

standard solutions for the BAC Verifier DataMaster infrared breath testing instrument, taught by an instructor qualified by the state toxicologist. Details of persons so certified shall be maintained by the state toxicologist and available upon request.

If a solution changer fails or refuses to demonstrate to the state toxicologist or to an instructor certified by the state toxicologist, that he or she has the ability to adequately perform his or her responsibilities as a solution changer, then the state toxicologist will suspend their permit.

[Statutory Authority: RCW 46.61.506. 91-06-022, § 448-13-160, filed 2/26/91, effective 3/29/91.]

WAC 448-13-170 Technicians. The state toxicologist shall certify as "technicians" such persons found by him to be competent and qualified to maintain the proper working order of the BAC Verifier DataMaster infrared breath testing instrument, through adjustment, repair, and regular service. Further, technicians are authorized by the state toxicologist to perform the procedures approved for periodic quality assurance of the BAC Verifier DataMaster infrared breath testing instruments as required pursuant to WAC 448-13-110. Details of persons so certified shall be maintained by the state toxicologist and available upon request.

If a technician fails or refuses to demonstrate to the state toxicologist or his representative, that he or she has the ability to adequately perform his or her responsibilities as a technician, then the state toxicologist will suspend their permit.

[Statutory Authority: RCW 46.61.506. 91-21-040, § 448-13-170, filed 10/11/91, effective 11/11/91; 91-06-022, § 448-13-170, filed 2/26/91, effective 3/29/91.]

WAC 448-13-180 Permit cards. The state toxicologist shall authorize the issuance to persons deemed qualified as "instructors," "operators," "solution changers" or "technicians," a wallet-sized card bearing his or her name and designation. Permit cards shall bear the signature or facsimile signature of the state toxicologist. Such permit cards shall expire three years after the date on the card, unless renewed for a like three-year period.

[Statutory Authority: RCW 46.61.506. 91-06-022, § 448-13-180, filed 2/26/91, effective 3/29/91.]

WAC 448-13-190 Review, approval, and authorization by the state toxicologist of training courses and outlines. The state toxicologist shall approve and authorize such courses and course outlines (of his own promulgation or submitted for his consideration by outside agencies or individuals) required in the training of breath test program personnel. Such review, approval, and authorization will be so signified by a signed statement attached to each course outline. These course outlines may be reviewed and updated as necessary to maintain the quality of the breath test program. Instructors are directed to

use only approved outlines in conducting the training of operators. Information concerning currently approved course outlines can be obtained on application to the office of the state toxicologist.

[Statutory Authority: RCW 46.61.506. 91-06-022, § 448-13-190, filed 2/26/91, effective 3/29/91.]

WAC 448-13-200 Information concerning technical aspects of the breath test program. Documents used by the state toxicologist and personnel involved in breath testing for the state of Washington, which are available on request include: The breath test document, simulator solution preparation protocol, alcohol analysis protocol, certification document for simulator solution, affidavit from analyst of simulator solution, quality assurance protocol, quality assurance procedure report, affidavit concerning quality assurance procedure, operator course outline, operator refresher course outline, and operator training record. A fee may be charged to cover the cost of providing these copies.

[Statutory Authority: RCW 46.61.506. 91-06-022, § 448-13-200, filed 2/26/91, effective 3/29/91.]

WAC 448-13-210 Address for correspondence. Persons seeking information regarding currently approved protocols and procedures, or information regarding those persons currently authorized as operators, instructors, solution changers, or technicians for the BAC Verifier DataMaster, shall direct their request to the State Toxicologist, State Toxicology Laboratory, Harborview Medical Center ZA-88, 325 9th Avenue, Seattle, Washington 98104.

[Statutory Authority: RCW 46.61.506. 91-06-022, § 448-13-210, filed 2/26/91, effective 3/29/91.]

WAC 448-13-220 Effective date. These provisions, WAC 448-13-010 through and including WAC 448-13-210, will be adopted and in full force and effect for all aspects of the operation of the breath alcohol concentration test program in the state of Washington thirty-one days after the filing of the permanent rules. These new provisions are not retroactive and will not apply to the interpretation of results from any breath test conducted prior to thirty-one days after the filing of the permanent rules.

[Statutory Authority: RCW 46.61.506. 91-06-022, § 448-13-220, filed 2/26/91, effective 3/29/91.]

