, to the standard rules of work/training release. (See WAC 137-56-100.)

(4) If the plan is disapproved, the assistant director, community residential programs, or his or her designee shall state the reasons for denial in writing with a copy to the superintendent and inmate and will set a date when the inmate can reapply. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-080, filed 4/5/82. Formerly WAC 275-92-345.]

WAC 137-56-090 Plan--Restrictions. (1) An inmate or resident will not be permitted to travel outside the state.

(2) The work or training site shall be within reasonable commuting distance (in most circumstances not more than fifty miles) of the work/training release facility or institution in which the inmate or resident is confined.

(3) If the inmate or resident has been placed in a work/training release facility for the purpose of developing a plan (temporary work/training release) and the plan is not secured within ten working days from the date of issuance of transfer orders, the inmate or resident may be returned to the institution without prejudice.

(4) The purpose of work/training release is to provide a short adjustment period in a work/training release facility prior to parole. Before a work/training release plan is approved, the staff will have a reasonable expectation that the inmate or resident will be paroled in a period of time which will normally not exceed six months. If a parole date is not fixed within six months of placement in a work/training release plan, the assistant director,

community resident programs, or his or her designee will review the case on an individual basis and may return the inmate or resident to the institution if it appears that the inmate or resident will be on work/training release for an extended period of time. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-090, filed 4/5/82. Formerly WAC 275-92-350.]

WAC 137-56-100 Standard rules. In consideration of being granted work/training release, the inmate or resident must agree to observe and abide by the following rules:

(1) Continue in the approved work or training release plan until it is officially changed. Any modification of the plan must be authorized in writing by the work/training release facility supervisor.

(2) Comply with local work/training release facility rules, and any special restrictions imposed in writing by the work/training release facility supervisor. The inmate or resident may appeal in writing to the community residential programs administrator, if the inmate or resident considers any of the restrictions to be unwarranted or arbitrary.

(3) Comply with such other restrictions and/or conditions as may be imposed in the original work/training release plan by the community residential programs administrator or his or her designee.

(4) Remain confined to the work/training release facility premises at all times other than the time necessary to implement the plan or when authorized under WAC 137-56-140. Any work/training release inmate or resident approved for placement under a work/training release plan who willfully fails to report to his or her designated assignment or return to the designated place of confinement at the time specified shall be deemed an escapee and fugitive from justice, and upon conviction shall be guilty of a felony and sentenced in accordance with state law.

(5) Have employment or other resources in order to maintain himself or herself financially.

(6) Not consume, ingest, inject, or possess nonprescription narcotic or "dangerous" drugs or controlled substances or alcoholic beverages.

(7) Agree to disburse all earnings in accordance with the approved work/training release plan and report all income to the work/training facility supervisor. All income from any source shall be immediately placed in the resident's trust fund account by the facility supervisor. A receipt will be issued by the facility supervisor.

(8) Comply with all federal, state, and local laws.

(9) Inmates or residents placed on work/training release are ordinarily approved with the understanding that they will be paroled in a reasonable time, normally within six months. If it is not possible to parole the inmate or resident within a reasonable period of time, he or she may be returned to the institution. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-100, filed 4/5/82. Formerly WAC 275-92-355.]

WAC 137-56-120 Provisions of supervision. In meeting its responsibilities for the care of inmates or residents, a work/training release facility shall provide:

(1) A staff on twenty-four hour duty and an office within the facility so that the staff can monitor the activities of the inmates or residents;

(2) A check-in and check-out system to insure that the whereabouts of the inmate or resident is known at all times, including checks on the inmate or resident at school and work;

(3) Bed checks or head counts to account for the inmate's or resident's whereabouts; a minimum of three bed checks shall be required between 12:00 midnight and 8:00 a.m.;

(4) Provide adequately for the inmate or resident with respect to sleeping quarters, bathroom facilities, and accommodations for cooking, dining, lounging and leisure time activities;

(5) Comply with state fire codes. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-120, filed 4/5/82. Formerly WAC 275-92-405.]

WAC 137-56-140 Limits of confinement. A work/training release inmate or resident shall be confined to the facility at all times except:

(1) When interviewing prospective employers or arranging for registration at a training facility;

(2) When working at paid employment or attending a training facility in a vocational or academic program;

(3) If enrolled in an on-campus training program and housed in an on-campus facility, when participating in customary and official on-campus activities or mandatory field trips;

(4) When authorized a point-to-point pass not to exceed two hours, excluding travel, for the purpose of transacting personal essential business between the hours of 8:00 a.m. and 10:00 p.m.;

(5) When authorized to participate in social and recreational activities in company with a sponsor-escort between 8:00 a.m. and 12:00 midnight;

(6) When on furlough;

(7) When on authorized medical appointments or court appearances. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-140, filed 4/5/82. Formerly WAC 275-92-410.]

WAC 137-56-150 Sponsor-escort. (1) A sponsor-escort shall be a responsible citizen who shall accompany and retain custody of a work/training release inmate or resident during a social or recreational activity. The sponsor-escort must be approved by the work/training release facility supervisor; and the sponsor and the inmate or resident must sign an agreement with the department which describes his or her responsibilities.

(2) Persons who are on active felony probation or parole shall not be approved as sponsor-escorts. Persons who have a past felony conviction and who have earned a discharge may be approved as sponsor-escorts on an individual basis by the assistant director, community resident programs, or his or her designee.

(3) Sponsor-escorts must complete a sponsor orientation class provided by the work/training release facility before eligibility under this section. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-150, filed 4/5/82. Formerly WAC 275-92-415.]

WAC 137-56-160 Termination of plan. A work/training release plan may be terminated:

(1) If requested in writing by the releasee;

(2) If the contract permits, the contract agency refuses to accept or continue to serve the inmate or resident;

(3) If the plan is discontinued or modified so that it no longer meets agency standards or if the releasee becomes unable to comply with the terms of the plan;

(4) The inmate or resident lacks aptitude for the assignment or is improperly placed; or

(5) The inmate or resident has been unable to adjust or adapt to the conditions of the work/training release facility; or

(6) The inmate or resident has demonstrated through his or her behavior an unwillingness to respond to counseling by staff; or

(7) The inmate's or resident's situation and circumstances have significantly changed; or

(8) The inmate or resident has failed to comply with federal or state laws or local ordinances; or

(9) The inmate or resident has failed to comply with standard work/training release rules as enumerated in WAC 137-56-100; or

(10) The inmate or resident has failed to comply with such other written facility rules as are promulgated by the facility supervisor; or

(11) The inmate or resident has failed to comply with such other specific restrictions or behavior expectations which have previously been called to the attention of the inmate or resident by the work/training release facility supervisor and are documented in writing. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-160, filed 4/5/82. Formerly WAC 275-92-510.]

WAC 137-56-170 Service of notice of proposed termination. (1) If a work/training release termination is proposed, the work/training release facility supervisor may suspend the work/training release plan and place the inmate or resident in custody pending a termination hearing.

(2) The work/training release facility supervisor shall advise the inmate or resident in writing of the factual allegations which provide the basis for the proposed termination within one working day after the suspension of the work/training release plan.

(3) The factual allegations may be amended and/or new allegations added at any time prior to the termination hearing, provided that the work/training inmate or resident shall have notice of such new and/or amended allegations at least twenty-four hours prior to the termination hearing. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-170, filed 4/5/82. Formerly WAC 275-92-515.]

WAC 137-56-180 Termination hearing--Notice. A work/training inmate or resident served with allegations providing the basis for a proposed work/training release termination shall be notified in writing that a hearing has been set before a review committee. The hearing will be set within five working days of the suspension of the work/training release plan, unless a longer time is approved by the assistant director, community residential programs, or his or her designee. The written notice of hearing shall be given to the inmate or resident at least twenty-four hours before the hearing and advise the inmate or resident of his or her rights, including the following:

(1) The inmate or resident shall be present at all stages of the hearing, except during deliberation in appropriate circumstances.

(2) The inmate or resident shall present his or her own case to the review committee. If there is a language or communications barrier, the review committee chairman shall appoint an advisor.

(3) The inmate or resident may have an attorney present only when a felony has been alleged. Such representation is limited to advising the inmate or resident of his or her rights to remain silent, and does not include the right to act as an advocate throughout the hearing.

(4) The inmate or resident may testify during the hearing or remain silent, and his or her silence will not be held against him or her.

(5) The inmate or resident may question all witnesses appearing and testifying at the hearing.

(6) Testimony and other evidence introduced shall be relevant to the issues under consideration.

(7) The inmate or resident may present witnesses and written statements from persons in his or her own behalf.

