

Title 236 WAC

GENERAL ADMINISTRATION, DEPARTMENT OF

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- 236-16 Capitol Lake and adjoining lands and roadways.
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- 236-100 Flood mitigation standards for state agencies. 236-32-070

effective 11/1/93.] Decodified under RCW 34.05.210(6), letter dated 8/17/94.

Director review. [Statutory Authority: RCW 46.08.172. 93-20-027, § 236-14-800, filed 9/24/93, effective 11/1/93.] Decodified under RCW 34.05.210(6), letter dated 8/17/94. Severability. [Statutory Authority: RCW 46.08.172. 93-20-027, § 236-14-900, filed 9/24/93, effective 11/1/93.] Decodified under RCW 34.05.210(6), letter dated 8/17/94.

Chapter 236-32 FISHERMEN LOAN PROGRAM

Purpose. [Order 76-4, § 236-32-001, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.

Earned income. [Order 76-4, § 236-32-010, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.

Productive commercial fisherman. [Order 76-4, § 236-32-020, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.

Financial assistance not otherwise available. [Order 76-4, § 236-32-030, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.

Soundness of loan. [Order 76-4, § 236-32-040, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.

Coordination with department of fisheries. [Order 76-4, § 236-32-050, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.

Eligibility confirmed—Denied. [Order 76-4, § 236-32-060, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.

Application form—Attached documents. [Order 76-4, § 236-32-070, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.

Loans which cannot be made. [Order 76-4, § 236-32-080, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.

Denial of loans. [Order 76-4, § 236-32-100, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.

Chapter 236-54 PUBLIC RECORDS--ARCHIVES

Purpose. [Order 11, § 236-54-010, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.

Definitions. [Order 11, § 236-54-020, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.

Description of central and field organization of the division of archives and records and management. [Order 11, § 236-54-030, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.

Operations and procedures. [Order 11, § 236-54-040, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.

DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

Chapter 236-14

PARKING PROGRAM FOR STATE FACILITIES OFF THE STATE CAPITOL GROUNDS IN THURSTON COUNTY

- 236-14-010 Purpose. [Statutory Authority: RCW 46.08.172. 93-20-027, § 236-14-010, filed 9/24/93, effective 11/1/93.] Decodified under RCW 34.05.210(6), letter dated 8/17/94.
- 236-14-015 Definitions. [Statutory Authority: RCW 46.08.172. 93-20-027, § 236-14-015, filed 9/24/93, effective 11/1/93.] Decodified under RCW 34.05.210(6), letter dated 8/17/94.
- 236-14-050 Parking program responsibilities. [Statutory Authority: RCW 46.08.172. 93-20-027, § 236-14-050, filed 9/24/93, effective 11/1/93.] Decodified under RCW 34.05.210(6), letter dated 8/17/94.
- 236-14-100 Parking rental fees for state facilities off the state capitol grounds in Thurston County. [Statutory Authority: RCW 46.08.172. 93-20-027, § 236-14-100, filed 9/24/93, effective 11/1/93.] Decodified under RCW 34.05.210(6), letter dated 8/17/94.
- 236-14-200 Delegation. [Statutory Authority: RCW 46.08.172. 93-20-027, § 236-14-200, filed 9/24/93, effective 11/1/93.] Decodified under RCW 34.05.210(6), letter dated 8/17/94.
- 236-14-300 Monthly parking fee payments. [Statutory Authority: RCW 46.08.172. 93-20-027, § 236-14-300, filed 9/24/93,

- 236-54-050 Public records available. [Order 11, § 236-54-050, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-060 Public records officer. [Order 11, § 236-54-060, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-070 Office hours. [Order 11, § 236-54-070, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-080 Requests for public records--Archives--Scheduled. [Order 11, § 236-54-080, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-090 Copying. [Order 11, § 236-54-090, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-100 Exemptions. [Order 11, § 236-54-100, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-110 Review of denials of public records requests. [Order 11, § 236-54-110, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-120 Protection of public records. [Order 11, § 236-54-120, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-130 Records index. [Order 11, § 236-54-130, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-140 Communication with division--Address. [Order 11, § 236-54-140, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-150 Adoption of form. [Order 11, § 236-54-150, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-990 Appendix A--Management organization chart of state archivist. [Order 11, Appendix A (codified as WAC 236-54-990), filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-99001 Appendix B--Form--Request for public records. [Order 11, Appendix B (codified as WAC 236-54-99001), filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.

Chapter 236-10 WAC

COMPLIANCE WITH STATE ENVIRONMENTAL PROTECTION ACT

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- 236-10-010 Authority.
- 236-10-015 Impact of guidelines on the department.
- 236-10-020 Scope and coverage of this chapter.
- 236-10-030 Adoption by reference.
- 236-10-040 Integration of SEPA procedures with other governmental operations.
- 236-10-050 Timing of the EIS process.
- 236-10-060 Summary of information which may be required of a private applicant.
- 236-10-070 Sensitive areas.
- 236-10-080 Preparation of EIS by persons outside the lead agency.
- 236-10-090 Designation of responsible official.
- 236-10-100 SEPA public information center.
- 236-10-110 Severability.

WAC 236-10-010 Authority. This chapter is promulgated pursuant to RCW 43.21C.120.

[Order 76-5, § 236-10-010, filed 5/14/76.]

WAC 236-10-015 Impact of guidelines on the department. The department of general administration fully endorses the intent and purpose of SEPA and will make every effort to implement and fulfill the requirements of the SEPA guidelines in the best manner possible within the existing constraints of its dollar and manpower resources.

[Order 76-5, § 236-10-015, filed 5/14/76.]

WAC 236-10-020 Scope and coverage of this chapter. (1) It is the intent of the department of general administration that compliance with the guidelines of this chapter shall constitute complete procedural compliance with SEPA for any "action" as defined in WAC 197-10-040(2).

(2) The guidelines of this chapter contain no sections relating to the notice/statute of limitations provisions of RCW 43.21C.080, 43.21C.085 and 43.21C.087. To utilize these provisions, the department of general administration shall follow the statutory language and any applicable regulations of the department of ecology.

[Order 76-5, § 236-10-020, filed 5/14/76.]

WAC 236-10-030 Adoption by reference. The department of general administration hereby adopts by reference the following sections or subsections of chapter 197-10 of the Washington Administrative Code (the "SEPA guidelines" adopted by the state of Washington, council on environmental policy)

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- 197-10-020: Purpose.
- 197-10-040: Definitions.
- 197-10-050: Use of the environmental checklist form.
- 197-10-060: Scope of a proposal and its impacts.
- 197-10-160: No presumption of significance for nonexempt actions.
- 197-10-170: Categorical exemptions.
- 197-10-175: Exemptions and nonexemptions applicable to specific state agencies.
- 197-10-180: Exemptions for emergency actions.
- 197-10-190: Use and effect of categorical exemptions.
- 197-10-200: Lead agency--Responsibilities.
- 197-10-203: Determination of lead agency--Procedures.
- 197-10-205: Lead agency designation--Governmental proposals.
- 197-10-210: Lead agency designation--Proposals involving both private and public construction.
- 197-10-215: Lead agency designation--Private projects for which there is only one agency.
- 197-10-220: Lead agency designation--Private projects, licenses from more than one agency when one is city/county.
- 197-10-225: Lead agency designation--Private projects, license from more than one state agency.
- 197-10-230: Lead agency designation--Specific proposals.
- 197-10-235: Local agency transfer of lead agency status to a state agency.
- 197-10-240: Agreements as to lead agency status.
- 197-10-245: Agreements between agencies as to division of lead agency duties.

- 197-10-260: Dispute as to lead agency determination—Resolution by CEP.
- 197-10-270: Assumption of lead agency by another agency with jurisdiction.
- 197-10-300: Threshold determination requirement.
- 197-10-305: Recommended timing for threshold determination.
- 197-10-310: Threshold determination procedures—Environmental checklist.
- 197-10-320: Threshold determination procedures—Initial review of environmental checklist.
- 197-10-330: Threshold determination procedures—Information in addition to checklist.
- 197-10-340: Threshold determination procedures—Negative declarations.
- 197-10-345: Assumption of lead agency status by another agency with jurisdiction—Prerequisites, effect and form of notice.
- 197-10-350: Affirmative threshold determinations.
- 197-10-355: Form of declaration of significance/nonsignificance.
- 197-10-360: Threshold determination criteria—Application of environmental checklist.
- 197-10-365: Environmental checklist.
- 197-10-370: Withdrawal of affirmative threshold determination.
- 197-10-375: Withdrawal of negative threshold determination.
- 197-10-390: Effect of threshold determination by lead agency.
- 197-10-400: Duty to begin preparation of a draft EIS.
- 197-10-410: Predraft consultation procedures.
- 197-10-425: Organization and style of a draft EIS.
- 197-10-440: Contents of a draft EIS.
- 197-10-442: Special considerations regarding contents of an EIS.
- 197-10-444: List of elements of the environment.
- 197-10-450: Public awareness of availability of draft EIS.
- 197-10-455: Circulation of the draft EIS—Review period.
- 197-10-460: Specific agencies to which draft EIS shall be sent.
- 197-10-465: Agencies possessing environmental expertise.
- 197-10-470: Costs to the public for reproduction of environmental documents.
- 197-10-480: Public hearing on a proposal—When required.
- 197-10-485: Notice of public hearing on environmental impact of the proposal.
- 197-10-490: Public hearing on the proposal—Use of environmental document.
- 197-10-495: Preparation of amended or new draft EIS.
- 197-10-500: Responsibilities of consulted agencies—Local agencies.
- 197-10-510: Responsibilities of consulted agencies—State agencies with jurisdiction.
- 197-10-520: Responsibilities of consulted agencies—State agencies with environmental expertise.
- 197-10-530: Responsibilities of consulted agencies—When predraft consultation has occurred.
- 197-10-535: Cost of performance of consulted agency responsibilities.
- 197-10-540: Limitations on responses to consultation.
- 197-10-545: Effect of no written comment.
- 197-10-550: Preparation of the final EIS—Time period allowed.
- 197-10-570: Preparation of the final EIS—When no critical comments received on the draft EIS.
- 197-10-580: Preparation of the final EIS—Contents—When critical comments received on draft EIS.
- 197-10-600: Circulation of the final EIS.
- 197-10-650: Effect of an adequate final EIS prepared pursuant to NEPA.
- 197-10-652: Supplementation of a lead agency of an inadequate final NEPA EIS.
- 197-10-660: Use of previously prepared EIS for a different proposed action.
- 197-10-690: Use of a lead agency's EIS by other acting agencies for the same proposal.
- 197-10-695: Draft and final supplements to a revised EIS.
- 197-10-700: No action for seven days after publication of the final EIS.
- 197-10-710: EIS combined with existing planning and review processes.
- 197-10-840: Application of agency guidelines to ongoing actions.

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

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

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

(a) Master plan

(b) Construction project - (determined by environmental assessment)

(i) Projects requiring preparation of major state construction plans.

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

(c) All department of general administration projects where the assessment process identifies known or potential significant environmental impact.

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

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

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

(a) Construction projects.

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

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

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

(c) Construction project, with no significant change in scope, which is an integral part of a master plan for which

a final EIS has been filed, and all known environmental impacts have been considered.

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

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

(4) Category IV. Division exemptions. The department of general administration has reviewed SEPA, the council on environmental protections rules and regulations adopted pursuant thereto, and its own programs and concludes that the activities of the following divisions of the department are exempt by virtue of WAC 197-10-040(2), 197-10-150 through 197-10-190. Archives and records management, capitol buildings and grounds, communications, data processing service center, fiscal and management center, motor transport, personnel office, state mail service, surplus property office, purchasing, and lease and property. If any of the aforementioned divisions become involved in any "action" as defined in WAC 197-10-040 (2)(a) thru (c), which is not exempt, then these guidelines will apply and the division supervisor must integrate these department procedures with their operations.