Title 456 WAC

TAX APPEALS, BOARD OF

Chapters

456-09
456-10

Formal hearings—Practice and procedure.
Informal hearings—Practice and procedure.

Chapter 456-09 WAC
FORMAL HEARINGS--PRACTICE AND
PROCEDURE

WAC

- 456-09-210 Appearance and practice before the board—Who may appear.
 456-09-325 Date of filing—Facsimile.
 456-09-365 Conversion of hearing.

WAC 456-09-210 Appearance and practice before the board—Who may appear. Practice before the board in formal proceedings shall be limited to the following:

- (1) Taxpayers who are natural persons representing themselves;
- (2) Attorneys at law duly qualified and entitled to practice in the courts of the state of Washington;
- (3) An authorized officer, partner, or full-time employee of an individual firm, association, partnership, or corporation who appears for such firm, association, partnership, or corporation; and
- (4) Other persons permitted by law.

[Statutory Authority: RCW 82.03.170, 91-07-038 (Order 91-01), § 456-09-210, filed 3/15/91, effective 4/15/91. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160, 90-11-105, § 456-09-210, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-210, filed 5/2/89.]

WAC 456-09-325 Date of filing—Facsimile. (1) Except as provided in subsection (3) of this section, the date of filing of a notice of appeal shall be the date of actual receipt by the board at its Olympia office. The board's date stamp placed thereon shall be prima facie evidence of the date of receipt.

(2) Except as provided in subsection (3) of this section, all documents may be filed with the board via facsimile machine. However, filing will not be deemed complete unless the following procedures are strictly observed:

(a) A facsimile document will only be stamped "received" by the board between the hours of 8:00 a.m. and 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped received on the following business day. The date and time indicated by the board's facsimile shall be prima facie evidence of the date and time of receipt of transmission.

(b) The original document must be filed with the board within ten days from the date of transmission.

(c) All transmissions are sent at the risk of the sender.

(3) In appeals pursuant to RCW 82.03.130(2) (appeal from board of equalization) the date of filing shall be the date of receipt by the county auditor or, in King County, the clerk of the county council. The date stamp placed on the notice of appeal by the auditor or clerk shall be prima facie evidence of the date of receipt.

[Statutory Authority: RCW 82.03.170, 91-07-038 (Order 91-01), § 456-09-325, filed 3/15/91, effective 4/15/91. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160, 90-11-105, § 456-09-325, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-325, filed 5/2/89.]

WAC 456-09-365 Conversion of hearing. (1) The assessor or taxpayer, as a party to an appeal pursuant to RCW 84.08.130(2) (appeals from the board of equalization) may, within twenty days from the date of receipt of the notice of appeal, file with the clerk of the board a notice of intention that the hearing be a formal hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(2) In appeals under RCW 82.03.190 and 82.03.130(5), except as otherwise provided in this subsection and subsection (2) of this section, the department of revenue may, within thirty days of receipt of the notice of appeal, file with the board a notice of its intention that the hearing be held pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(3) The parties may agree at any time before hearing, in writing, to convert the proceedings to either a formal or informal hearing.

[Statutory Authority: RCW 82.03.170, 91-07-038 (Order 91-01), § 456-09-365, filed 3/15/91, effective 4/15/91; 89-10-056 (Order 89-02), § 456-09-365, filed 5/2/89.]

Chapter 456-10 WAC
INFORMAL HEARINGS--PRACTICE AND
PROCEDURE

WAC

- 456-10-360 Conversion of hearing.
 456-10-547 Hearings—Reporting—Recording—Recording devices.

WAC 456-10-360 Conversion of hearing. (1) The assessor or taxpayer, as a party to an appeal pursuant to RCW 84.08.130(2) (appeal from the boards of equalization) may, within twenty days from the date of receipt of the notice of appeal, file with the clerk of the board a notice of intention that the hearing be a formal hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(2) In appeals under RCW 82.03.190 and 82.03.130(5), except as otherwise provided in this subsection and subsection (2) of this section, the department of revenue may, within thirty days of receipt of the notice of appeal, file with the board a notice of its intention that the hearing be held pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(3) The parties may agree at any time before hearing, in writing, to convert the proceedings to either a formal or informal hearing.