(8) Attendance at the hearing shall be limited to parties directly concerned. The review committee chairman may exclude unauthorized persons.

(9) The review committee shall make an evaluation of the inmate's or resident's progress, attitudes, need for program modifications, work/training alternatives, or institution programming; and shall make a recommendation to the board of prison terms and paroles regarding good time credits and readiness for parole. [Statutory Authority: RCW 72.65.100, 82-08-055 (Order 82-06), § 137-56-180, filed 4/5/82. Formerly WAC 275-92-520.]

WAC 137-56-190 Facility review committee. (1) The review committee shall consist of at least three members, including the work/training release facility supervisor or his or her designee and a member of the contractor's staff, if the facility is under contract with the department. The additional members shall be selected by the facility supervisor from either state staff, including probation and parole officers or the contractor's staff. No resident or inmate may be a member of this committee. The facility supervisor shall serve as chairman and shall have the authority to make the final decision. The facility supervisor or his or her designee

shall inform the inmate, in writing, of the review committee's decision within three working days.

(2) At institutions, the classification committee may serve as the facility review committee for work/training release inmates or residents housed at the facility; except that the institution work/training release coordinator will be a member of the committee.

(3) No person making an allegation involved in the incident, or called as a witness, shall be a member of the review committee. Persons called as witnesses must be approved by the review committee chairman and must have information or facts which are relative to the allegations being considered. In the event that an individual is disqualified or disqualifies himself or herself under this rule or for any other reason, a replacement may be designated by the facility supervisor, community resident programs administrator, or assistant director, community resident programs. [Statutory Authority: RCW 72.65.100, 83-05-009 (Order 83-02), § 137-56-190, filed 2/4/83; 82-08-055 (Order 82-06), § 137-56-190, filed 4/5/82. Formerly WAC 275-92-525.]

WAC 137-56-200 Termination hearing--Waiver.

(1) At any time after having been served with an allegation providing the basis for a proposed termination, the inmate or resident may choose to waive his or her right to a hearing by signing an admission of the allegation and request that the hearing be dispensed with or limited only to questions of disposition.

(2) The inmate or resident may admit in writing to part of the allegations and thereby limit the scope of the hearing.

(3) In those cases where the allegation involves misbehavior or other culpability on the part of the inmate or resident, he or she shall be advised in writing that in admitting the violation and waiving the hearing, a report will be submitted to the board of prison terms and paroles which may result in the loss of good time credits and/or the extension of the minimum term. [Statutory Authority: RCW 72.65.100, 82-08-055 (Order 82-06), § 137-56-200, filed 4/5/82. Formerly WAC 275-92-530.]

WAC 137-56-210 Termination hearing--Rules of evidence. (1) All relevant and material evidence is admissible which, in the majority opinion of the review board, is the best evidence reasonably obtainable having due regard for its necessity, availability, and trustworthiness.

(2) All evidence material to the issues raised in the hearing shall be offered into evidence. All evidence forming the basis for the department's decision in a matter shall be offered into evidence.

(3) Every party shall have the right to question witnesses who testify in person and shall have the right to submit rebuttal evidence. This shall not be deemed to prevent the admission and consideration of hearsay evidence.

(4) Documentary evidence, including written statements submitted by interested parties on behalf of the inmate or resident, may be received. Such evidence may

include copies of documents, excerpts from documents and incorporation of written material by reference, including depositions.

(5) Although relevant, the chairman of the review committee may exclude evidence if the probative value is outweighed by the danger of unfair prejudice, confusion of the issues, misleading the committee or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-210, filed 4/5/82. Formerly WAC 275-92-535.]

WAC 137-56-220 Termination hearing--Findings and conclusions. (1) At the conclusion of the hearing, the review committee will make a finding of fact within one working day as to whether or not the allegations made against the inmate or resident have been proven by a preponderance of the evidence presented at the hearing.

(2) If the review committee determines that the allegations have not been proven by a preponderance of the evidence presented at the hearing, the inmate or resident shall be restored to work/training release status.

(3) If the review committee determines that one or more of the allegations have been proven by a preponderance of the evidence presented at the hearing, the review committee will proceed to a disposition. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-220, filed 4/5/82. Formerly WAC 275-92-540.]

WAC 137-56-230 Termination hearing--Disposition. (1) The review committee will consider the inmate's or resident's total background, adjustment on work/training release, attitude, recommendations of interested parties, and any other information relative to the inmate's or resident's ability to continue in the program. The review committee shall make a determination as to whether or not the inmate or resident has earned good time credits towards parole, and whether the matter should be referred to the board of prison terms and paroles for possible increase in the inmate's or resident's minimum term.

(2) The inmate or resident shall be present at all stages of the review, except for deliberation and even during deliberation when appropriate, and shall have the opportunity to make argument in his or her own behalf. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-230, filed 4/5/82. Formerly WAC 275-92-545.]

WAC 137-56-240 Termination hearing--Decision. The review committee may:

(1) Restore the inmate or resident to his or her work/training release status under the same or modified conditions as the original plan; or

(2) Revoke the work/training release plan and return the inmate or resident to an institution, or return the probationer/parolee to the court or the board of prison terms and paroles for final disposition. The facility supervisor shall notify the inmate or resident orally within

one working day and confirm the decision in writing within three working days.

(3) The written decision shall specify the evidence upon which the review committee relied and shall include a description of the circumstances surrounding the allegation(s) upon which the termination of work/training release is based, the reasons for the decision, a discussion of the inmate's or resident's personal culpability in the actions which have led to the termination, and an evaluation of the inmate's or resident's progress, attitudes, need for further programs including work training alternatives and readiness for parole. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-240, filed 4/5/82. Formerly WAC 275-92-550.]

WAC 137-56-250 Termination hearing--Appeal. The inmate or resident may appeal the decision of the facility review committee to the community residential programs administrator. Appeal requests must be in writing, must be specific and based on objection to the procedures used or the information available to the committee in making its decision. Appeals must be submitted within five working days of the committee's oral decision. The community residential programs administrator, or his or her designee, upon receipt of an appeal, will review the findings and decision of the review committee and either:

(1) Continue the inmate or resident in the existing work/training release plan; or

(2) Continue the inmate or resident in a work/training release program with appropriate and specific conditions for expected future behavior or modifications in the inmate's or resident's plan; or

(3) Terminate work/training release and return the inmate or resident to an institution for other programming; or

(4) Remand the decision for additional findings or rehearing.

The reviewer's decision will be made promptly, normally not to exceed five working days, and given to the inmate or resident and committee chairman in writing. [Statutory Authority: RCW 72.65.250 [72.65.100]. 83-10-042 (Order 83-05), § 137-56-250, filed 5/2/83. Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-250, filed 4/5/82. Formerly WAC 275-92-555.]

WAC 137-56-260 Time limits. The time limits contained in these rules shall not be deemed to be jurisdictional and failure to adhere to a particular time limit shall not be a bar to any procedure or action covered by these rules. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-260, filed 4/5/82. Formerly WAC 275-92-560.]

WAC 137-56-270 Exceptions. The secretary may authorize exceptions to the criteria listed in WAC 137-56-040, 137-56-080, and 137-56-110 through 137-56-150. [Statutory Authority: RCW 72.65.100. 82-08-055

(Order 82-06), § 137-56-270, filed 4/5/82. Formerly WAC 275-92-565.]

Chapter 137-57 WAC
SITING OF COMMUNITY RESIDENTIAL
PROGRAMS (WORK/TRAINING RELEASE
FACILITIES)

WAC

137-57-005	Purpose.
137-57-010	Definitions.
137-57-020	Secretary's authority.
137-57-030	Advisory committee.
137-57-040	Request for proposal.
137-57-050	Site selection only.
137-57-060	Public notice, hearing requirements.
137-57-070	Contract/lease.
137-57-080	Waiver.

WAC 137-57-005 Purpose. The purpose of this chapter is to ensure department cooperation with local jurisdictions in the siting of work/training release facilities and to encourage public comment and advice in the siting decisions. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-57-005, filed 4/5/82. Formerly Title 275 WAC.]

WAC 137-57-010 Definitions. (1) "Secretary" is the secretary of the department of corrections.

(2) "Director" is the director of the division of community services, department of corrections.

(3) "Assistant director" is the assistant director of community residential programs, division of community services, department of corrections.

(4) "Work/training release facility" is an institution, community residential program or other establishment approved for housing and supervision of work/training release inmates or residents as defined in WAC 137-56-010.

(5) "Office of contracts and regulations" is an office within the division of management and budget, department of corrections. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-57-010, filed 4/5/82.]