(5) Category V. CEP exemptions of agency activities. Pursuant to Administrative Order No. 76-12, dated June 3, 1976, issued by the council on environmental policy, all of the activities of the division of banking and the division of savings and loan associations of the department of general administration under programs they administer as of December 12, 1975, except for building construction, are exempt from the threshold determination and environmental impact statement requirements of chapter 43.21C RCW and chapter 197-10 WAC.

[Order 76-6, § 236-10-040, filed 8/31/76; Order 76-5, § 236-10-040, filed 5/14/76.]

WAC 236-10-050 Timing of the EIS process. Any agency submitting a public works request or space request to the department of general administration shall be regarded as the lead agency. It will be the sole responsibility of any agency submitting a public works request or space request to determine whether the action is exempt and, if not, to prepare environmental checklists, make threshold determinations, declarations of nonsignificance or significance, prepare draft and final EIS's and conduct public hearings. If an EIS is required for any public works request or space request the working draft EIS must be prepared concurrently or prior to the completion of the design development phase as defined in S.F.96.82 (Rev.7-75) Conditions of Agreement Section C, 1 thru 4.

[Order 76-6, § 236-10-050, filed 8/31/76; Order 76-5, § 236-10-050, filed 5/14/76.]

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

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

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

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

(3) Threshold determination. The responsible official shall make an initial review of a completed checklist without requiring more information from a private applicant. If, and only if, the responsible official determines as a result of its initial review that the information available to it is not reasonably sufficient to determine the environmental impacts of the proposal, the responsible official, may require further information from the applicant, including explanation of "no" answers on the checklist. This information shall be limited to those elements on the environmental checklist for which, as determined by the responsible official information accessible to the responsible official is not reasonably sufficient to evaluate the environmental impacts of the proposal. Field investigations or research by the applicant reasonably related to determining the environmental impacts of the proposal may be required. (See WAC 197-10-330.)

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

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

- (a) Applicant prepares the EIS under the supervision and to the satisfaction of the department responsible official.
 - (b)(i) Applicant posts a mutually agreed upon deposit.
 - (ii) The department retains a mutually agreed upon and independent consultant to prepare the document.
 - (iii) The consultant prepares the document under and to the satisfaction of the department responsible official.

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

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

(a) The responsible official will review its decision with particular emphases on the areas of appeal. The responsible official may request further information of the applicant. The decision of the responsible official shall be final and shall be in writing with copies to the project file, the applicant, each protestant, and department SEPA public information center.

(b) The responsible official will act upon the appeal within one week of receipt. If more time is required, the applicant will be advised in writing of the anticipated schedule.

[Order 76-6, § 236-10-060, filed 8/31/76; Order 76-5, § 236-10-060, filed 5/14/76.]

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

[Order 76-5, § 236-10-070, filed 5/14/76.]

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

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

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

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

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

(6) The provisions of this section apply to both the draft and final EIS.

[Order 76-5, § 236-10-080, filed 5/14/76.]

WAC 236-10-090 Designation of responsible official.

(1) Within the department of general administration the ultimately responsible official is the director.

(2) The division of facilities planning is the responsible official for overall direction and control of environmental protection within the department of general administration and the division shall maintain the department SEPA public information center.

(3) When the department of general administration is the lead agency the operational responsibility for determining if the department's involvement is an "action" and if the department's "action" is "exempt" shall be controlled by the division of facilities planning.

(4) All capital budget line items of the department will be submitted to the division of facilities planning for environmental assessment prior to submittal to OPP and FM.

(5) All public work requests, Form A15 (repair and/or remodel), originating within the department must first be submitted to the division of facilities planning together with an environmental checklist and significant or nonsignificant declaration, or work form that the action is exempt.

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

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

(8) A private applicant will follow the procedures as outlined in WAC 236-10-060.

[Order 76-5, § 236-10-090, filed 5/14/76.]

WAC 236-10-100 SEPA public information center.

(1) The departmental SEPA public information center shall be located in the Office of the Division of Facilities Planning, 106 Maple Park, Olympia, Washington 98504.

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

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

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

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

(a) A "proposed declaration of nonsignificance register" which shall contain a listing of all current proposed declarations of nonsignificance.

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

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

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

(5) The documents required to be maintained at the information center shall be available for public inspection, and copies thereof shall be provided upon written request. Agencies may charge for copies in the manner provided by chapter 42.17 RCW, and for the cost of mailing.

[Order 76-5, § 236-10-100, filed 5/14/76.]

WAC 236-10-110 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

[Order 76-5, § 236-10-110, filed 5/14/76.]

Chapter 236-11 WAC

COMPLIANCE WITH STATE ENVIRONMENTAL POLICY ACT

WAC

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WAC 236-11-010 Authority. This chapter is promulgated pursuant to RCW 43.21C.120.

[Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-010, filed 9/25/84.]

WAC 236-11-020 Scope and coverage of this chapter. (1) Compliance with the rules of this chapter shall constitute procedural compliance with SEPA for an "action" as defined in WAC 197-11-704.

(2) The rules of this chapter contain no sections relating to the notice/statute of limitations provisions of chapter 43.21C RCW. To utilize these provisions, the department of general administration shall follow the statutory language and any applicable regulations of the department of ecology.

[Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-020, filed 9/25/84.]

WAC 236-11-030 Adoption by reference. The department of general administration hereby adopts the sections or subsections of chapter 197-11 WAC by reference.

WAC

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[Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-030, filed 9/25/84.]

WAC 236-11-040 Integration of SEPA procedures with other governmental operations. To clarify threshold decisions and to categorize department actions applicable to the environment protection process, typical department of general administration actions have been identified as follows:

(1) Category I. Projects which will normally require an EIS.

(a) Construction projects - (determined by environmental checklist).

(i) Projects requiring preparation of major state construction plans.

(ii) Projects undertaken for another state agency or applicant where the assessment process identifies significant known or potential impacts.

(b) All department of general administration projects where the assessment process identifies known or potential significant environmental impact.

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

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

(a) Construction projects.

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

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

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

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

(3) Category III. Division exemptions. Pursuant to WAC 197-11-875, except for building construction, all activities of the division of banking and the division of savings and loan associations are exempted.

(4) Category IV. Categorical exemptions. Pursuant to WAC 197-11-800, Part Nine except for limitations on categorical exemptions contained in chapter 197-305 WAC, the following divisions are exempted: Division of buildings and grounds, division of telecommunications, data processing service center, division of administrative services, division of motor transport, risk management, personnel office, division of purchasing and surplus property office and the state mail service. If any of the aforementioned divisions become involved in an action as defined in WAC 197-11-704 which is not exempt, then these rules will apply and the division supervisor must integrate these department procedures with their operations.

(5) Category V. Emergencies. Pursuant to WAC 197-11-880, actions which must be undertaken immediately or within a time too short to allow full compliance with this chapter, or chapter 197-11 WAC, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt.

[Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-040, filed 9/25/84.]

WAC 236-11-050 Applications for exemptions within the department of general administration. Each "action" as defined in Part Eight, WAC 197-11-704, of the department shall have a form completed and retained in the applicant's division files. This form shall show the action and exemption decision and be signed by the department of general administration representative making that decision. This form shall also show any threshold decision signed by the department representative. A copy of this completed form shall be submitted to the division of facilities planning for review and approval or disapproval.

[Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-050, filed 9/25/84.]

WAC 236-11-060 Timing of the EIS process. (1) Public works request. Any agency submitting a public works request to the department of general administration shall be regarded as the lead agency. It will be the sole responsibility of an agency submitting a public works request to determine whether the action is exempt and, if not, to prepare an environmental checklist, make threshold determinations of nonsignificance or significance, prepare draft and final EIS's and conduct public hearings. If an EIS is required for any public works request the working draft EIS must be prepared concurrently or prior to the completion of the design development phase. Evidence of compliance with SEPA rules, chapter 197-11 WAC, must be provided to the department of general administration prior to implementing proposals.

(2) Space request. The department of general administration will normally assume responsibility as lead agency for space requests submitted to the department. However, if an EIS is required for a space request the agency submitting the space request may be assigned responsibility for preparing the draft and final EIS's and to conduct public hearings.

[Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-060, filed 9/25/84.]

WAC 236-11-070 Facility acquisition. Facilities or real estate acquired under RCW 43.82.010 and which are subject to the provisions of chapter 197-11 WAC, SEPA rules, shall be environmentally administered as follows:

(1) Upon identification of plans to locate or relocate a state agency within a community, the department of general administration shall determine whether the proposal is categorically exempt, does not have a probable significant environmental impact, or does have a probable significant impact. If an EIS is required, the agency which will be the recipient of the facility or real estate may be assigned as lead agency as determined in WAC 236-11-060(2).

(2) Prior to publication of a determination of nonsignificance, or determination of significance, the department of general administration shall coordinate plans for acquisition with appropriate government officials and interest groups through the department of community development.

(3) Determinations of significance or nonsignificance, and any subsequent environmental review actions shall be publicized, with copies of determinations and review actions transmitted to appropriate government officials and interest groups.

[Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-070, filed 9/25/84.]

WAC 236-11-080 Public notice requirements. (1)

The department shall give public notice when issuing a DNS under WAC 197-11-340, or DS and scoping notice under WAC 197-11-360.

(2) The department may require an applicant to perform the public notice requirement at its expense.

(3) The department shall use one or more of the following methods of public notice, taking into consideration the geographic area affected by the proposal, the size and complexity of the proposal, public interest expressed in the proposal, and whether the proposal is a project or regulation:

(a) Mailing to public or private persons or groups who have expressed interest in the proposal, in a certain type of proposal, or proposals in the geographic area in which the proposal is located;

(b) Publication in a newspaper of general circulation in the area in which the proposal will be implemented; and/or

(c) Posting the property, for site-specific proposals.

[Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-080, filed 9/25/84.]

WAC 236-11-090 EIS decision levels. There are four levels of decisions involved in the EIS process.

(1)(a) Determination of eligibility for a categorical exemption.

(b) In determining whether a proposal is exempt from SEPA, the department shall respect "environmentally sensitive area" designations made by local governments under WAC 197-11-908 and the threshold levels adopted by cities/counties under WAC 197-11-800(1).

(2) Completion of an environmental checklist, Form GEN-FP-007, by the applicant in accordance with WAC 197-11-315 to determine if a proposal will have probable significant adverse environmental impact.

(3) Completion of a threshold determination by the lead agency in accordance with WAC 197-11-310 to determine if an EIS is required.

(a) Determination of nonsignificance (DNS), Form GEN-FP-008, which documents a decision that a proposal is not likely to have a significant adverse environmental impact and, therefore, not require an EIS.

(b)(i) Determination of significance (DS), Form GEN-FP-009, which documents a decision that a proposal is likely to have a significant adverse environmental impact and, therefore, an EIS is required.

(ii) Completion of scoping the proposal to limit an EIS to significant environmental issues.

(4) Completion of an environmental impact statement (EIS) which is the detailed statement required by RCW 43.21C.030 (2)(c).

(a) Completion of a draft EIS (DEIS) which informs decision makers and the public of a proposal and the mitigation measures which would avoid or minimize adverse impacts.

(b) Completion of a final EIS (FEIS) which revises the DEIS as appropriate and responds to comments received from decision makers and the public.

(c) Completion of a supplemental EIS (SEIS) which revises a draft or final EIS if there are substantial changes or significant new information on the proposal indicating probable significant adverse environmental impacts.

[Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-090, filed 9/25/84.]

WAC 236-11-100 Policies and procedures for conditioning or denying permits or other approvals.

(1)(a) It is department of general administration policy to avoid or mitigate adverse environmental impacts which may result from the department's decisions.