[Statutory Authority: RCW 82.03.170, 91-07-039 (Order 91-02), § 456-10-360, filed 3/15/91, effective 4/15/91; 89-10-057 (Order 89-03), § 456-10-360, filed 5/2/89.]

WAC 456-10-547 Hearings—Reporting—Recording—Recording devices. (1) All hearings shall be recorded by manual, electronic, or other type of recording device.

(2) Photographic and recording equipment shall be permitted at hearings; however, the presiding officer may impose such conditions upon their use as deemed

necessary to prevent disruption of the hearing, or when a statute or law limits such use.

[Statutory Authority: RCW 82.03.170, 91-07-039 (Order 91-02), § 456-10-547, filed 3/15/91, effective 4/15/91.]

Title 458 WAC REVENUE, DEPARTMENT OF

Chapters

458-12	Property tax division—Rules for assessors.
458-14	County boards of equalization.
458-18	Property tax—Abatements, credits, deferrals and refunds.
458-20	Excise tax rules.
458-30	Open Space Taxation Act rules.
458-40	Taxation of forest land and timber.
458-50	Intercounty utilities and transportation companies—Assessment and taxation.

Chapter 458-12 WAC PROPERTY TAX DIVISION—RULES FOR ASSESSORS

WAC

458-12-251 Computer software—Definitions—Valuation.

WAC 458-12-251 Computer software—Definitions—Valuation. (1) This rule implements the provisions of chapter 29, Laws of 1991, ex. sess, regarding the property taxation of computer software.

(2) **Computer software.** Computer software is a set of directions or instructions that exist in the form of machine-readable or human-readable code, is recorded on physical or electronic medium and directs the operation of a computer system or other machinery and/or equipment. Computer software includes the associated documentation which describes the code and/or its use, operation, and maintenance and typically is delivered with the code to the user. Computer software does not include databases, but does include the computer programs and code which are used to generate databases. Computer software can be canned, custom, or a mixture of both.

(a) A database is text, data, or other information that may be accessed or managed with the aid of computer software but that does not itself have the capacity to direct the operation of a computer system or other machinery and equipment; and, therefore does not constitute computer software.

(3) **Custom software.** Custom software is computer software that is specially designed for a single person's or a small group of persons' specific needs. Custom software includes modifications to canned software and can be developed in-house by the user, by outside developers, or by both.

(4) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company,

joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any instrumentality thereof.

(5) A "small group of persons" shall consist of less than four persons. A group of four or more persons shall be presumed not to be a small group of persons for the purposes of this section unless each of the persons are affiliated through common control and ownership.

(a) "Persons affiliated through common control and ownership" means

(i) Corporations qualifying as controlled group of corporations in 26 USC § 1563; or

(ii) Partnerships or other persons in which at least 80% of the ownership in the persons claimed to be affiliated is the same.

(6) **Canned software.** Canned software, also referred to as pre-written, "shrink-wrapped" or standards software, is computer software that is designed for and distributed "as is" for multiple persons who can use it without modifying its code and which is not otherwise considered custom software.

(a) Computer software that is a combination of pre-written or standard components and components specially modified to meet the needs of a user is a mixture of canned and custom software. The standard or pre-written components are canned software and the modifications are custom software.

(b) Canned software that is "bundled" with or sold with computer hardware retains its identity as canned software and shall be valued as such. "Bundled" software is canned software that is sold with hardware and does not have a separately stated price, and can include operating systems such as DOS, UNIX, OS-2, or System 6.0 as well as other programs.

(c) An upgrade is canned software provided by the software developer, author, distributor, inventor, licensor or sublicensor to improve, enhance or correct the workings of previously purchased canned software.

(7) **Embedded software.** Embedded software is computer software that resides permanently on some internal memory device in a computer system or other machinery and equipment, that is not removable in the ordinary course of operation, and that is of a type necessary for the routine operation of the computer system or other machinery and equipment.

(a) Embedded software can be either canned or custom software which:

(i) Is an integral part of the computer system or machinery or other equipment in which it resides;

(ii) Is designed specifically to be included in or with the computer system or machinery or other equipment; and

(iii) In its absence, the computer system or machinery or other equipment is inoperable.

(b) "Not removable in the ordinary course of operation" means that the software is not readily accessible and is not intended to be removed without