WAC 137-57-020 Secretary's authority. (1) Pursuant to RCW 72.65.080 the secretary may enter into contracts with the appropriate authority for the payment of the cost of feeding and lodging and other expenses of having work release participants. Such contracts may include any other terms and conditions as may be appropriate for the implementation of the work release program as defined in chapter 137-56 WAC. In addition, the secretary is authorized to acquire by lease or contract, appropriate facilities for the housing of work release participants and providing for their subsistence and supervision. Although the facilities are not subject to the zoning laws of the city or county in which they are situated, it is the purpose of this chapter to ensure department cooperation with local jurisdictions in siting decisions and to encourage public comment and advice.

(2) All contracts and leases authorized under RCW 72.65.080, excepting contracts or leases with a federal, state, or local government agency, shall be solicited and awarded in conformance with this chapter effective March 1, 1982. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-57-020, filed 4/5/82.]

WAC 137-57-030 Advisory committee. When the department intends to locate or relocate a work/training release facility, the assistant director shall be responsible for assembling a department advisory committee composed of local elected and/or public officials, local law enforcement heads, interested citizens and department staff. The advisory committee shall be apprised of the department's need for the site and the geographical location desired.

The committee shall then be given the opportunity to make recommendations to the assistant director regarding said site and the selection thereof. These recommendations shall be recorded in writing. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-57-030, filed 4/5/82.]

WAC 137-57-040 Request for proposal. (1) If the department is seeking a contractor or vendor to provide both a site and a program, the assistant director, in conjunction with the committee and the department's office of contracts and regulations, shall develop a request for proposal (RFP) articulating the department's requirements.

(2) Proposals received in response to the RFP shall be evaluated by the committee in accordance with criteria developed by the committee.

Such criteria shall include:

(a) The cost of the program;

(b) The reliability of the contractor;

(c) The scope of the program; and

(d) The site selected and site criteria in WAC 137-57-050.

(3) The assistant director shall then submit three recommendations to the director (or less if there are not three responsive bids), who shall then submit these to the secretary for approval. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-57-040, filed 4/5/82.]

WAC 137-57-050 Site selection only. (1) If the department is seeking a site only and not a work/training release vendor or contractor, the department need not prepare a request for proposal (RFP). Instead, the assistant director shall advertise the department's need in a local newspaper and shall perform a search of possible locations.

(2) After locations have been identified, the assistant director shall submit the possible sites to the advisory committee for review. The committee's review shall evaluate the following factors:

(a) The cost of the site, e.g., improvements that would be required to renovate, repair, remodel, or alter the site to make it suitable for a work release program;

(b) The desirability of the site for program activities;

(c) The access to public transportation available at the site;

(d) The community impacts associated with the site; and

(e) The current zoning restrictions applicable to property in that geographical area.

(3) The advisory committee shall make three recommendations to the secretary (or less if there are not three available sites) for a preliminary approval. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-57-050, filed 4/5/82.]

WAC 137-57-060 Public notice, hearing requirements. (1) After the secretary selects a site, or selects a contractor or vendor with an existing site, the assistant director under the direction of the office of contracts and regulations, shall either apply for or assist the contractor in applying for all the necessary permits required by local zoning laws.

(2) In the event there are no local zoning requirements, or hearing requirements, or where the secretary waives the permit requirement in (1) of this section, the assistant director under the direction of the office of contracts and regulations shall hold a public hearing to encourage citizen input. Notice of such a hearing shall be provided in a manner best designed to notify residents within the immediate area and within the budget limitations of the department.

(3) The comments received at the public hearing shall be submitted to the secretary for review and final approval of the proposed site. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-57-060, filed 4/5/82.]

WAC 137-57-070 Contract/lease. Upon final approval pursuant to WAC 137-57-060 the office of contracts and regulations shall negotiate and draft a lease or contract for execution by the secretary. Said contract shall not run beyond a biennium. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-57-070, filed 4/5/82.]

WAC 137-57-080 Waiver. The secretary may waive any provisions of this chapter if he/she deems such waiver to be in the best interest of the department. [Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-57-080, filed 4/5/82.]

Chapter 137-58 WAC

GUIDELINE FOR IMPLEMENTING THE STATE ENVIRONMENTAL POLICY ACT

WAC	
137-58-010	Purpose.
137-58-020	Definitions.
137-58-030	Agency responsibilities.
137-58-040	Responsibilities, office of capital programs.

WAC 137-58-010 Purpose. (1) The purpose of this chapter is to ensure department compliance with the

State Environmental Policy Act, (SEPA), chapter 43.21C RCW, and the regulations promulgated thereto, chapter 197-10 WAC and to set forth department procedures in regards to SEPA requirements.

(2) These rules are supplemental to chapter 43.21C RCW and chapter 197-10 WAC and are not intended to provide a comprehensive description of the SEPA requirements therein listed. [Statutory Authority: RCW 72.66.080. 82-07-067 (Order 82-005), § 137-58-010, filed 3/22/82.]

WAC 137-58-020 Definitions. The definitions set forth in chapter 197-10 WAC are hereby incorporated by reference into this chapter and should be referred to if necessary. [Statutory Authority: RCW 72.66.080. 82-07-067 (Order 82-005), § 137-58-020, filed 3/22/82.]

WAC 137-58-030 Agency responsibilities. (1) The secretary or his/her designee shall be responsible for making final decisions regarding threshold determinations, adequacy of draft EISs and adequacy of final EISs where the department is the lead agency.

(2) The department's office of capital programs, division of prisons, shall be responsible for submitting the necessary data set forth in WAC 137-58-040 to the secretary for his/her decision. [Statutory Authority: RCW 72.66.080. 82-07-067 (Order 82-005), § 137-58-030, filed 3/22/82.]

WAC 137-58-040 Responsibilities, office of capital programs. The department's office of capital programs, division of prisons, shall be responsible for complying with the threshold determination procedures of WAC 197-10-300 through 197-10-390; and shall be responsible for the supervision, or actual preparation of draft EISs pursuant to WAC 197-10-400 through 197-10-495, including the circulation of such statements, and the conduct of any public hearing required by chapter 197-10 WAC. The office of capital programs shall also prepare or supervise the preparation of any required final EIS pursuant to WAC 197-10-550 through 197-10-695. [Statutory Authority: RCW 72.66.080. 82-07-067 (Order 82-005), § 137-58-040, filed 3/22/82.]

Chapter 137-60 WAC

ADULT CORRECTIONAL INSTITUTIONS--RELEASE PROGRAMS--FURLOUGH

WAC	
137-60-010	Furlough of person confined in state correctional institution—Definitions.
137-60-020	Furlough of person confined in state correctional institution—Secretary's authority to grant or deny.
137-60-030	Furlough of person confined in state correctional institution—Purposes.
137-60-040	Furlough of person confined in state correctional institution—Who may apply.
137-60-045	Minimum time served requirement.
137-60-050	Furlough of person confined in state correctional institution—Conditions imposed.
137-60-060	Furlough of person confined in state correctional institution—Duration.

137-60-070	Furlough of person confined in state correctional institution—Sponsor's responsibilities.
137-60-080	Furlough of person confined in state correctional institution—Criteria for evaluating application.
137-60-090	Furlough of person confined in state correctional institution—Application for furlough.
137-60-100	Furlough of person confined in state correctional institution—Notifying inmate of decision on application.
137-60-110	Furlough of person confined in state correctional institution—Escape.
137-60-120	Furlough of person confined in state correctional institution—Revocation or suspension.
137-60-130	Furlough of person confined in state correctional institution—Law enforcement officers to be notified.
137-60-140	Furlough of person confined in state correctional institution—Exceptions to rules.

WAC 137-60-010 Furlough of person confined in state correctional institution--Definitions. (1) "Furlough" is an authorized unaccompanied leave of absence for an eligible inmate.

(2) "Furlough plan" is an inmate's statement in his or her application of the purpose, place, dates of duration, and sponsor of a single furlough or series of furloughs.

(3) "Furlough sponsor" is an approved adult who has agreed to assume the responsibilities set forth in WAC 137-60-070.

(4) "Emergency furlough" is a specially expedited furlough granted to an inmate to enable him or her to meet an emergency situation such as the death or critical illness of a member of his or her family.

(5) "Inmate" is a person convicted of a felony and serving a sentence for a term of confinement in a state correctional institution or facility, or a state approved work or training release facility.

(6) "Secretary" is the secretary of the department of corrections or his or her designee.

(7) "Furlough year" begins with the date of the first furlough and ends twelve months from that date. Subsequent furlough years count backward for the twelve month time period.

(8) "Furlough day" is any combination of two twelve-hour time segments. [Statutory Authority: RCW 72.66-.080. 82-07-006 (Order 82-04), § 137-60-010, filed 3/4/82. Formerly WAC 275-93-005.]