(b) The department shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources so that the state and its citizens may:

(i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(ii) Assure for all people of Washington, safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(iii) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(iv) Preserve important historic, cultural, and natural aspects of our national heritage;

(v) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(vii) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The department shall develop plans and programs to economically house state government activities so as to provide maximum services to the people of Washington consistent with (b) of this subsection.

(2) Supplementary implementing instructions and procedures to the policies contained in this section are contained in department of general administration policies and procedures, chapter 7, section 3.

(3) The department responsible official may:

(a) Condition the approval for a proposal if mitigation measures are reasonable and capable of being accomplished and the proposal is inconsistent with the policies in subsection (1) of this section.

(b) Deny the permit or approval for a proposal if reasonable mitigation measures are insufficient to mitigate significant adverse environmental impacts and the proposal is inconsistent with the policies in subsection (1) of this section.

(4) The procedures in WAC 197-11-660 must be followed when conditioning or denying permits or other approvals.

[Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-100, filed 9/25/84.]

WAC 236-11-110 Designation of responsible official.

(1) Within the department of general administration the ultimate responsible official is the director.

(2) The division of facilities planning is the responsible official for overall direction and control of environmental reviews within the department of general administration and the division shall maintain the department SEPA information center.

(3) When the department of general administration is the lead agency, the operational responsibility for determining if the department's involvement is an "action" and if the department's "action" is "exempt" shall be controlled by the division of facilities planning.

(4) The division of facilities planning shall review and agree or disagree with all project or program exemptions, environmental checklists and determinations of nonsignificance or significance initiated within the department. In the event that there is disagreement with the initiator of the project, the decision of the responsible official, division of facilities planning, shall be final.

(5) The department's responsibilities as consulted agency will be coordinated by the division of facilities planning. When the department of general administration is responding as the consulted agency to a draft EIS and when specific contents of an EIS impacts a particular division of the department of general administration, then that EIS will be sent to the affected division director for review and response. The affected division's response comments and/or recommendation will then be incorporated into the overall department response and sent to the department of general administration responsible official for final approval.

(6) Any decision of the responsible official, division of facilities planning, shall be final until such time as it is superseded by the director, department of general administration.

[Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-110, filed 9/25/84.]

WAC 236-11-120 SEPA information center. (1) The department SEPA information center shall be located in the Division of Facilities Planning, Department of General Administration, Olympia, Washington 98504.

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

(a) Copies of all determinations of nonsignificance filed by the agency, for a period of one year.

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

(3) The agency shall maintain the following information at its center:

(a) Current SEPA statutes and administrative codes;

(b) Current directives and regulations;

(c) Department SEPA policies, procedures and correspondence;

(d) Blank forms for determinations, environmental checklists, and others as required.

[Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-120, filed 9/25/84.]

WAC 236-11-130 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the applica-

tion of the provision to other persons or circumstances, shall not be affected.

[Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-130, filed 9/25/84.]

Chapter 236-12 WAC

STATE CAPITOL GROUNDS TRAFFIC AND PARKING REGULATIONS

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**DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER**

236-12-010	"Director" defined. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-010, filed 4/7/78; Order 12, § 236-12-010, filed 12/19/73; filed 8/19/64.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-130	Impoundment of vehicles. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-130, filed 4/7/78; Order 12, § 236-12-130, filed 12/19/73; § 12, filed 8/19/64.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.
236-12-011	"State capitol grounds" defined. [Statutory Authority: RCW 46.08.150. 83-16-026 (Order 83-2), § 236-12-011, filed 7/27/83; 78-05-006 (Order 78-3), § 236-12-011, filed 4/7/78; Order 76-2, § 236-12-011, filed 3/15/76; Order 12, § 236-12-011, filed 12/19/73.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-131	Impoundment without prior notice. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-131, filed 4/7/78.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.
236-12-012	"Vehicle" defined. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-012, filed 4/7/78; Order 12, § 236-12-012, filed 12/19/73.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-132	Impoundment of abandoned vehicles. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-132, filed 4/7/78.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.
236-12-013	"Campus security patrol" defined. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-013, filed 4/7/78.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-133	Notice and redemption of impounded vehicles, hearing. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-133, filed 4/7/78.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.
236-12-014	"Way open to public." [Statutory Authority: RCW 46.08.150. 83-16-026 (Order 83-2), § 236-12-014, filed 7/27/83.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-210	Numbering of parking areas—Permit designation. [§ 16, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
236-12-040	Parking spaces. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-040, filed 4/7/78; Order 12, § 236-12-040, filed 12/19/73; § 3, filed 8/19/64.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-225	Liability of state. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-225, filed 4/7/78; Order 12, § 236-12-225, filed 12/19/73.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.
236-12-050	Rented and reserved parking spaces. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-050, filed 4/7/78; Order 12, § 236-12-050, filed 12/19/73; § 4, filed 8/19/64.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-230	Allocation of reserved parking space. [§ 18, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
236-12-060	Tourists and visitors. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-060, filed 4/7/78; Order 12, § 236-12-060, filed 12/19/73; § 5, filed 8/19/64.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-240	Visitors and guests. [§ 19, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
236-12-061	Service and delivery vehicles. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-061, filed 4/7/78.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-260	Permit revocations. [§ 21, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
236-12-090	Pedestrians—Right of way. [Order 12, § 236-12-090, filed 12/19/73; § 8, filed 8/19/64.] Repealed by 78-05-006 (Order 78-3), filed 4/7/78. Statutory Authority: RCW 46.08.150.	236-12-270	Vehicle and drivers licenses required. [§ 22, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
236-12-100	Parking. [§ 9, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.	236-12-280	Permit periods. [§ 23, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
236-12-110	Car pool permits. [§ 10, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.	236-12-310	Display of permits. [§ 26, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
236-12-120	Parking within designated spaces. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-120, filed 4/7/78; Order 12, § 236-12-120, filed 12/19/73; § 11, filed 8/19/64.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-330	Violations unlawful. [Order 12, § 236-12-330, filed 12/19/73; § 28, filed 8/19/64.] Repealed by 78-05-006 (Order 78-3), filed 4/7/78. Statutory Authority: RCW 46.08.150.
		236-12-340	Violation, fines. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-340, filed 4/7/78.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.
		236-12-400	Regulatory signs, markings, barricades, etc. [§ 29, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
		236-12-410	Impounding of vehicles. [Order 12, § 236-12-410, filed 12/19/73; § 30, filed 8/19/64.] Repealed by 78-05-006 (Order 78-3), filed 4/7/78. Statutory Authority: RCW 46.08.150.
		236-12-420	Effective date. [Order 12, § 236-12-420, filed 12/19/73; § 31, filed 8/19/64.] Repealed by 78-05-006 (Order 78-3), filed 4/7/78. Statutory Authority: RCW 46.08.150.

WAC 236-12-001 Promulgation. Pursuant to the authority granted by chapters 43.19, 46.08, 46.55, and 79.24 RCW, the director of the department of general administration hereby establishes the following regulations to govern pedestrian and vehicular traffic and parking upon state lands which are a part of the state capitol grounds. These regulations apply to vehicles owned by the state and any other governmental unit or agency as well as to privately-owned vehicles.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-001, filed 1/30/92, effective 3/1/92. Statutory Authority:

RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-001, filed 4/7/78; Order 12, § 236-12-001, filed 12/19/73; 8/19/64.]

DEFINITIONS

WAC 236-12-015 Definitions. As used in this chapter, the following terms shall mean:

(1) "Barrel"/"barrelling" defined. A large cylindrical container that is attached to a motor vehicle in order to prevent movement of that motor vehicle.

(2) "Campus security patrol" defined. The Washington state patrol as provided under chapter 43.43 RCW.

(3) "Director" defined. The director of the department of general administration.

(4) "Impound"/"impoundment" defined. To take and hold an unauthorized vehicle in legal custody at the direction of the director or designee, subject to the procedures outlined in this chapter and in chapter 46.55 RCW. Such definition includes towing of an unauthorized vehicle.

(5) "Presiding officer" defined. Pursuant to RCW 34.05.485, a "presiding officer" is an individual(s) who is appointed by the director to preside over administrative hearings and render a decision regarding the imposition of parking fees, barrelling of vehicles, suspension or revocation of parking privileges and removal, suspension, or revocation from parking waiting list under this chapter.

(6) "Reviewing officer" defined. Pursuant to RCW 34.05.491, a "reviewing officer" is an individual(s) who is appointed by the director to review the decisions by the presiding officer and is authorized to grant appropriate administrative relief upon review.

(7) "State capitol grounds" defined. Those grounds owned by the state and otherwise designated as state capitol grounds, including the west capitol campus, the east capitol campus, Sylvester Park, the Old Capitol Building and Capitol Lake, ways open to the public and specified adjoining lands and roadways.

(8) "Unauthorized vehicle defined." An "unauthorized vehicle" is a vehicle which is parked on state capitol grounds and:

(a) Does not display the permit required for that area; and/or

(b) Is not otherwise authorized to park in that area; and/or

(c) Is parked in a metered parking area for a consecutive period longer than the time permitted for parking in that area; and/or

(d) Is parked in a metered parking area with insufficient payment to use the space it occupies; and/or

(e) Is parked in a parking space designated for disabled individuals and such vehicle does not display the required vehicle license identification authorizing parking in such spaces; and/or

(f) Is parked in a parking space reserved for use by another vehicle; and/or

(g) Is parked in an area not designated for parking.

(9) "Vehicle" defined. All mechanical transportation devices defined as vehicles in the motor vehicle laws and of the state of Washington including motorcycles and motor-driven cycles.

(10) "Way open to the public defined." Any road, alley, lane, parking area, parking structure, path, or any place

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private or otherwise adapted to and fitted for travel that is in common use by the public with the consent expressed or implied of the owner or owners, and further shall mean public play grounds, school grounds, recreation grounds, parks, park ways, park drives, park paths.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-015, filed 1/30/92, effective 3/1/92.]

TRAFFIC REGULATIONS

WAC 236-12-020 Objectives of traffic regulations.

The objectives of these traffic regulations are:

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

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

(3) To facilitate the work of state government by assuring access for its vehicles and those of its employees and visitors and by assigning the limited parking space for the most efficient use.

(4) To promote energy conservation.

[Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-020, filed 4/7/78; Order 12, § 236-12-020, filed 12/19/73; § 1, filed 8/19/64.]

WAC 236-12-030 Traffic control. The motor vehicle laws and other traffic laws of the state of Washington are applicable to pedestrian and vehicular traffic on the state capitol grounds, and are hereby adopted and made a part hereof by reference. In case of conflict between the provisions of the motor vehicle laws or other traffic laws of the state of Washington and these regulations, the laws of Washington shall govern.

[Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-030, filed 4/7/78; Order 12, § 236-12-030, filed 12/19/73; § 2, filed 8/19/64.]

WAC 236-12-065 Camping. Camping on the state capitol grounds is prohibited.

[Order 76-2, § 236-12-065, filed 3/15/76.]

WAC 236-12-070 Speed. Vehicles on the state capitol grounds may not be operated at a speed in excess of 20 miles per hour or in excess of such lower speed as is reasonable and prudent in the circumstances or as may be posted. Vehicles in parking garages located on the state capitol grounds may not be operated at a speed in excess of 12 miles per hour.

[Order 12, § 236-12-070, filed 12/19/73; § 6, filed 8/19/64.]

WAC 236-12-080 Regulatory signs and directions. Pedestrians and drivers of vehicles shall obey regulatory signs posted by the director. Pedestrians and drivers of vehicles shall also comply with directions given in the control and regulation of traffic by uniformed state patrol officers and department of general administration parking controllers. No person shall move or alter any sign, barricade or other structure used for traffic and/or parking regulation, including painted stripes or marking utilized in

traffic and parking control, without the authorization of the director.

[Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-080, filed 4/7/78; Order 12, § 236-12-080, filed 12/19/73; § 7, filed 8/19/64.]

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

- (1) Yellow areas—no standing
- (2) White areas—crosswalks (no stopping in crosswalks) and parking stalls (no stopping in parking stalls without a permit or payment of fee)
- (3) Red areas—no stopping.

[Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-085, filed 4/7/78; Order 12, § 236-12-085, filed 12/19/73.]

WAC 236-12-140 Special traffic and parking regulations and restrictions authorized. Upon special occasions causing additional heavy traffic and during emergencies, the director may impose emergency traffic and parking regulations and restrictions.

[Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-140, filed 4/7/78; Order 12, § 236-12-140, filed 12/19/73; § 13, filed 8/19/64.]

WAC 236-12-150 Advertising and solicitation activities. No advertising, solicitation, or promotional activities shall be conducted or engaged in on any portion of the state capitol grounds in such a manner as to damage or destroy public property, block or close off road ways and parking areas, block or interfere with ingress and egress to the state capitol grounds or to any building situated thereon, or in any manner interfere with the conduct of state government business. Advertising and solicitation for commercial purposes shall not be conducted or engaged in on any portion of the state capitol grounds except with prior approval of the director.

[Order 76-2, § 236-12-150, filed 3/15/76; Order 12, § 236-12-150, filed 12/19/73; § 14, filed 8/19/64.]

SKATEBOARDING REGULATIONS

WAC 236-12-160 Intent of the director. It is the intent of the director in adopting these skateboard regulations to acknowledge the dangerous impact that skateboarding on the capitol campus has to the health and safety of state employees, visitors, skateboarders, and the general public and the destructive impact it has on physical structures, roadways, and pathways on the capitol campus.

The following are some of the reasons why skateboarding on the capitol campus must be controlled:

(1) During recent years, the use of skateboards has increased dramatically. As a result, the department has been contacted by numerous employees and citizens complaining about the dangerous and destructive practices of skateboarders on the capitol campus grounds.

(2) Many skateboarders ride their boards in high volume areas and thus threaten the safety of pedestrians, motorists, and the skateboarders themselves.

(3) The director finds that skateboarding in such high volume or crowded areas, even if done in a nonnegligent

manner, is incompatible with pedestrian use of these areas, due mainly to the speed and maneuverability of skateboards.

(4) Skateboard riders have ridden their boards down entrance and exit ramps of state underground parking facilities, sometimes against traffic, placing the skateboarders in serious danger and placing the motorists in a position of liability and possible harm. Skateboarders also have ridden their boards near doorways, nearly hitting pedestrians. In addition, skateboarders have ridden into state buildings jeopardizing occupants, and have ridden on walls, curbs, partitions, ramps, or other vertical and irregular physical surfaces, causing damage to state facilities and surfaces.

(5) The director finds that skateboarding in roadways and parking facilities and parking ramps creates a danger to the skateboard rider and to the motorist and is incompatible with motor vehicle use in such areas.

(6) The director finds that these skateboard regulations are necessary in order to avoid property loss, personal injury, and liability exposure associated with the use of skateboards on state property and within state facilities.

[Statutory Authority: RCW 46.08.150. 92-09-076, § 236-12-160, filed 4/15/92, effective 5/16/92.]

WAC 236-12-170 "Skateboard" defined. "Skateboard" as used herein shall mean an oblong board with roller skate wheels or other similar wheels mounted under it at each end.

[Statutory Authority: RCW 46.08.150. 92-09-076, § 236-12-170, filed 4/15/92, effective 5/16/92.]

WAC 236-12-171 "Skateboarding" defined. "Skateboarding" as used herein shall mean any person who stands with one or both feet touching a skateboard and/or who does handstands with one or both hands touching a skateboard and/or who crouches, sits, or lies upon a skateboard while it is in motion. "Skateboarding" also shall mean skateboard riding.

[Statutory Authority: RCW 46.08.150. 92-09-076, § 236-12-171, filed 4/15/92, effective 5/16/92.]

WAC 236-12-175 Skateboarding prohibited. Skateboarding is prohibited on the state capitol grounds, as defined in WAC 236-12-015(7), including but not limited to the streets, sidewalks, walkways, walls, raised structural elevations, east capitol campus plaza, parking structures, lots and ramps, other paved surfaces of the state capitol grounds and any other structure or part thereof.

[Statutory Authority: RCW 46.08.150. 92-09-076, § 236-12-175, filed 4/15/92, effective 5/16/92.]

WAC 236-12-180 Violation—Penalty. Violation of any of the provisions contained in WAC 236-12-160, 236-12-170, 236-12-171, or 236-12-175 shall constitute a traffic infraction which is subject to the jurisdiction of the Thurston County district court. Violators shall be ticketed by the Washington state patrol. The fine for violating any of these skateboarding regulations shall be twenty-five dollars.

[Statutory Authority: RCW 46.08.150. 92-09-076, § 236-12-180, filed 4/15/92, effective 5/16/92.]

PARKING REGULATIONS—GENERAL

WAC 236-12-185 Knowledge of parking regulations. It is the responsibility of all persons and entities parking on state capitol grounds to read and fully understand these regulations. Lack of knowledge of these regulations will not be accepted as grounds for noncompliance.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-185, filed 1/30/92, effective 3/1/92.]

WAC 236-12-186 Parking time limits in metered areas. On normal working days between 7:00 a.m. and 5:00 p.m., no person or entity shall park any vehicle on the state capitol grounds or in any area designated as metered parking for a consecutive period of time longer than that period of time for which parking is permitted in such areas, irrespective of the amount of time for which parking has been paid. Vehicles moved from one parking space to another or from one lot to another shall be assumed to have been parked continuously from the time they are initially parked in any metered area. A showing that the time period between when a vehicle is twice found parked in any metered area(s) on the same day is more than the time allowed for parking in metered areas shall constitute a prima facie presumption that the vehicle has been parked in violation of this section.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-186, filed 1/30/92, effective 3/1/92.]

WAC 236-12-187 Parking spaces. The director shall formulate plans for the marking and numbering of parking areas and spaces and shall designate parking spaces for visitors, service vehicles, employees, and others as well as areas in which parking is prohibited. The director may designate and set aside specific parking and travel areas for motorcycles, motor-driven cycles, and/or bicycles, and they may be operated or parked only in those specified areas.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-187, filed 1/30/92, effective 3/1/92.]

WAC 236-12-188 Tourists and visitors. Tourists and visitors may park vehicles without fee in areas designated for their use, subject to the traffic and control regulations, or in metered parking areas on the state capitol grounds provided, however, that the prescribed parking fee shall be paid prior to parking. Employees of the state of Washington who are employed on the state capitol grounds may not park in spaces set aside and marked for visitors, tourists, and other special purposes between the hours of 7:00 a.m. and 5:00 p.m. on normal working days, unless authorized to do so by the director.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-188, filed 1/30/92, effective 3/1/92.]

WAC 236-12-189 Service and delivery vehicles. Service or delivery vehicles may park in specifically designated areas on the state capitol grounds, provided, a parking permit is obtained before parking in such areas.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-189, filed 1/30/92, effective 3/1/92.]

WAC 236-12-190 Parking within designated spaces.

No vehicle shall be parked so as to occupy any portion of more than one parking space as designated in the parking area, or so as to occupy any portion of a fire lane or other area in which parking is prohibited. No parking space shall be occupied by more than one vehicle at any given time, except as authorized by the director.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-190, filed 1/30/92, effective 3/1/92.]

WAC 236-12-191 Liability of state. The state assumes no liability for vehicles parked on the state capitol grounds or in state parking facilities. Only a license, not a bailment, is created by the rental of parking spaces or issuance of a permit to park on state property.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-191, filed 1/30/92, effective 3/1/92.]

PARKING REGULATIONS—PERMITS

WAC 236-12-200 Authorization for issuance of permits. All parking on state capitol grounds excluding parking in metered areas shall be authorized through the issuance of valid parking permits. These permits shall be issued by the director to state officials, state employees, state agencies for official cars and to such other individuals as determined by the director to require parking to aid in carrying out state business. These permits shall not be transferred from one vehicle to another except as authorized by the director. All parking on state capitol grounds shall be for official purposes only. Parking spaces may not be used for other purposes such as the conduct of private business or the storage of personal property.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-200, filed 1/30/92, effective 3/1/92. Statutory Authority: RCW 46.08.150. 85-19-001 (Order 85-02), § 236-12-200, filed 9/5/85; Order 12, § 236-12-200, filed 12/19/73; § 15, filed 8/19/64.]

WAC 236-12-220 Allocation of parking permits. Parking permits shall be allocated by the director in such manner as will best effectuate the objectives of these regulations. Unless in the director's opinion the objectives of these regulations would otherwise be better served, the director shall observe the following priorities in the issuance of permits:

- (1) Disabled state employees and officials;
- (2) Car pools consisting of three or more persons per vehicle;
- (3) Other state employees, state officials, state agencies, and nonstate parkers.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-220, filed 1/30/92, effective 3/1/92. Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-220, filed 4/7/78; Order 12, § 236-12-220, filed 12/19/73; § 17, filed 8/19/64.]

WAC 236-12-250 Special event permits. Any state official, agency or department sponsoring or making arrangements for conferences, meetings, schools, seminars or other special events which will require special traffic control and parking arrangements will confer with the director as to such arrangements.

[Order 12, § 236-12-250, filed 12/19/73; § 20, filed 8/19/64.]

WAC 236-12-290 Parking fees. (1) The fees for rental parking shall be as follows:

PARKING USES	PARKING FEES
(a) Agency assigned uses (visitor, off-campus staff, state cars, etc.)	\$ 30.00
(b) Employee uses	
(i) General, "zoned"	\$ 15.00
(ii) Leased/reserved areas and/or stalls	\$ 20.00
(iii) Disabled employees	\$ 15.00
(c) Motorcycle, motor-driven cycle/moped uses	\$ 10.00
(d) Nonstate personnel uses (concession vendors, lobbyists, daycare providers, press corps, etc.)	\$ 30.00
(e) Disabled visitor use	no charge
(f) Metered parking for visitor use	\$.50 per hour

(g) No charge for carpools/vanpools to which permits have been issued in accordance with WAC 236-12-295.

(h) In addition to the permits issued under (a), (b), (c), (d), (e), (f), and (g) of this subsection, the department may issue other permits including but not limited to agency prepaid monthly, service/delivery and temporary/daily permits; the department will establish a fee schedule for such permits other than permits issued under (a), (b), (c), (d), (e), (f), and (g) of this subsection, and will keep such fee schedule on file at 218 General Administration Building, P.O. Box 41000, Olympia, Washington 98504-1000 and will make it available to any person upon request.

(i) The director has authority to create reserved parking spaces/areas and to determine the rates for such parking; the director will establish a fee schedule for reserved parking spaces/areas and will keep such fee schedule on file at 218 General Administration Building, P.O. Box 41000, Olympia, Washington 98504-1000 and will make it available to any person upon request.

(2) In determining whether to adjust rental parking fees, the director will consider one or more of the following factors:

- (a) Parking facility costs;
- (b) Available commuting alternatives;
- (c) Change in the demand for parking facilities;
- (d) Transportation demand management requirements;
- (e) Market rates of comparable privately owned or leased property; and

(f) Other circumstances as determined by the director, whereby a change in parking fees is necessary.

[Statutory Authority: RCW 46.08.150 and 46.08.172. 92-04-037, § 236-12-290, filed 1/30/92, effective 3/1/92. Statutory Authority: RCW 46.08.150. 85-19-001 (Order 85-02), § 236-12-290, filed 9/5/85; 78-05-006 (Order 78-3), § 236-12-290, filed 4/7/78; Order 12, § 236-12-290, filed 12/19/73; Order 11, § 236-12-290, filed 5/22/72; Order 9, § 236-12-290, filed 8/14/70; § 24, filed 8/19/64.]