WAC 137-60-020 Furlough of person confined in state correctional institution--Secretary's authority to grant or deny. The institution superintendent, work/training release supervisor, or chief, classification and treatment, may grant or deny a furlough as authorized by chapter 72.66 RCW and subject to the rules in this chapter. [Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-020, filed 3/4/82. Formerly WAC 275-93-010.]

WAC 137-60-030 Furlough of person confined in state correctional institution--Purposes. A furlough may be authorized to enable the inmate:

(1) To meet an emergency situation, such as critical illness, death, emotional crisis, or similar situation experienced by members of his or her family;

(2) To obtain medical care not available in a facility maintained by the department;

(3) To seek employment or training opportunities;

(a) Provided specific job interviews have been arranged for the inmate, or

(b) When the inmate has been approved for work or training release status but his or her job or training placement has not been developed or concluded, or

(c) When necessary to prepare a parole plan for a parole hearing scheduled within one hundred twenty days of the commencement of the furlough;

(4) To make residential plans for parole which require his or her personal appearance in the community;

(5) To care for business affairs in person when the inability to do so could deplete the assets or resources of the inmate so seriously as to affect his or her family or his or her future economic security;

(6) To visit his or her family for the purpose of strengthening or preserving relationships, exercising parental responsibilities, or preventing family division or disintegration;

(7) To accomplish any other purpose deemed to be consistent with plans for rehabilitation of the inmate. [Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-030, filed 3/4/82. Formerly WAC 275-93-020.]

WAC 137-60-040 Furlough of person confined in state correctional institution--Who may apply. (1) Any inmate may apply for a furlough: *Provided*, That

(a) He or she has minimum custody classification,

(b) His or her minimum term has been fixed by the board of prison terms and paroles,

(c) If he or she has a detainer pending, approval of the detaining agency must be secured. Other jurisdictions with detainers against a Washington state inmate may provide approval on a class of applicants; for example, all those otherwise approved by this state, in lieu of action on individual applications.

(2) Persons convicted of rape in the first degree shall not be eligible to participate in the furlough program at any time during the first three years of confinement.

(3) Persons convicted after July 1, 1981, of murder in the first degree, may not be granted furloughs. [Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-040, filed 3/4/82. Formerly WAC 275-93-040.]

WAC 137-60-045 Minimum time served requirement. A furlough shall not be granted to an inmate if the furlough would commence prior to the time the inmate has served the minimum amounts of time provided under this section and is within two years of his or her minimum term being served;

(1) If his or her minimum term of imprisonment is longer than twelve months, he or she shall have served at least six months of the term;

(2) If his or her minimum term of imprisonment is twelve months or less, he or she shall have served at least ninety days and shall have no longer than six months left to serve on his or her minimum term, or the mandatory term has been waived by the parole board;

(3) If he or she is serving a mandatory minimum term of confinement, he or she shall have served all but the last six months of such term subject to restrictions in WAC 137-60-040 (2) and (3). [Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-045, filed 3/4/82.]

WAC 137-60-050 Furlough of person confined in state correctional institution--Conditions imposed. (1) The applicant must agree to abide by all terms and conditions of the approved furlough plan. Any violation may be cause for suspension or revocation of the furlough, and possible disciplinary action.

(2) The furlough plan will specify the residence address at which the applicant will reside during the period of furlough and will designate the names and relationships of the persons with whom he or she will live.

(3) Upon arrival at his or her destination the furloughed person will, when so required, report to a state probation and parole officer in accordance with instructions given prior to release on furlough. He or she shall report as frequently as may be required by the state probation and parole officer.

(4) The furloughed person shall abide by all local, state, and federal laws, ordinances, and statutes.

(5) With approval of either the designated state probation and parole officer, or institution staff, the furloughed person may accept temporary employment during a period of furlough. Earnings may be used to defray the costs of the furlough, including transportation, living expenses, family support, and incidental needs.

(6) Furloughed persons may not leave the state at any time while on furlough.

(7) Other limitations on movement within the state may be imposed as a condition of furlough. Unless it is part of the approved travel plan, travel outside the county to which furlough is granted must be approved in advance by the probation and parole officer in that county.

(8) A furlougee shall not drink, ingest, possess, or be under the influence of intoxicating beverages or nonprescribed drugs. All public taverns, bars, liquor stores, and cocktail lounges will be considered "off limits" to furlougees.

(9) A furlougee who drives a motor vehicle must:

(a) Have a valid Washington driver's license in his or her possession,

(b) If unaccompanied by the owner, have the owner's written permission in his or her possession to drive any vehicle not his or her own or his or her spouse's,

(c) Have at least minimum personal injury and property damage liability coverage on the vehicle he or she is driving,

(d) Observe all traffic laws.

(10) Clothing issued for use during the furlough is to be returned to the institution at the completion of the furlough.

(11) Other conditions of furlough specific to the individual may be imposed in writing, prior to the inception of the furlough.

(12) All conditions of furlough, general and specific, shall be listed on the furlough order, and shall be discussed with the inmate by his or her counselor before he or she leaves the institution. The furlougee shall carry a copy of the furlough order and furlough identification card, with him or her at all times while on furlough. The furlough identification card will be issued to the inmate prior to departure from the institution, and returned at the end of the furlough.

(13) Willful failure to return from a furlough at the time specified in the furlough order constitutes an escape from confinement which is a violation of criminal law. [Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-050, filed 3/4/82. Formerly WAC 275-93-050.]

WAC 137-60-060 Furlough of person confined in state correctional institution--Duration. (1) Furloughs may not exceed thirty days at a given time or a total of sixty days in any twelve-month period. The sixty day total is designed to permit a reasonable pattern of short releases over the course of a year, or an extended period of release for special placement on furlough status in preparation for work release, training release, parole planning, medical treatment not available in a state facility, or a combination of these reasons.

(2) First and second furloughs will not exceed five days absent unusual circumstances.

(3) Emergency furloughs will be limited to forty-eight hours plus travel time absent unusual circumstances.

(4) Any furlough may be extended by the institution superintendent or work/training release supervisor within the maximum time limits set by this section. [Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-060, filed 3/4/82. Formerly WAC 275-93-060.]

WAC 137-60-070 Furlough of person confined in state correctional institution--Sponsor's responsibilities. A furlough plan must designate a sponsor for the inmate while he or she is on furlough. The sponsor must sign a statement agreeing to:

(1) Provide the furlougee with appropriate living quarters for the duration of the furlough;

(2) Notify the institution immediately if the furlougee does not appear as scheduled, departs from the furlough plan at any time, becomes involved in serious difficulty during the furlough, or experiences problems that affect his or her ability to function appropriately,

(3) Assist the furlougee in other appropriate ways, such as discussing problems, providing transportation to job interviews, etc.,

(4) Assure that the furlougee returns to the institution on time. [Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-070, filed 3/4/82. Formerly WAC 275-93-070.]

WAC 137-60-080 Furlough of person confined in state correctional institution--Criteria for evaluating application. (1) An application for furlough shall be considered with respect to:

(a) Consistency with the purposes described in WAC 137-60-030 and 137-60-040, and

- (b) Adequacy of the furlough plan, and
- (c) Possible risk to the community, and
- (d) Findings of a field investigation.

(2) The application shall be evaluated without regard to the race, sex, color, national origin, or creed of the applicant. [Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-080, filed 3/4/82. Formerly WAC 275-93-080.]

WAC 137-60-090 Furlough of person confined in state correctional institution--Application for furlough.

(1) An application for furlough must be made on forms prescribed by the secretary, must include a furlough plan, and must be submitted by the inmate to his or her counselor.

(2) An application for furlough, other than an emergency furlough, must be made at least seven weeks prior to the date of the furlough.

(3) Any inmate whose furlough application has been rejected may reapply after such period of time has elapsed as was determined by the superintendent, work/training release supervisor, or chief, classification and treatment, at the time of rejection, such time period being subject to modification by the persons listed in this section.

(4) A furlough plan shall specify in detail the purpose of the furlough and how it is to be achieved, the address at which the applicant would reside, the names of all persons residing at such address and the relationships of such persons to the applicant. [Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-090, filed 3/4/82. Formerly WAC 275-93-090.]

WAC 137-60-100 Furlough of person confined in state correctional institution--Notifying inmate of decision on application.

(1) The inmate and his or her sponsor shall both be notified promptly of the disposition of his or her application.

(2) If a furlough is authorized, a copy of the furlough order will be mailed to the sponsor. [Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-100, filed 3/4/82. Formerly WAC 275-93-100.]