WAC 236-12-295 Free parking permits for carpools/vanpools. Parking permits shall be issued to carpools and vanpools without charge subject to the terms

and conditions set forth herein. To be eligible for such permits, the carpool/vanpool must consist of at least three persons per vehicle. The application must be submitted by a state employee, and shall include the names of all other persons who are members of the carpool or vanpool. Members of carpools/vanpools to which permits are issued under this section shall not be eligible for issuance of any other parking permits.

Permits issued under this section shall expire at the end of three months from the date of issuance. Application for renewal must be presented in person to the parking office at least two weeks prior to the expiration date.

It shall be the responsibility of all members of a carpool/vanpool to which a parking permit is issued hereunder to notify the parking office of any changes in the ridesharing arrangements which affect the eligibility of the carpool/vanpool for the permit.

[Statutory Authority: RCW 46.08.150. 85-19-001 (Order 85-02), § 236-12-295, filed 9/5/85.]

WAC 236-12-300 Monthly parking fee payments. Agencies and nonstate personnel will be billed by the parking office. Employee rental parking fees and any and all employee parking permit fees shall be by payroll deduction. The director will designate a form which will be completed and submitted to the Office of Parking Services, P.O. Box 41025, Olympia, Washington 98504-1025. The person to whom the permit is issued, upon termination of use of such permit, shall notify the parking office prior to such termination of use.

[Statutory Authority: RCW 46.08.150 and 46.08.172. 92-04-037, § 236-12-300, filed 1/30/92, effective 3/1/92. Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-300, filed 4/7/78; Order 12, § 236-12-300, filed 12/19/73; § 25, filed 8/19/64.]

WAC 236-12-320 Responsibility of person to whom permit is issued. Any person or any governmental or private entity to whom a permit is issued pursuant to these regulations shall be responsible for all violations of these regulations involving that person's or entity's vehicle or permit: *Provided, however,* That such responsibility shall not relieve other persons or entities who violate these regulations.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-320, filed 1/30/92, effective 3/1/92. Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-320, filed 4/7/78; Order 12, § 236-12-320, filed 12/19/73; § 27, filed 8/19/64.]

PARKING REGULATIONS—ENFORCEMENT

WAC 236-12-350 General. Parking regulations on state capitol grounds are subject to enforcement between 6:00 a.m. and 6:00 p.m., Monday through Friday, excluding holidays.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-350, filed 1/30/92, effective 3/1/92.]

WAC 236-12-351 Impoundment without prior notice. A vehicle may be impounded without prior notice having been made to notify the owner of the possibility of this action in the following circumstances:

(1) When in the judgment of the campus security patrol the vehicle is obstructing or may impede the flow of traffic; or

(2) When in the judgment of the campus security patrol the vehicle poses an immediate threat to public safety.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-351, filed 1/30/92, effective 3/1/92.]

WAC 236-12-360 Parking fees, barrelling, and/or towing. Any unauthorized vehicle, as defined in this chapter, shall be subject to parking fees, barrelling, and/or towing, as described below:

First occurrence	\$8.00 parking fee
Second occurrence within a 12-month period	\$8.00 parking fee
Third occurrence within a 12-month period	Vehicle barrelled with \$50.00 removal charge and payment of all outstanding parking fees.
Fourth and subsequent occurrences within a 12-month period	Vehicle immediately towed. Registered owner or authorized person must pay towing costs and all outstanding parking fees.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-360, filed 1/30/92, effective 3/1/92.]

WAC 236-12-361 Suspension and/or revocation of parking privileges. Repeated use of assigned parking spaces for nonofficial purposes or for the storage of personal property and/or the repeated transfer of parking permits from one vehicle to another may result in the suspension or revocation of parking privileges. Fees for parking shall be paid within twenty days of notice or within ten days of final disposition of any appeals. Failure to pay within these periods may result in suspension and/or revocation of any permits issued to the violator and/or removal, suspension, and/or revocation from the parking waiting list for parking on state capitol grounds.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-361, filed 1/30/92, effective 3/1/92.]

WAC 236-12-362 Parking fee and barrel removal payments—Method of payment. Parking fees and barrel removal payments shall be made to the Office of Parking Services, Department of General Administration, P.O. Box 41025, Olympia, Washington 98504-1025. Payment shall be required regardless of whether a contested hearing is requested. Payment may be made in cash, by check, or through payroll deduction. Checks returned for insufficiency of funds shall be subject to a ten-dollar charge. The office of parking services may deny payment by check if prior checks are returned because of insufficiency of funds or stop payment.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-362, filed 1/30/92, effective 3/1/92.]

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WAC 236-12-365 Notice of redemption of towed vehicles. (1) Not more than twenty-four hours after impounding of any vehicle, the impounding towing operator shall mail a notice by first-class mail to the last known registered and legal owners of the vehicle. The notice shall contain the identity of the person or agency authorizing the tow, the name of the impounding tow company, its address and telephone number and the location and time of the tow. The notice also shall include the written notice of the right of redemption and of the opportunity for a hearing to contest the validity of the tow pursuant to RCW 46.55.120. If a vehicle is redeemed prior to the mailing of notice, the notice need not be mailed.

(2) Redemption of towed vehicles shall be in accordance with chapter 46.55 RCW.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-365, filed 1/30/92, effective 3/1/92.]

WAC 236-12-370 Hearing rights—Parking fees, barrelling, suspension, and/or revocation of parking privileges or removal, suspension, or revocation from parking waiting list. Any person or entity seeking to contest an assessment of parking fees, barrelling, suspension, and/or revocation of parking privileges or removal, suspension, or revocation from parking waiting list has a right to a hearing to contest the validity of those fees or actions. Such request must be made in writing and received in the office of parking services within twenty days of the date of parking fee notice or effective date of action or such right to a hearing is forfeited. Hearing requests must be submitted to:

Parking Enforcement
Office of Parking Services
Department of General Administration
P.O. Box 41025
Olympia, WA 98504-1025

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-370, filed 1/30/92, effective 3/1/92.]

WAC 236-12-371 Hearing procedure—Parking fees, barrelling, suspension, and/or revocation of parking privileges and removal, suspension, or revocation from parking waiting list. (1) Contested hearings held pursuant to WAC 236-12-370 shall be conducted as brief adjudicative proceedings according to RCW 34.05.482, 34.05.485, 34.05.488, 34.05.491 and 34.05.494.

(2) Upon receipt of a written request for a hearing, the presiding officer shall provide the contesting party an opportunity to be informed of the agency's view of the matter and an opportunity to explain the contesting party's view of the matter.

(3) Within ten days of this opportunity, the presiding officer shall serve upon the contesting party and the agency, a brief written statement of the reasons for the decision. Such statement shall include notice that the contesting party may request an agency administrative review of that decision. The contesting party must request such review either orally or in writing within twenty-one days of service of the written statement. Service is deemed to be completed upon deposit in the United States mail as evidenced by the postmark.

(4) If no agency review is so requested by the contesting party, the agency may, on its own motion, review the brief written statement of the presiding officer. Action less favorable to the contesting party may not be taken by the reviewing officer without notice to that party and an opportunity to explain that party's view of the matter.

(5) If no review is taken by the agency or by the contesting party, then the brief written statement of the presiding officer becomes the final order and no further administrative or judicial review is available.

(6) If review is requested, the reviewing officer shall give the contesting party and the agency an opportunity to present their respective views of the matter. Within twenty-one days of receipt of the request for review, the reviewing officer shall issue a final order which includes a brief statement of the reasons for the decision. The final order shall include notice of any judicial review available under the Administrative Procedure Act, chapter 34.05 RCW.

(7) Any of the time limits set forth in this hearing process may be waived by the contesting party.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-371, filed 1/30/92, effective 3/1/92.]

WAC 236-12-372 Hearing rights—Towing. (1) Any person or entity whose vehicle has been towed pursuant to this chapter, may request a hearing in the district court for the jurisdiction in which the vehicle was towed to contest the validity of the tow or the amount of the tow and storage charges. The tow truck operator shall provide forms for requesting such hearings. All requests for hearings shall be made in writing and on the form provided and must be received by the district court within ten days of the date of redemption of the vehicle. The request for hearing also must be served upon and received by the office of parking within the above ten-day period.

(2) If the request for a hearing is not received by the district court within the ten-day period, then the right to a hearing is waived and the registered owner is liable for any towing, storage, or other tow charges permitted pursuant to chapter 46.55 RCW.

(3) The district court hearing procedure shall be as set out in RCW 46.55.120(3).

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-372, filed 1/30/92, effective 3/1/92.]

GENERAL

WAC 236-12-430 Demonstrations, parades—Obstructing traffic, state business—Prohibiting. No person[,] singly, or in combination with others, shall engage in demonstrations or parades in such a manner as to disrupt the orderly flow of pedestrian or vehicular traffic on the state capitol grounds or the conduct of state business by state employees on the state capitol grounds or in any buildings on the state capitol grounds.

[Statutory Authority: RCW 43.17.060, 43.19.125 and 46.08.150. 81-11-001 (Order 81-1), § 236-12-430, filed 5/7/81; Order 12, § 236-12-430, filed 12/19/73; Order 4, § 236-12-430, filed 2/10/69; Emergency Order 2, § 236-12-430, filed 12/18/68.]

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems

ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 236-12-440 Permits for demonstrations, parades, processions. Any person or group of persons desiring to conduct a demonstration, parade[,] or procession on the state capitol grounds shall apply to the director for written approval. Application must be made, in writing, at least four days, excluding Saturdays, Sundays and holidays, prior to the time the demonstration, parade, or procession is to take place.

[Statutory Authority: RCW 46.08.150. 79-05-005 (Order 79-01), § 236-12-440, filed 4/11/79; 78-05-006 (Order 78-3), § 236-12-440, filed 4/7/78; Order 12, § 236-12-440, filed 12/19/73; Order 4, § 236-12-440, filed 2/10/69; Emergency Order 2, § 236-12-440, filed 12/18/68.]

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 236-12-450 Prohibiting access to areas of capitol grounds. No member of the general public shall be permitted in any area of the state capitol grounds which is identified by a sign indicating that such area is private and not open to the public.

[Order 12, § 236-12-450, filed 12/19/73; Order 3, § 236-12-450, filed 2/10/69; Emergency Order 1, § 236-12-450, filed 12/18/68.]

WAC 236-12-460 Regulating access to capitol buildings and parking garages. No person shall enter or remain in any state capitol building other than during normal office hours, unless properly authorized to do so. No person shall enter or remain in any state capitol parking garage at any time, unless properly authorized to do so.

[Order 76-2, § 236-12-460, filed 3/15/76; Order 12, § 236-12-460, filed 12/19/73.]

WAC 236-12-470 Prohibiting access to state capitol buildings and grounds while armed with dangerous weapons or with devices used to disrupt state business. Unless otherwise permitted in advance by the director of the department of general administration, no person shall carry any firearm or other dangerous weapon on the state capitol grounds or in any building on the state capitol grounds: *Provided*, That this regulation shall not apply to duly authorized federal, state, and local law enforcement officers or to any federal, state, and local government employee authorized to carry firearms in the course of their public employment; nor shall any person carry into any building on the state capitol grounds any voice-amplification equipment, blow horns, sirens, or other similar noise-producing devices which may be used to disrupt the conduct of state business by state employees.

[Statutory Authority: RCW 43.17.060, 43.19.125 and 46.08.150. 81-11-001 (Order 81-1), § 236-12-470, filed 5/7/81; Order 76-7, § 236-12-470, filed 10/18/76.]