WAC 137-60-110 Furlough of person confined in state correctional institution--Escape.

The department has the duty, as soon as possible, to notify the state patrol of the escape of a furlougee. [Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-110, filed 3/4/82. Formerly WAC 275-93-110.]

WAC 137-60-120 Furlough of person confined in state correctional institution--Revocation or suspension.

(1) Any employee of the department having knowledge of a furlough infraction shall report the facts to the superintendent or work/training release facility supervisor as appropriate. Upon verification, the superintendent or work/training release supervisor will cause the custody of the furlougee to be regained and, for this purpose, may cause a furlough suspension warrant to be issued.

(2) The superintendent or work/training release facility supervisor as appropriate will determine whether to suspend or revoke the furlough. If the furlough is suspended, the superintendent or work/training release supervisor will indicate when and under what circumstances the inmate may reapply. [Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-120, filed 3/4/82. Formerly WAC 275-93-120.]

WAC 137-60-130 Furlough of person confined in state correctional institution--Law enforcement officers to be notified.

(1) Appropriate law enforcement agencies will be notified of a planned furlough via the state patrol communications network at least forty-eight hours prior to the beginning of the furlough.

(2) In the event of an emergency furlough, the state patrol will be notified as early as possible but the forty-eight hour requirement will not apply. [Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-130, filed 3/4/82. Formerly WAC 275-93-130.]

WAC 137-60-140 Furlough of person confined in state correctional institution--Exceptions to rules.

In emergency situations or as otherwise allowed by statute, the secretary may authorize exceptions to the rules in chapter 137-60 WAC: *Provided*, That no exception may be made to WAC 137-60-040 (1)(a), (b), (c), (2), and (3), 137-60-045, 137-60-050, 137-60-060, and 137-60-070. [Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-140, filed 3/4/82. Formerly WAC 275-93-140.]

Chapter 137-65 WAC

COST OF SUPERVISION--PROBATION AND PAROLE

WAC	
137-65-010	Purpose.
137-65-020	Scope.
137-65-030	Fee.
137-65-040	P.P.I. report.
137-65-050	Instructions.
137-65-060	Exception.
137-65-070	Violation.

WAC 137-65-010 Purpose. The purpose of this regulation is to provide administrative rules and standards pursuant to chapter 72.04A RCW, as now or hereafter amended which requires a cost-of-supervision assessment for certain felony parolees. [Statutory Authority: Chapters 72.04A and 9.94A RCW, as amended by chapter 20, Laws of 1982. 83-01-137 (Order 82-16), § 137-65-010, filed 12/22/82.]

WAC 137-65-020 Scope. This regulation shall apply to every person convicted of a felony in the state of Washington and placed on parole effective July 1, 1982, when such convicted person is required by the board of

prison terms and paroles to pay a monthly cost of supervision fee (assessment) to the state. [Statutory Authority: Chapters 72.04A and 9.94A RCW, as amended by chapter 20, Laws of 1982. 83-01-137 (Order 82-16), § 137-65-020, filed 12/22/82.]

WAC 137-65-030 Fee. The following fees may be assessed by the board of prison terms and parole for parolees on active status: Fifteen dollars per month for regular, routine parole and up to fifty dollars per month for special or intensive parole supervision. [Statutory Authority: Chapters 72.04A and 9.94A RCW, as amended by chapter 20, Laws of 1982. 83-01-137 (Order 82-16), § 137-65-030, filed 12/22/82.]

WAC 137-65-040 P.P.I. report. The probation and parole officer preparing the preparole investigation report shall recommend that the board of prison terms and paroles make the monthly cost of supervision assessment a condition of parole unless the officer finds one or more of the following:

(1) The offender has diligently attempted but has been unable to obtain employment which provides the offender sufficient income to make such payments.

(2) The offender is a student in a school, college, university, or a course of vocational or technical training designed to fit the student for gainful employment.

(3) The offender has an employment handicap, as determined by an examination acceptable to or ordered by the court.

(4) The offender's age prevents him from obtaining employment.

(5) The offender is responsible for the support of dependents and the payment of the assessment constitutes an undue hardship on the offender.

(6) Other extenuating circumstances as approved by the board of prison terms and paroles.

Reasons for recommending exemptions from the assessment shall be stipulated in the preparole investigation report. [Statutory Authority: Chapters 72.04A and 9.94A RCW, as amended by chapter 20, Laws of 1982. 83-01-137 (Order 82-16), § 137-65-040, filed 12/22/82.]

WAC 137-65-050 Instructions. When ordered by the board of prison terms and paroles to pay the monthly cost of supervision assessment, the subject offender will receive written instructions specifying terms of payment. [Statutory Authority: Chapters 72.04A and 9.94A RCW, as amended by chapter 20, Laws of 1982. 83-01-137 (Order 82-16), § 137-65-050, filed 12/22/82.]

WAC 137-65-060 Exception. The cost of supervision assessment shall not apply to cases supervised exclusively under the interstate compact. [Statutory Authority: Chapters 72.04A and 9.94A RCW, as amended by chapter 20, Laws of 1982. 83-01-137 (Order 82-16), § 137-65-060, filed 12/22/82.]

WAC 137-65-070 Violation. Failure to comply with a cost of supervision assessment order imposed by the

board of prison terms and paroles shall be treated as any other violation of parole and brought to the attention of the board in a standard violation report. Limited discretion is authorized in responding to late payments if, in the parole officer's judgment, circumstances warrant, and if the subject offender is earnestly trying to meet his/her financial obligations. [Statutory Authority: Chapters 72.04A and 9.94A RCW, as amended by chapter 20, Laws of 1982. 83-01-137 (Order 82-16), § 137-65-070, filed 12/22/82.]

Chapter 137-66 WAC

OUT-OF-STATE TRANSFER OF INMATES— PROCEDURE

WAC

137-66-010	Purpose.
137-66-015	Definitions.
137-66-020	Scope of this chapter.
137-66-030	Referral for transfer.
137-66-040	Transfer committee—Composition.
137-66-050	Basis for transfer.
137-66-060	Transfer committee—Procedures.
137-66-070	Representation of inmate.
137-66-080	Conduct of hearing.
137-66-090	Proposed transfers.
137-66-100	Decision of transfer committee.
137-66-110	Appeal.
137-66-120	Time limits.
137-66-130	Emergency transfer.

WAC 137-66-010 Purpose. This chapter recognizes that the out-of-state transfer of certain inmates is a necessary and legitimate classification process of benefit to the state and to the inmate; and recognizes the need for such placement, as well as the inconvenience and loss of privileges which may be attendant to an interstate transfer. This chapter, therefore, sets forth the procedures under which interstate transfers will be accomplished. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-010, filed 12/22/82.]

WAC 137-66-015 Definitions. (1) "Secretary" is the secretary of the department of corrections or his/her designee.

(2) "Director" is the director of the division of prisons, department of corrections.

(3) "Superintendent" is the superintendent of the correctional facility wherein the inmate to be considered for transfer resides, and includes his/her designee.

(4) "Transfer committee" is a committee established pursuant to WAC 137-66-040 for the purpose of considering out-of-state transfers.

(5) "Correctional facility" is any facility operated by the department of corrections pursuant to RCW 72.01.050(2).

(6) As used herein the words "interstate" and "out-of-state" refer to all states within the United States as well as the federal government. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-015, filed 12/22/82.]

WAC 137-66-020 Scope of this chapter. This chapter does not apply to:

- (1) The intrastate transfer of inmates of adult correctional facilities.
- (2) The movement of inmates among the various institutions of this state.
- (3) The reclassification of inmates of adult correctional facilities.
- (4) The powers and duties of the state with regard to discipline of inmates. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-020, filed 12/22/82.]

WAC 137-66-030 Referral for transfer. An inmate may be referred to the transfer committee for a consideration of transfer by any of the following sources.

- (1) By other correctional facility committees established under the Washington Administrative Code such as the disciplinary committee or the administrative segregation committee.
- (2) By written request of the inmate or the inmate's authorized representative.
- (3) By the board of prison terms and paroles.
- (4) By the superintendent of the facility wherein the inmate resides.
- (5) By the director, division of prisons of the department.
- (6) By the secretary of the department. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-030, filed 12/22/82.]

WAC 137-66-040 Transfer committee—Composition. (1) The superintendent of each major adult correctional facility shall establish a transfer committee(s) of three or more persons, the membership of which shall reflect a substantial balance between various departments of the institution with not more than two members being appointed from any one department.

(2) At forestry honor camps and such other smaller adult correctional institutions as may be created from time to time, the transfer committee(s) shall be comprised of three or more staff members designated by the superintendent, none of whom shall be the involved inmate's regular counselor, unless no other satisfactory staff members are available.

(3) The transfer committee shall also include a representative from the central office appointed by the director of the division of prisons. This member shall serve as the chairperson of the transfer committee.

(4) No committee member shall have a personal interest in the transfer being reviewed. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-040, filed 12/22/82.]

WAC 137-66-050 Basis for transfer. The transfer committee shall consider any of the following as grounds for a transfer. A finding of one or more of these grounds does not, however, guarantee or require a transfer.

(1) The inmate requests protective custody status or information exists to suggest a transfer may result in safer and more secure housing for the inmate than is available in the institution or in other state facilities.

(2) The transfer may result in the inmate benefiting from closer family and community ties.

(3) The inmate may be afforded an opportunity for stable adjustment in a setting unbiased by the inmate's prior adjustment record.

(4) The inmate demonstrates an inability/refusal to follow institution rules.

(5) The transfer of the inmate to another institution may enhance the ability of the institution or the division of prisons to maintain security.

(6) The conditions at the institution or in the division of prisons are such that the interests of the administration of the system would best be served by the transfer of the inmate.

(7) The transfer is the only option to ensure the safety of the inmate in an acceptably secure institution.

(8) It is otherwise deemed to be in the best interest of the state, of the inmate or necessary to provide adequate quarters and care, or desirable in order to provide an appropriate program of rehabilitation or treatment. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-050, filed 12/22/82.]

WAC 137-66-060 Transfer committee—Procedures. In preparation for a hearing regarding the transfer of an inmate, the transfer committee shall take the following steps:

(1) Forty-eight hours prior to the hearing, the transfer committee shall provide the inmate with written notice of the proposed hearing and the basis for the proposed transfer.

(2) Advise the inmate in writing of his/her right, subject to the relevant provisions and limitations of these rules:

(a) To have a hearing.

(b) To remain silent.

(c) To present written witness statements from other inmates, staff, or other persons in his/her behalf. Witnesses, including staff members, other inmates, and other persons may be asked, in the discretion of the committee chairman, to be present for the hearing.

(d) To respond to the transfer committee to information or testimony provided which directly relates to the transfer consideration.

(e) To present documentary and/or other evidence on his/her own behalf at the hearing.

(f) To have a staff advisor to assist in preparation/presentation of case when it is determined that the inmate is unable to adequately represent himself/herself on the basis of literacy or competence and complexity of the issue involved in the hearing.

(g) To have access to the nonconfidential reports and records utilized by the transfer committee during the fact-finding stage. Reports and records containing information, which might reasonably compromise the security and/or safety of the institution or its inmates,

shall be specifically identified as confidential and withheld. The contents of any information from an anonymous source shall be shared with the inmate at the meeting to the extent that this may be done without endangering the source of the information. When considering information from an anonymous source, the name of the source and all details of such information shall be given to the transfer committee out of the presence of the inmate, unless the nondisclosure of the name and/or details has been previously approved by a staff member of the rank of captain or above and to whom such name and information has been disclosed. Such approval shall reflect the approving official's verification that the source and information are reliable and are properly considered in deciding whether to transfer the individual. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-060, filed 12/22/82.]

WAC 137-66-070 Representation of inmate. As provided in WAC 137-66-060, an inmate may select a willing staff member or trained community volunteer approved by the superintendent to assist and advise him/her at the hearing. The advisor may be a staff member not ordinarily assigned responsibility for the inmate. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-070, filed 12/22/82.]

WAC 137-66-080 Conduct of hearing. (1) The transfer committee shall ensure that the inmate, or his/her lay advisor, understands the issues discussed, the basis of the transfer and the nature of the proceedings. The hearing may be postponed to secure a report on competency of the inmate or to secure an advisor for the inmate if there is a question as to the ability of the inmate to understand the issues and participate in the proceedings. An inmate's competency, lack of ability to understand the issues and/or to participate in the hearing shall not be a bar to the hearing being conducted nor to an inmate's out-of-state transfer.

(2) The inmate shall be present at all stages of the hearing, except during the decisional deliberations and any inquiries into the identity of unidentified witnesses.

(3) The inmate shall be informed of his/her right to remain silent at the time of the hearing. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-080, filed 12/22/82.]

WAC 137-66-090 Proposed transfers. At the time of the hearing on the proposed transfer of an inmate, the committee shall advise the inmate of the following:

(1) That a transfer out of state may result in the loss of the ability to have in-person meetings with the board of prison terms and paroles.

(2) That there may be program modifications at another institution.

(3) That the rights of visitation may be changed or limited.

(4) What, if any, provision is made for access to Washington state courts and legal materials. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-090, filed 12/22/82.]

WAC 137-66-100 Decision of transfer committee. The transfer committee shall, after review of the information before it, make a written determination as to the advisability of the transfer of the inmate, the facts and other information on which it relies and make a written recommendation to the superintendent. If the superintendent supports the request for transfer, a written recommendation will be forwarded to the director of the division of prisons. Upon receipt, a decision shall be made within fifteen working days by the director or designee. Copies of the recommendation of the transfer committee, the written recommendation of the superintendent, and the decision of the director of the division of prisons shall be provided to the inmate. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-100, filed 12/22/82.]

WAC 137-66-110 Appeal. (1) Where a transfer has been approved by the director of the division of prisons the inmate shall have a right to appeal the decision of the director of the division of prisons to the secretary of the department of corrections. The appeal must be forwarded to the secretary through the transfer committee or individual designated to receive appeals at the institution, within forty-eight hours after receiving notice of the decision from the director of the division of prisons. Such appeal shall incorporate any substantial reasons for the denial of the transfer. The secretary shall either affirm, reverse, or modify the decision made regarding the transfer. Pending review by the secretary, the inmate will be retained in a facility within Washington state.

(2) Appeals shall not be available where transfers are, at any stage, disapproved. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-110, filed 12/22/82.]

WAC 137-66-120 Time limits. The secretary reserves the right to waive the time limits contained in this chapter, and the time limits contained herein shall not be deemed jurisdictional. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-120, filed 12/22/82.]

WAC 137-66-130 Emergency transfer. Whenever, in the judgment of the secretary or his designee, an emergency exists justifying an immediate transfer, the inmate may be transferred prior to a hearing: *Provided*, That the inmate shall be afforded a hearing within sixty days of such emergency transfer. The institution shall follow such emergency transfer with notice to the transferred inmate of the basis for the emergency transfer

and inform the inmate that a hearing will be held pursuant to these rules. [Statutory Authority: RCW 72.09-.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-130, filed 12/22/82.]

Chapter 137-68 WAC
ADULT PROBATION AND PAROLE--
INTERSTATE COMPACT

WAC	
137-68-010	Definitions.
137-68-020	Detained or arrested probationer or parolee--Right to preliminary hearing.
137-68-030	Preliminary hearing--Preparation.
137-68-040	Preliminary hearing--Conduct.
137-68-050	Preliminary hearing--Disposition of decision.

WAC 137-68-010 Definitions. (1) "Compact" is the interstate compact for supervision of probationers and parolees as codified in RCW 9.95.270.

(2) "Compact administrator" is the director of the division of community services, department of corrections, who is responsible for the administration of the interstate compact for the supervision of adult probationers and parolees.

(3) "Deputy compact administrator" is a person appointed by the compact administrator and delegated responsibility for the administration of the interstate compact.

(4) "Sending state" is the state in which the individual was granted probation or parole and in which the jurisdiction of the case is retained.

(5) "Receiving state" is the state providing supervision of the parolee or probationer under the interstate compact.

(6) "Probationer" is a person under jurisdiction of a state superior or circuit court who is being supervised under the compact.

(7) "Parolee" is a person under jurisdiction of a paroling authority who is being supervised under the interstate compact.

(8) "Parole officer" is a state probation and parole officer employed by the department of corrections.

(9) "Supervising parole officer" is a parole officer assigned to supervise a probationer or parolee as required by the interstate compact and to act in regard to all matters connected with hearings conducted pursuant to the interstate compact rules.

(10) "Violations specified" are charges and/or allegations made against probationer or parolee by a parole officer in regard to violation of law or failure to comply with the general conditions of probation or parole or special instructions and conditions as set forth by the court of jurisdiction or the paroling authority.

(11) "Preliminary hearing" is a hearing conducted in accordance with RCW 9.95B.010 through 9.95B.900.

(12) "Hearing officer" is a person authorized by the compact administrator in accordance with RCW 9.95B-.020 to hear cases involving alleged violations of conditions of parole or probation. Neither the person making the allegations of violation or his or her direct supervisor

shall act as hearing officer. [Statutory Authority: RCW 9.95.270. 83-01-139 (Order 82-20), § 137-68-010, filed 12/22/82. Formerly WAC 275-102-475.]