WAC 236-12-500 Violations unlawful. A violation of any of these regulations is unlawful and constitutes a misdemeanor as provided in RCW 46.08.170.

[Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-500, filed 4/7/78.]

WAC 236-12-600 Effective date. These regulations shall become effective when adopted pursuant to chapter 34.04 RCW and shall remain in full force and effect until amended or changed under the provisions of said chapter.

[Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-600, filed 4/7/78.]

Chapter 236-16 WAC CAPITOL LAKE AND ADJOINING LANDS AND ROADWAYS

WAC

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

WAC 236-16-001 Promulgation. Pursuant to the authority granted by chapters 46.08 and 43.19 RCW, the director of the department of general administration hereby promulgates the following rules and regulations with respect to Capitol Lake and its adjoining lands and roadways.

[Promulgation, filed 4/15/65.]

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

- (1) "Boat" shall include any vehicle or device capable of being operated in the water;
- (2) "Motorboat" shall include any vehicle, device, or boat which is in itself a self-propelled unit and whether or not machinery is the principal source of propulsion;
- (3) "Operate" shall mean to navigate or otherwise use a boat or motorboat.
- (4) "Public transportation vehicles" shall include any motor vehicle operated by the state, county, city, or other public agency.

[Statutory Authority: RCW 46.08.150. 78-09-016 (Order 78-4), § 236-16-010, filed 8/8/78; § 1, filed 4/15/65.]

WAC 236-16-020 Motorboats—Prohibitions. The operation of all motorboats is prohibited in the area of Capitol Lake north of the railroad trestle crossing said lake unless prior written authorization is first obtained from the director of general administration.

[Order 75-5, § 236-16-020, filed 6/23/75; § 2, filed 4/15/65.]

WAC 236-16-025 Water skiing, etc.—Prohibited. Water skiing and the use of surfboards or other similar devices pulled behind a motorboat is prohibited on all areas

of Capitol Lake unless prior written authorization is first obtained from the director of general administration.

[Order 75-5, § 236-16-025, filed 6/23/75. Formerly WAC 236-16-020 (part).]

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

[§ 3, filed 4/15/65.]

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

[§ 4, filed 4/15/65.]

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

[§ 5, filed 4/15/65.]

WAC 236-16-060 Use of roadways. All buses, trucks, cargo trailers and similar equipment which exceed a five-ton load limit and similar heavy duty vehicles are prohibited from traveling on the West Parkway Road and other roadways posted for restrictive use. This provision shall not apply to public transportation vehicles.

[Statutory Authority: RCW 46.08.150. 78-09-016 (Order 78-4), § 236-16-060, filed 8/8/78; § 6, filed 4/15/65.]

WAC 236-16-070 Penalties. These rules and regulations will be enforced under the provisions of RCW 46.08.160 and 46.08.170 and violations will be punished pursuant thereto.

[§ 7, filed 4/15/65.]

WAC 236-16-080 Effective date. The effective date of these rules and regulations shall be when adopted pursuant to chapter 34.04 RCW and RCW 46.08.150.

[§ 8, filed 4/15/65.]

WAC 236-16-100 Muffling device required. The exhaust of every internal combustion engine used on any motorboat shall be muffled by an efficient muffling device or system which reasonably muffles the noise of the exhaust. The use of a cutout, bypass, or similar muffler elimination device, is prohibited, except when used by motorboats competing in a regatta, race, or other special event, or on trial runs and tuneups therefor, for which prior written

authorization has first been obtained from the director of general administration.

[Order 7, § 236-16-100, filed 7/23/69; Emergency Order 6 (part), filed 6/5/69.]

WAC 236-16-110 Docks, floats, piers, etc.—Speed.

No person shall operate any motorboat at any time on Capitol Lake at a rate of speed in excess of five miles per hour within a distance of fifty feet from the shore or from any float, dock, pier, or other similar installation bordering on or placed in Capitol Lake unless prior written authorization is first obtained from the director of general administration.

[Order 75-5, § 236-16-110, filed 6/23/75; Order 7, § 236-16-110, filed 7/23/69; Emergency Order 6 (part), filed 6/5/69.]

WAC 236-16-120 Application of algacides, etc. No

person shall deposit or apply in any manner any algacide, weedicide or pesticide in the waters of Capitol Lake or to the immediate shoreline thereof, without first obtaining the prior written approval of the director of general administration.

[Order 7, § 236-16-120, filed 7/23/69; Emergency Order 6 (part), filed 6/5/69.]

Chapter 236-20 WAC

STATE VEHICLE MARKING REQUIREMENTS AND EXCEPTIONS

WAC

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

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

[Order 75-8, § 236-20-010, filed 11/17/75.]

WAC 236-20-020 Definitions. Agencies—As used in this chapter, the word "agencies" includes state departments, offices, agencies, commissions, or institutions financed in whole or in part by funds appropriated by the legislature.

[Order 75-8, § 236-20-020, filed 11/17/75.]

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

the insignia to the next meeting of the automotive policy board for its consent.

[Order 75-8, § 236-20-030, filed 11/17/75.]

WAC 236-20-040 Exceptions to marking requirements.

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

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

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

(4) The above exceptions are the only exceptions to the marking requirements which will be granted.

[Order 75-8, § 236-20-040, filed 11/17/75.]

Chapter 236-20A WAC

DISPLAY OF FLAGS—STATE CAPITOL GROUNDS

WAC

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

WAC 236-20A-001 Promulgation. Pursuant to the authority granted by chapters 34.04 and 43.19 RCW, the director of the department of general administration hereby establishes the following rules and regulations to govern the display of flags on the state capitol grounds.

[Order 76-3, § 236-20-001 (codified as WAC 236-20A-001), filed 3/15/76.]

WAC 236-20A-004 "State capitol grounds" defined. "State capitol grounds" shall be construed to be those grounds designated by statute as state capitol grounds, including the east capitol campus, Sylvester Park and the old capitol building.

[Order 76-3, § 236-20-004 (codified as WAC 236-20A-004), filed 3/15/76.]

WAC 236-20A-010 Flag plazas. The flag plazas on the east and west capitol campus are designated as the official locations for display of the United States and Washington state flags on the state capitol grounds. The United States flag and the Washington state flag will be flown permanently at these locations.

The flags of visiting United States governors and dignitaries and other flags may be flown at the discretion of the governor of the state of Washington.

No other flags will be flown on any poles at the east or west capitol flag plazas.

[Statutory Authority: RCW 43.19.125, 85-10-037 (Order 85-01), § 236-20A-010, filed 4/29/85; Order 76-3, § 236-20-010 (codified as WAC 236-20A-010), filed 3/15/76.]

WAC 236-20A-020 Display of flags on state buildings. The United States flag and the Washington state flag may be displayed from buildings on the state capitol grounds in such place and in such manner as the director of general administration may direct. No flags other than the United States flag and the Washington state flag may be displayed upon any pole or other place designated for the official display of flags, except as provided by law or directed by the governor of the state of Washington.

[Order 76-3, § 236-20-020 (codified as WAC 236-20A-020), filed 3/15/76.]

Chapter 236-22 WAC SELF-INSURANCE REQUIREMENTS AS TO LOCAL GOVERNMENTS

WAC

236-22-010	Preamble and authority.
236-22-020	Definitions.
236-22-030	Adoption of program.
236-22-031	Program financing.
236-22-032	Nondiscrimination in contributions.
236-22-033	Nondiscrimination in joint program assessments.
236-22-034	Disclosures.
236-22-035	Wellness programs.
236-22-036	Termination provisions.
236-22-037	Financial plans.
236-22-038	Third party administrator contracts.
236-22-040	Risk management.
236-22-050	Claims administration.
236-22-060	Financial reports.
236-22-070	State risk manager may waive requirements.
236-22-080	Conflict of interest.
236-22-100	Expense and operating cost fees.
236-22-200	Appeals of fees.
236-22-210	Appeals of cease and desist orders.

WAC 236-22-010 Preamble and authority. These rules [and regulations governing] [for] local government self-insurance transactions are adopted by the state risk manager to [implement chapter 48.62 RCW relating to] [regulate the management and operations of both] individual and joint local government [self insurance] [self-insured health and welfare benefit and property and liability risk] programs. The rules set forth in this chapter do not supersede the rules which govern the operation of self-insured employee benefit plans by school districts and educational service districts under chapter 392-130 WAC.

[Statutory Authority: Chapter 48.62 RCW, 93-16-079, § 236-22-010, filed 8/3/93, effective 9/3/93; 92-12-092, § 236-22-010, filed 6/3/92, effective 7/1/92.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 236-22-020 Definitions. (1) "Actuary" means any person who is qualified under WAC 284-05-060 to provide actuarial services.

(2) "Assessment" means the monies paid by the members to a joint self-insurance program.

(3) "Beneficiary" means any individual entitled, under a local government self-insurance program for health and welfare benefits, to payment of all or part of a covered claim.

(4) "Claim adjustment expense" means expenses, other than claim payments, incurred in the course of investigating and settling claims.

(5) "Claim" means a demand for payment for damages or policy benefit because of the occurrence of an event such as (a) for health and welfare benefits, a covered service or services being delivered; or (b) for property and liability, the destruction or damage of property or related deaths or injuries. Unless specifically referenced, the term "claim" is used for both health and welfare and property and liability programs.

(6) "Competitive process" means a documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the party's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services.

(7) "Contribution" means the amount paid or payable by the employee into a health and welfare self-insurance program.

(8) "Incurred but not reported, or IBNR" shall mean claims and claim adjustment expenses for covered events which have occurred but have not yet been reported to the self-insurance program as of the date of the financial statement. IBNR claims include (a) known loss events that are expected to be later presented to be claims, (b) unknown loss events that are expected to become claims, and (c) expected future development on claims already reported.

(9) "Individual self-insurance program" means a program established and maintained by a local government entity to self-insure health and welfare benefits or property and liability risks on its own behalf.

(10) "Joint self-insurance program" means any two or more local government entities which have entered into a cooperative risk sharing agreement pursuant to the provisions of the Interlocal Cooperation Act (chapter 39.34 RCW) and/or subject to regulation under chapter 48.62 RCW.

(11) "Liability for unpaid claims" means the amount needed to provide for the estimated ultimate cost of settling claims which have occurred on or before a particular date. The estimated liability includes the amount of money that will be needed for future payments on both claims which have been reported and IBNR claims.

(12) "Liability for unpaid claim adjustment expenses" means the amount needed to provide for the estimated ultimate costs required to investigate and settle claims for covered events that have occurred on or before a particular date, whether or not reported to the government entity at that date.

(13) "Member" means a local government entity which is a past or present legal participant in a local government joint self-insurance program.

(14) "Self-insurance program" means any individual or joint local government entity self-insurance program subject to regulation under chapter 48.62 RCW.

(15) "Stop-loss insurance" means insurance against the risk of economic loss assumed under a self-insurance program.

(16) "Third party administrator" means:

a) an independent association, agency, entity or enterprise which, through a contractual agreement is responsible for the overall operational and financial management of the self-insurance program;

b) an independent association, agency, entity or enterprise which, through a contractual agreement, provides a professional service for the analysis, design, implementation, or termination of a self-insurance program; or

c) an independent association, agency, entity or enterprise which, through a contractual agreement, administers the claim payment process on behalf of a self-insurance program. Such claim administration process includes, but is not limited to, receiving requests for claim payments, investigation, verification and adjustment of the claim. Claim payment disbursement is also considered an administrative process.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-020, filed 8/3/93, effective 9/3/93.]

WAC 236-22-030 Adoption of program. (1) All self-insurance programs shall provide that the governing body of the local government entity establishing or maintaining a program adopt the self-insurance program by resolution or ordinance. The resolution or ordinance shall include but not be limited to funding and expenditure mechanisms. Self-insurance programs in operation on January 1, 1992 shall meet the requirements of this subsection no later than December 31, 1994.