WAC 137-68-020 Detained or arrested probationer or parolee--Right to preliminary hearing. (1) A probationer or parolee being supervised for another state under the interstate compact if detained or arrested within the state of Washington shall have the right as provided in chapter 9.95B RCW, to a preliminary hearing to determine whether there is probable cause to believe a condition or conditions of probation or parole have been violated and whether there is reason to believe the violations alleged are of such nature that a revocation of probation or parole should be considered by the sending state.

(2) The detained or arrested probationer or parolee may waive his or her right to such hearing in writing. [Statutory Authority: RCW 9.95.270. 83-01-139 (Order 82-20), § 137-68-020, filed 12/22/82. Formerly WAC 275-102-480.]

WAC 137-68-030 Preliminary hearing--Preparation. (1) When a probationer or parolee being supervised in the state of Washington under the compact is detained by a parole officer, the parole officer shall immediately give verbal and written notice to such probationer or parolee of his or her right to a preliminary hearing and shall further notify the probationer or parolee of all rights guaranteed him or her by the rules in this chapter.

(2) Immediately following the detention of a probationer or parolee, the parole officer shall notify the deputy compact administrator of the detention. Arrangements shall promptly be made for the date, time, and place for a hearing so that the hearing may be held within ten days from the date the probationer or parolee is detained by the parole officer.

(3) As soon as possible following detention of a probationer or parolee, the parole officer shall prepare charges or the violations specified and provide the probationer or parolee with a copy of said charges and also notify him or her of the date, time, and place set for the hearing. Upon serving the probationer or parolee with the violations specified, the parole officer shall determine whether the probationer or parolee wishes to waive his or her right to a hearing.

(4) Prior to the hearing, the parole officer shall send to the appropriate deputy compact administrator the signed hearing waiver (if appropriate), the notice of arrest and violations specified and the violation report.

(5) A detained or arrested probationer or parolee shall have the right to consult with any person whose assistance he or she reasonably desires prior to the hearing. [Statutory Authority: RCW 9.95.270. 83-01-139 (Order 82-20), § 137-68-030, filed 12/22/82. Formerly WAC 275-102-485.]

WAC 137-68-040 Preliminary hearing--Conduct. (1) The hearing shall be conducted by a hearing officer as defined in WAC 137-68-010(12).

(2) The hearing shall be closed to the public.

(3) The proceedings at the hearing shall be recorded.

(4) The hearing officer shall explain the purpose of the hearing, have the specified charges read aloud, and verify that the procedures specified in WAC 137-68-030 have been followed.

(5) A supervising parole officer shall be present at the hearing, submit the written report of the alleged violations in evidence, and testify as to the violations.

(6) Any person may give testimony relevant to the alleged violation or violations, introduce evidence including affidavits, and question other persons subject to the limitations in subsection (7) of this section.

(7) The detained or arrested probationer or parolee shall have the right to confront and examine any person who may have made allegations or given evidence against him or her unless the hearing officer determines that such a confrontation would present a substantial present or subsequent danger of harm to such person. In such instance a written general summary or the evidence, without disclosure of the identity of the witness, shall be provided to the probationer or parolee at the hearing. He or she shall have the opportunity to submit evidence relevant to or controverting any information contained in the summary.

(8) The hearing may be recessed for time sufficient for the hearing officer to consider the evidence and reach a decision on the issue of probable cause.

(9) The hearing officer shall render this decision on the probable cause based solely on the evidence presented at the hearing.

(10) If probable cause is found the hearing officer may receive additional evidence and argument relevant to recommendations. [Statutory Authority: RCW 9.95-.270. 83-01-139 (Order 82-20), § 137-68-040, filed 12/22/82. Formerly WAC 275-102-490.]

WAC 137-68-050 Preliminary hearing--Disposition of decision. (1) The hearing officer shall submit a written summary and digest of the hearing to the deputy compact administrator which may include recommendations and reasons therefore.

(2) The deputy compact administrator shall submit the summary and digest to the sending state which may include his or her recommendations.

(3) If the decision is that there is probable cause to believe that the parolee or probationer has committed a violation or violations of a condition or conditions of parole or probation and it appears that retaking or reincarceration by the sending state is likely to follow, the probationer or parolee may be detained by the deputy compact administrator to allow such time as may be necessary to complete the arrangements for his or her return to the sending state.

(4) Should it be the decision of the sending state to return this probationer or parolee, the deputy compact administrator will assist in arranging for his or her return to the sending state.

(5) The record of the hearing shall be retained for not less than one hundred eighty days. [Statutory Authority:

RCW 9.95.270. 83-01-139 (Order 82-20), § 137-68-050, filed 12/22/82. Formerly WAC 275-102-495.]

Chapter 137-70 WAC

CRIMINAL JUSTICE REIMBURSEMENT-- ADULTS

WAC

137-70-010	Purpose.
137-70-020	Definitions.
137-70-030	Eligibility.
137-70-040	Reimbursable impacts/rates.
137-70-050	Limitation of funds.
137-70-060	Billing procedure.
137-70-070	Department review committee.
137-70-080	Implied consent to audit.

WAC 137-70-010 Purpose. Chapter 72.72 RCW created an institutional impact account, in the general fund, for the purpose of reimbursing political subdivisions for criminal justice costs incurred directly as a result of crimes committed by offenders residing in correctional institutions. The purpose of these rules is to implement that statute and to set forth the procedures under which these funds will be distributed for impacts relating to adult offenders. [Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-010, filed 8/16/82.]

WAC 137-70-020 Definitions. As used in this chapter, the following items shall have the following meanings:

(1) "Secretary" shall mean the secretary of the department of corrections.

(2) "Department" shall mean the department of corrections.

(3) "Inmate" shall mean individuals sentenced to the custody of the department under state law and inmates transferred from other states or the federal government.

(4) "Institution" shall mean all those facilities set forth in RCW 72.01.050(2) and all community residential programs under the department's jurisdiction operated pursuant to chapter 72.65 RCW.

(5) "Political subdivision" shall mean any city, town, county or other unit of local government.

(6) All references to the singular shall include the plural unless noted otherwise. [Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-020, filed 8/16/82.]

WAC 137-70-030 Eligibility. Reimbursement shall be available to any political subdivision which is impacted by any adult correctional facility as defined in RCW 72.01.050(2) or a community residential program as defined and operated pursuant to chapter 72.65 RCW. As used herein, impacted shall mean that the political subdivision incurred an incremental cost, reimbursable under this chapter, which was specifically and exclusively attributable to the criminal behavior of state institutional inmates incarcerated in or who have escaped from an institution. Reimbursement is available for parolees or probationers only if they are assigned to

an institution as defined herein: *Provided*, That reimbursement shall be limited to new crimes and shall not be available for violations of the conditions of parole or probation and the resulting revocation hearings. [Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-030, filed 8/16/82.]

WAC 137-70-040 Reimbursable impacts/rates. (1) Reimbursement shall be restricted to fully documented law enforcement, prosecutorial, judicial and jail facility costs, as defined herein, at the actual costs of the submitting jurisdiction, not to exceed the following rates:

(a) Law enforcement costs are costs incurred by any political subdivision in apprehending escapees, in investigating crimes committed by state institutional inmates including pretrial investigations within or outside the institution, or in providing security for inmates outside the jail facility. These costs are reimbursable at the following rates:

(i) \$17.48 per hour for the period July 1, 1983, through June 30, 1984.

(ii) \$18.39 per hour for the period July 1, 1984, through June 30, 1985.

(b) If an escape or investigation results in the filing of a criminal complaint, the impacted political subdivision shall be entitled to attorney costs associated with the prosecution and/or defense of the filed action. These costs are reimbursable at the following maximum rates:

(i) \$41.79 per hour from July 1, 1983, through June 30, 1984.

(ii) \$43.96 per hour from July 1, 1984, through June 30, 1985.

(c) Reimbursement for judicial costs incurred as a result of the filing of a criminal complaint shall be limited to judges, court reporters, transcript typing or preparation, witness fees and jury fees. These costs are reimbursable at the following maximum rates:

(i) Judges – \$38.95 per hour from July 1, 1983, through June 30, 1984, and \$40.98 per hour for the period July 1, 1984, through June 30, 1985. These costs shall include the services of court clerks and bailiffs.

(ii) Court reporters – \$17.52 per hour from July 1, 1983, through June 30, 1984, and \$18.43 per hour for the period July 1, 1984, through June 30, 1985.

(iii) Transcript typing services – \$3.49 per page from July 1, 1983, through June 30, 1984, and \$3.67 per page for the period July 1, 1984, through June 30, 1985.

(iv) Expert witnesses – \$58.65 per hour from July 1, 1983, through June 30, 1984, and \$61.70 per hour for the period July 1, 1984, through June 30, 1985.

(v) Witness fees/nonexpert – jury fees – reimbursable at the rate established by the local governmental legislative authority up to a maximum of \$26.33 per day for the period July 1, 1983, through June 30, 1984, and \$27.70 for the period July 1, 1984, through June 30, 1985.

(d) Jail facility costs resulting from the escape or criminal complaint shall be reimbursed at the following maximum rate: \$7.37 per inmate day from July 1, 1983, through June 30, 1984 and \$7.75 for the period July 1, 1984, through June 30, 1985.

(e) Coroner – Where an inmate dies as a result of criminal activity of another inmate, coroner costs incurred by a local jurisdiction may be reimbursed up to a maximum amount established by the committee as reasonable.

(f) Medical costs – Where an inmate is in the custody of a local jurisdiction as a result of a crime committed while incarcerated in a state institution, extraordinary medical costs, beyond the routine medical services of the jail, may be reimbursed at the discretion of the committee. Counties, cities, and towns shall notify the department prior to incurring expenses for extraordinary medical expenses, where practicable, to allow the department an opportunity to provide the necessary medical care directly. [Statutory Authority: Chapter 34.04 RCW. 83-24-058 (Order 83-13), § 137-70-040, filed 12/6/83. Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-040, filed 8/16/82.]

WAC 137-70-050 Limitation of funds. Reimbursement under WAC 137-70-040 shall be paid in the order they are received until the legislative appropriation for the biennium is fully expended. If the impact fund is fully expended before the end of the biennium, political subdivisions should continue to submit claims for the purpose of developing future impact account funding requests. [Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-050, filed 8/16/82.]

WAC 137-70-060 Billing procedure. (1) Request for reimbursement under this chapter must be submitted on a standard Washington State Invoice Voucher Form, A-19, in triplicate, signed by the political subdivisions responsible fiscal officer, to the Department of Corrections, Division of Management and Budget, Office of Contracts and Regulations, P.O. Box 9699, FN-61, Olympia, Washington 98504.

(2) All A-19 requests must be accompanied by a narrative explanation of all costs incurred. This narrative must include at least the following information:

(a) Full name and DOC identification number of inmate;

(b) Institution to which the inmate is assigned or where he/she escaped;

(c) Incident requiring the political subdivisions assistance, i.e. escape, investigation and dates;

(d) Costs incurred broken down into the categories of reimbursable costs allowed in WAC 137-70-040 and hourly rate used;

(e) Admission and release dates if applicable;

(f) Other supporting information or documentation. [Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-060, filed 8/16/82.]

WAC 137-70-070 Department review committee. (1) All requests for reimbursement shall be reviewed by a department committee composed of the following individuals or their designees:

(a) The deputy secretary;

(b) Director, division of management and budget;

(c) Director, division of prisons;
 (d) Contracts and regulations administrator;
 (e) Capital programs administrator; and the
 (f) Senior assistant attorney general assigned to the department.

(2) The review committee shall approve or disapprove the requests for payment. If a request is disapproved in total or in part, the committee shall send a letter to the requesting political subdivision with the reasons for disapproval.

(3) The committee decision shall be final unless appealed to the secretary within twenty days after a political subdivision receives notice of disapproval. [Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-070, filed 8/16/82.]

WAC 137-70-080 Implied consent to audit. (1) By submitting requests for reimbursement, the requesting political subdivision agrees to maintain records which would support the request made for a period five years after the date of such request.

(2) If requested by the secretary, or his/her designee, the political subdivision shall make these records available for review and/or audit by the department. [Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-080, filed 8/16/82.]

Chapter 137-80 WAC INSTITUTIONAL INDUSTRIES

WAC

137-80-010	Purpose.
137-80-020	Definitions.
137-80-030	Establishment of inmate programs.
137-80-040	Sale of goods.
137-80-050	Proceeds of sale.
137-80-060	Inmate job opportunities.

WAC 137-80-010 Purpose. These rules and regulations are adopted pursuant to and in accordance with chapter 34.04 RCW. The purpose is to provide standards and procedures for the operation of the division of institutional industries. [Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. 82-18-042 (Order 82-11), § 137-80-010, filed 8/27/82.]

WAC 137-80-020 Definitions. (1) "Secretary" means the secretary of the department of corrections or his/her designee.

(2) "Director" means the director of the institutional industries division appointed by the secretary.

(3) "Institutional industries board of directors" means the board established by the authority of the Corrections Reform Act of 1981, RCW 72.09.070.

(4) "Free venture industries" means any industry producing goods or services for sale to both the public and private sector which is operated and managed in total or in part by any profit or nonprofit organization pursuant to an agreement between the organization and the department. Inmates shall be paid a wage by the organization of not less than sixty percent of the approximate

prevailing wage within the state for the occupation, as determined by the director, or minimum wage, whichever is greater.

(5) "Tax reduction industries" means any state-owned and operated enterprises designed to reduce the cost for services and goods for tax supported agencies and for nonprofit organizations which assist persons who are poor or infirm. Products of these enterprises may be sold to public agencies and to nonprofit organizations which assist persons who are poor or infirm. Inmates shall be paid for their work on a gratuity scale, approved by the director, which shall not exceed the federal minimum wage.

(6) "Institutional support industries" means any industry operated by the department of corrections designed and managed to provide basic work training and experience to the inmate. All able and eligible inmates who are assigned work and who are not working in other classes of industries are included in this class. Inmates shall be paid for their work in accordance with an inmate gratuity scale adopted by the secretary.

(7) "Community work industries" means any industry operated by the department of corrections designed and managed to provide services in the inmate's resident community at a reduced cost. Services shall be provided to public agencies, to persons who are poor or infirm, or to nonprofit organizations which assist the poor or infirm. Inmates shall receive a gratuity from a unit of local government which shall not exceed the minimum wage.

(8) "Community service programs" means any program operated by the state, local unit of government, or a nonprofit agency which assists persons who are poor or infirm which is subject to supervision by the department of corrections which enables an offender, placed on probation, to work off all or part of a community service order as ordered by the sentencing court.

(9) "Department" means the department of corrections.

(10) "Institutional industries" means the division within the department of corrections charged with developing and managing comprehensive work programs to provide work skills, work experience and exposure to the work ethic for offenders under the jurisdiction of the department. [Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. 82-18-042 (Order 82-11), § 137-80-020, filed 8/27/82.]

WAC 137-80-030 Establishment of inmate programs. In order to provide a comprehensive work program the following classes of work programs are adopted:

- (1) Class I: Free venture industries;
- (2) Class II: Tax reduction industries;
- (3) Class III: Institutional support industries;
- (4) Class IV: Community work industries; and
- (5) Class V: Community service programs.

The above listed classes of work programs are adopted as codified in RCW 72.09.100. The secretary shall set forth department policy for the establishment of each

class of work program, regulating, among others, inmates participation and wages, space rental and contracts for inmate employment. [Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. 82-18-042 (Order 82-11), § 137-80-030, filed 8/27/82.]

WAC 137-80-040 Sale of goods. (1) The director or his/her designee may sell all articles, materials, and supplies authorized by statute to be produced or manufactured in correctional institutions to any state agency, political subdivision of the state or as otherwise authorized by statute.

(2) The secretary shall require those institutions under his direction to give preference to those articles, materials, and supplies produced or manufactured by institutional industries when purchases are made for institution needs.

(3) The director may cause to be prepared annually, at such times he may determine, lists containing the descriptions of all articles and supplies manufactured and produced in state correctional institutions; copies of such list shall be sent to the supervisor of purchasing and to all departments, institutions and agencies of the state of Washington. [Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. 82-18-042 (Order 82-11), § 137-80-040, filed 8/27/82.]

WAC 137-80-050 Proceeds of sale. Except for any sum recommended by the institutional industries board of directors to be returned to the state general fund, all net profits from institutional industries shall be placed in a special revolving fund (Class II account) and shall be used exclusively, without appropriation, in the expansion and improvement of Class II industries. [Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. 82-18-042 (Order 82-11), § 137-80-050, filed 8/27/82.]

WAC 137-80-060 Inmate job opportunities. The director shall cause to be periodically prepared and distributed to a central location in each institution a list of prison industries' job opportunities. This list shall include, but not limited to, job descriptions and the educational and skill requirements of each job and shall be made available to personnel of the institution, institutional industries and to the inmates. [Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. 82-18-042 (Order 82-11), § 137-80-060, filed 8/27/82.]