(2) The interlocal agreement of a joint self-insurance program shall be adopted by resolution or ordinance by each participating member's governing body.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-030, filed 8/3/93, effective 9/3/93.]

WAC 236-22-031 Program financing. (1) All self-insurance programs shall provide for program financing to pay claims, claims adjustment expenses and the liability for unpaid claims and claims adjustment expenses as they become payable.

(2) All self-insurance programs shall provide a method by which the program financing will be adjusted when it has been determined to be actuarially insufficient, or when the program is unable to meet debts as they become payable. Any increases shall be large enough to make the program actuarially sufficient.

(3) All individual and joint health and welfare self-insurance program's and all joint property and liability self-insurance program's claim financing levels shall be determined annually by an actuary's recommendation, unless these self-insurance programs purchase annual aggregate stop-loss

insurance and funds the self-insured portion to the stop-loss insurance attachment point.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-031, filed 8/3/93, effective 9/3/93.]

WAC 236-22-032 Nondiscrimination in contributions. Contribution rate schedules for individual and joint health and welfare self-insurance programs shall be consistent and nondiscriminatory among beneficiaries of the self-insurance program. This provision is not intended to prohibit choice of coverage for beneficiaries, classes of beneficiaries, or bargaining groups from several offered by the self-insurance program, or to prohibit different contribution schedules between classes of beneficiaries or bargaining groups.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-032, filed 8/3/93, effective 9/3/93.]

WAC 236-22-033 Nondiscrimination in joint program assessments. Joint self-insurance program assessment formula shall be consistent and nondiscriminatory among new and existing members. Joint self-insurance programs shall not engage in practices that set standard assessment rates lower for new members than those established for existing members.

This provision shall not be construed to prohibit individual choice of coverage by members from several offered by the self-insurance program.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-033, filed 8/3/93, effective 9/3/93.]

WAC 236-22-034 Disclosures. (1) All health and welfare self-insurance programs shall furnish each employee or retiree covered by the program a written description of the benefits allowable under the program, together with (a) applicable restrictions, limitations, and exclusions, (b) the procedure for filing a claim for benefits, (c) the procedure for requesting an adjudication of disputes or appeals arising from beneficiaries regarding the payment or denial of any claim for benefits, and (d) a schedule of any direct monetary contributions toward the program financing required by the employee. Such benefits or procedures shall not be amended without written notice to the covered employees and retirees at least thirty days in advance of the effective date of the change unless exigent circumstances can be demonstrated.

(2) All joint self-insurance programs shall furnish to each member of the program written statements which describe: (a) all coverages or benefits currently provided by the program, including any applicable restrictions, limitations, and exclusions; (b) the method by which members pay assessments; (c) the procedure for filing a claim; and (d) the procedure for a member to request an adjudication of disputes or appeals arising from coverage, claim payment or denial, membership, and other issues. Such statements shall not be amended without written notice to the members at least thirty days in advance of the effective date of the change.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-034, filed 8/3/93, effective 9/3/93.]

WAC 236-22-035 Wellness programs. Health and welfare self-insurance programs may offer coverage for preventative care, wellness programs, and/or other cost containment measures.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-035, filed 8/3/93, effective 9/3/93.]

WAC 236-22-036 Termination provisions. (1) All individual and joint health and welfare self-insurance programs and all joint property and liability self-insurance programs shall maintain a written plan which provides for the partial or complete termination of the program and for liquidation of its assets upon termination of the program. The termination procedure shall include, but not be limited to, a provision for the settling of all its liabilities for unpaid claims and claim adjustment expenses.

(2) All joint self-insurance programs shall provide for the termination of membership of a member.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-036, filed 8/3/93, effective 9/3/93.]

WAC 236-22-037 Financial plans. (1) All self-insurance programs shall maintain a written plan for managing the financial resources of the program. The financial plan shall include (a) a procedure for accounting for monies received, payments made and liabilities of the program; (b) an investment policy; and (c) the preparation of accurate annual financial statements of the program.

(2) No financial plan of a self-insurance program shall permit interfund loans from assets held against liabilities for unpaid claims and claim adjustment expenses except for those amounts which are clearly inactive or in excess of liabilities for unpaid claim and claim adjustment expenses.

(3) No financial plan of a joint self-insurance program shall permit loans from assets held against liabilities for unpaid claims and claim adjustment expenses to any member.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-037, filed 8/3/93, effective 9/3/93.]

WAC 236-22-038 Third party administrator contracts. (1) Before contracting for third party administrator professional services, all self-insurance programs shall establish and maintain written standards and procedures for contracting with third party administrators. Entering a contract for services shall not relieve the entity of its ultimate managerial and financial responsibilities. The procedures shall, as a minimum:

(a) Provide a method of third party administrator selection using a competitive process;

(b) Require a written description of the services to be provided, remuneration levels, and contract period;

(c) Provide for the confidentiality and ownership of the information, data and other intellectual property developed or shared during the course of the contract;

(d) Provide for the expressed authorization of the self-insurance program to enter the third party administrator's premises to inspect and audit the records and performance of the third party administrator which pertains to the program; and

(e) Require the compliance with all applicable local, state and federal laws.

(2) None of the above shall otherwise relieve the entity from other contracting requirements imposed on those entities.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-038, filed 8/3/93, effective 9/3/93.]

WAC 236-22-040 Risk management. Individual and joint property and liability self-insurance programs shall have a written risk management program which addresses risk finance, loss control, risk avoidance and risk transfer.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-040, filed 8/3/93, effective 9/3/93.]

WAC 236-22-050 Claims administration. (1)(a) All self-insurance programs shall have a written claims administration program which contains, as a minimum, claim filing procedures, internal financial control mechanisms, and claim and claim adjustment expense reports.

(b) All individual and joint health and welfare self-insurance programs and all joint property and liability self-insurance programs shall have a written claim appeal procedure which contains, as a minimum, a time limit for filing an appeal, a time limit for response, and a provision for a second level of review.

(2)(a) All self-insurance programs may contract for claims administration services with a qualified third party administrator, provided all the requirements under subsection (1) above are included in the contract.

(b) Individual and joint property and liability self-insurance programs may perform claims administration services on their own behalf. Individual and joint health and welfare self-insurance programs may perform claims administration services on their own behalf, provided the state risk manager is supplied with documentation and a detailed written explanation in support of the self-insurance program's proposed claims administration activities. The documentation and proposal shall include, as a minimum, the following:

1. The nature, type and anticipated volume of claims to be administered.

2. The number of employment positions established or to be established which are required to perform the self-insurance program's claim administration functions, including an organizational chart showing reporting responsibilities.

3. Qualifications of personnel having claim reserving and settlement authority.

4. A projection of expected claim administration expenses.

(3) All self-insurance programs shall have conducted by an independent qualified professional not currently performing claims administration services to the program, a review of claim reserving, adjusting and payment procedures no less than every three years. Such review shall be in writing and retained for a period not less than three years.

(4) Joint self-insurance programs shall maintain a dedicated claim account from which only claim and claim adjustment expenses can be paid.

(5) Joint self-insurance programs shall maintain written claim and claim adjustment expense reports for all claims made against the self-insurance program and, separate written reports for each individual member.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-050, filed 8/3/93, effective 9/3/93.]

WAC 236-22-060 Financial reports. (1) Every individual and joint health and welfare self-insurance program and every joint property and liability self-insurance program authorized to transact business in the state of Washington shall record and annually report its revenue, claim and claim expense experience, and other data as required by the state risk manager. Multi-state programs shall report both its Washington state revenues, claim and claim expense experience and other data required by the state risk manager and its overall income, claim and claim expense experience. Such reports shall be submitted to the state risk manager no later than one hundred twenty days following the completion of the joint program's fiscal year.

(2) All joint self-insurance programs authorized to transact business in the state of Washington shall submit quarterly financial reports to the state risk manager. Such reports shall be submitted to the state risk manager no later than sixty days following the completion of each of the program's four quarters within its fiscal year.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-060, filed 8/3/93, effective 9/3/93.]

WAC 236-22-070 State risk manager may waive requirements. The state risk manager may waive any of the requirements of WAC 236-22-030 through section 236-22-050 and 236-22-060(2) if, in the state risk manager's opinion: (1) Circumstances warrant a waiver, and (2) waiver will not jeopardize the financial condition of the self-insurance program.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-070, filed 8/3/93, effective 9/3/93.]

WAC 236-22-080 Conflict of interest. All self-insurance programs shall meet the following standards regarding restrictions on the financial interests of the program administrators: (1) No member of the board of directors; trustee; administrator, including a third party administrator; or any other person having responsibility for the management or administration of a program or the investment or other handling of the program's money shall:

(a) Receive directly or indirectly or be pecuniarily interested in any fee, commission, compensation, or emolument arising out of any transaction to which the program is or is expected to be a party except for salary or other similar compensation regularly fixed and allowed for because of services regularly rendered to the program.

(b) Receive compensation as a consultant to the program while also acting as a member of the board of directors, trustee, administrator, or as an employee.

(c) Have any direct or indirect pecuniary interest in any loan or investment of the program.

(2) No consultant, third party administrator or legal counsel to the self-insurance program shall directly or indirectly receive or be pecuniarily interested in any commis-

sion or other compensation arising out of any contract or transaction between the self-insurance program and any insurer, health care service contractor, or health care supply provider. This provision shall not preclude licensed insurance brokers or agents from receiving compensation for insurance transactions performed within the scope of their licenses, provided such compensation is disclosed to the self-insurance program's governing body.

(3) No third party administrator shall serve as an officer or on the board of directors of a self-insurance program.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-080, filed 8/3/93, effective 9/3/93.]

WAC 236-22-100 Expense and operating cost fees.

(1) The state risk manager, with concurrence from the [two] [property and liability] advisory board[s.] [and the health and welfare advisory board], shall fix [assessments to cover initial expenses and operating costs of the boards and the state risk manager's office in administering chapter 48.62 RCW. Such assessments shall be levied against each joint property and liability self-insurance program and each individual and joint health and welfare benefit self-insurance program regulated by chapter 48.62 RCW. Such assessments shall be based upon each self-insurance program's share of the initial expenses and operating costs of the property and liability advisory board, the health and welfare advisory board,] [fees based upon actual time and expenses incurred for the review and investigation of every joint property and liability risk and every individual and joint health and welfare benefit self-insurance programs by the advisory boards] and the state risk manager's office.

(2) The state risk manager, with concurrence from the advisory boards, shall determine the [assessment rate on a fiscal year basis prescribing the self-insurance program's share pursuant to the provisions of subsection (1) of this section until the regulatory program for local government self-insurance programs is fully implemented.

(3) These assessments shall be payable by the assessed program to the state of Washington, division of risk management, on July 1 and January 1 of each year until the regulatory program for local government self-insurance programs is fully implemented. Any program failing to remit its assessment when due is subject to denial of permission to operate or to a cease and desist order until the assessment] [review and investigation fees on a fiscal year basis.

(3) The review and investigation fees shall be paid by the self-insurance program to the state of Washington, department of general administration within thirty days of invoice. Any self-insurance program failing to remit its fee when due is subject to denial of permission to operate or to a cease and desist order until the fee] is paid.

(4) A self-insurance program [referenced in subsection (1) of this section,] which has voluntarily or involuntarily terminated[,] shall [continue to] pay [an administrative cost assessment. This assessment shall continue until such time as all liabilities and all] [review and investigation fees until such time as all liabilities for unpaid claims and claim adjustment expenses and all administrative] responsibilities of the self-insurance program have been satisfied.

(5) The state risk manager [shall assess each prospective joint self-insurance program, and each prospective individual

health and welfare benefit self-insurance program, an initial investigation fee at a rate determined annually by the state risk manager, with the concurrence of the advisory boards. Such fee shall be sufficient[, with concurrence from the property and liability advisory board and the health and welfare advisory board shall charge an initial investigation fee in an amount necessary] to cover the costs for the initial review and approval of [that] [a] self-insurance program. [The fee must accompany the initial submission of the plan of operation and management.]

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-100, filed 8/3/93, effective 9/3/93; 92-12-092, § 236-22-100, filed 6/3/92, effective 7/1/92.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 236-22-200 Appeals of fees. (1)(a) A self-insurance program which disagrees with a fee for services issued to it by the state risk manager shall notify the state risk manager in writing within thirty days after receipt of the invoice. The writing shall include the self-insurance program's reasons for challenging the fee and any other information the self-insurance program deems pertinent.

(b) The state risk manager shall review any fee challenged by a self-insurance program, together with the reasons for the challenge. Within fourteen days of receipt of notification from the self-insurance program, the state risk manager shall respond in writing to the self-insurance program, either reaffirming the fee or modifying it, and stating the reasons for the decision.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-200, filed 8/3/93, effective 9/3/93.]

WAC 236-22-210 Appeals of cease and desist orders. (1) Within ten days after a joint program covering property or liability risks, or an individual or joint program covering health and welfare benefits has been served with a cease and desist order under RCW 48.62.091(3), the entity may request an administrative hearing. The hearing provided may be held in such a place as is designated by the state risk manager and shall be conducted in accordance with chapter 34.05 RCW and chapter 10-08 WAC.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-210, filed 8/3/93, effective 9/3/93.]

Chapter 236-24 WAC

WAIVER OF PUBLIC BIDDING REQUIREMENTS FOR WATER PROJECTS

WAC

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

WAC 236-24-010 Purpose. The purpose of this chapter is to implement the provisions of section 5(2), chapter 1, Laws of 1977 1st ex. sess.

[Order 77-3, § 236-24-010, filed 5/17/77.]

WAC 236-24-020 Waiver of public bidding requirements—Procedure. A request by the department of ecology or the department of social and health services for a waiver of any public bidding requirements for a project authorized by sections 3 or 4 of chapter 1, Laws of 1977 1st ex. sess., and financed with funds appropriated in chapter 1, Laws of 1977 1st ex. sess. shall be in writing and addressed to the director, department of general administration. The submission shall be an original and three copies, each being signed by the agency head, and shall contain the following information:

- (1) Nature of the project and its location;
- (2) The section of chapter 1, Laws of 1977 1st ex. sess., under which the project has been authorized;
- (3) The section of chapter 1, Laws of 1977 1st ex. sess. from which the funds to finance the project have been appropriated;
- (4) The public bidding requirements applicable to the project;
- (5) A detailed statement of the facts which constitute the emergency condition which prompted the request for a waiver;
- (6) A detailed statement of the manner in which the public interest would be detrimentally affected if the public bidding requirements were to be followed for the project in question.

[Order 77-3, § 236-24-020, filed 5/17/77.]

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

Information about the status of a request can be obtained from the deputy director by telephoning 206-753-5435.

[Order 77-3, § 236-24-030, filed 5/17/77.]

Chapter 236-28 WAC SMALL WORKS ROSTER

WAC

236-28-010	Purpose and authority.
236-28-020	Notice required by agency establishing small works roster.
236-28-030	Contractors application form—Information required.
236-28-070	Denial or removal of contractors from small works roster—Reasons.
236-28-080	Denial or removal from roster—Notice and hearing.

**DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER**

- 236-28-040 Contractors to be categorized general or specialty—Categories of special contractors enumerated. [Statutory Authority: RCW 39.04.150. 83-02-024 (Order 83-1), § 236-28-040, filed 12/29/82.] Repealed by 84-19-058 (Order 84-1), filed 9/19/84. Statutory Authority: RCW 34.04.025.
- 236-28-050 Contractors categorized by size of projects—Categories enumerated. [Statutory Authority: RCW 39.04.150. 83-02-024 (Order 83-1), § 236-28-050, filed 12/29/82.] Repealed by 84-19-058 (Order 84-1), filed 9/19/84. Statutory Authority: RCW 34.04.025.
- 236-28-060 Minority or women's business enterprise—Defined. [Statutory Authority: RCW 39.04.150. 83-02-024 (Order 83-1), § 236-28-060, filed 12/29/82.] Repealed by 84-19-058 (Order 84-1), filed 9/19/84. Statutory Authority: RCW 34.04.025.

WAC 236-28-010 Purpose and authority. This chapter of the Washington Administrative Code is adopted pursuant to chapter 98, Laws of 1982, which requires the director of the department of general administration to adopt by rule a procedure to prequalify contractors for inclusion on a small works roster established by the state agencies enumerated in section 2, chapter 98, Laws of 1982. The procedure set forth in this chapter shall be utilized by those agencies in establishing a small works roster.

[Statutory Authority: RCW 39.04.150. 83-02-024 (Order 83-1), § 236-28-010, filed 12/29/82.]

WAC 236-28-020 Notice required by agency establishing small works roster. Agencies desiring to establish an initial small works roster shall give notice to the contracting community encouraging contractors to submit applications for inclusion on the small works roster. Such notice may be given by advertisements in publications widely circulated to the contracting community, by notices mailed directly to trade associations or to individual contractors, or by any effort reasonably calculated to assure that all contractors in the state of Washington become aware of the opportunity to be included on the small works roster.

[Statutory Authority: RCW 39.04.150. 83-02-024 (Order 83-1), § 236-28-020, filed 12/29/82.]

WAC 236-28-030 Contractors application form—Information required. Contractors desiring to be included on a small works roster established by a state agency pursuant to chapter 98, Laws of 1982, shall submit a completed application form on a form prescribed by the director, department of general administration. Copies of the form may be obtained from the division of engineering and architecture and will contain the following information:

- (a) Name of contracting firm, including designation as corporation, partnership, sole proprietorship, or otherwise;
- (b) Address of contracting firm;
- (c) Telephone number of contracting firm;
- (d) State contractor's license number;
- (e) Indication of type of construction firm by categories enumerated; on the form.
- (f) State of Washington department of revenue tax number;
- (g) An indication of those counties in which the contractor is interested in being considered for projects;

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(h) Indication whether contractor is certified as a minority or women's business enterprise pursuant to chapter 236-20 WAC.

Upon receipt of the application, the agency shall enter the information set forth therein into its small works roster, and send a copy of the information which is entered to the applicant contractor. Contractors should not consider themselves to be enrolled in a small works roster until they have received this verification.

It is the responsibility of the contractor to notify the agency of any incorrect information set forth on the notice of verification, and to notify the agency of any change in the information set forth in its application as such changes may occur from time to time.

[Statutory Authority: RCW 34.04.025. 84-19-058 (Order 84-1), § 236-28-030, filed 9/19/84. Statutory Authority: RCW 39.04.150. 83-02-024 (Order 83-1), § 236-28-030, filed 12/29/82.]

WAC 236-28-070 Denial or removal of contractors from small works roster—Reasons. A contractor may be denied placement on or, after such placement, may be removed from, a small works roster for any one or more of the following reasons:

- (a) The information set forth in the contractor's application is not accurate;
- (b) The contractor fails to notify the agency maintaining the small works roster of any changes in the information set forth in its original application for placement on the small works roster within thirty days of the effective date of such change.
- (c) The contractor has failed to respond to five solicitations for bids on jobs offered through the small works roster;
- (d) The contractor's past performance demonstrates a lack of qualification in any specialty area indicated by the contractor in the application for placement on the small works roster;
- (e) The contractor fails to complete and return to the agency maintaining the small works roster any periodic update submitted by the agency to determine the contractor's ongoing interest in maintaining its placement on the small works roster.

[Statutory Authority: RCW 39.04.150. 83-02-024 (Order 83-1), § 236-28-070, filed 12/29/82.]

WAC 236-28-080 Denial or removal from roster—Notice and hearing. Whenever the agency maintaining a small works roster believes that grounds exist for denying an application for placement on a small works roster, or removing the name of a contractor from a small works roster, notice of said grounds shall be given to the contractor by first-class mail. If the contractor fails to object or request a hearing within twenty days after the mailing of said notice, then the denial or removal shall be made effective. If the contractor requests a hearing within forty-five days after the mailing of the notice, then a hearing will be conducted in accordance with chapter 34.04 RCW.

[Statutory Authority: RCW 39.04.150. 83-02-024 (Order 83-1), § 236-28-080, filed 12/29/82.]

Chapter 236-47 WAC
DIVISION OF PURCHASING

WAC

236-47-001	Purpose.
236-47-002	Authority.
236-47-003	Designation of the state agency.
236-47-004	Statement of policy.
236-47-005	Eligibility.
236-47-006	Terms and conditions.
236-47-007	Compliance and utilization.
236-47-008	Financing and service charges.
236-47-009	Inventory controls and accounting systems.
236-47-010	Return of donated property.
236-47-011	Nonutilized donable property.
236-47-012	Audit.
236-47-013	Consultation with advisory bodies and private groups.
236-47-014	Cooperative agreements.
236-47-015	Forms.
236-47-016	Records retention.
236-47-017	Liquidation.

WAC 236-47-001 Purpose. The purpose of this chapter is to set forth rules and regulations applicable to the acquisition, warehousing, and distribution of federal surplus property by, through, or under the authority delegated by the state purchasing division. This chapter constitutes the state of Washington plan of operation required by 40 U.S.C. § 484 (j) and 41 C.F.R. § 101-44.202. (Exhibit 12.)

[Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-001, filed 6/8/84.]

WAC 236-47-002 Authority. The director, department of general administration, state of Washington, is authorized by RCW 39.32.010 through 39.32.060, to acquire, warehouse, and distribute surplus property to all eligible donees in the state. Authority is granted under RCW 39.32.020 to enter into cooperative agreements (Exhibit 1).

Prior to submission of this plan to the administrator of general services administration (GSA), general public notice of the proposed plan was published for a period of sixty calendar days and interested parties were given a period of thirty calendar days in which to submit comments. These comments, as well as the relative needs and resources of all public agencies and other eligible donees, were considered in developing the plan of operation.

[Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-002, filed 6/8/84.]

WAC 236-47-003 Designation of the state agency. The plan shall be administered by the property redistribution office (PRO), material management center, department of general administration. This office has complete responsibility and authority to carry out the requirements of acquiring, warehousing, and distributing federal surplus property in the state of Washington pursuant to the provisions of the Federal Property and Administrative Services Act of 1949, as amended. This office is supervised by the surplus commodities supervisor for state/federal surplus property. Staffing, structure, and organizational status are shown in Exhibit 2.

[Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-003, filed 6/8/84.]

WAC 236-47-004 Statement of policy. The state agency operates a "want list" oriented system to serve eligible donees and will aim for direct shipment of allocated items from the holding agencies to the donee's place of intended use. Donees are encouraged to submit a listing of items needed. The state agency employees will be guided by these requests in their search and selection of property. This equipment will be distributed on the basis of need, resources, and ability to utilize the property.

Small miscellaneous items will be available from the distribution center, eight hours per day, five days per week. Bulletins are mailed to all donees listing property available in the distribution center. They are mailed on Fridays to provide equal opportunity for all donees on Monday to telephone their requests.

The state agency will recommend to GSA the certification of donee screeners which are qualified and required in accordance with FPMR 101-44.116.

The state agency will make distribution of available property to eligible organizations in the state on a fair and equitable basis determined by their relative needs, resources, and ability to utilize the property. Elements of these are as follows:

- (1) Relative needs:
 - (a) Interest and expression of need on the part of the donee in the property available;
 - (b) Type and quantity of property received by donee to date;
 - (c) Economic condition of agency, activity, or institution;
 - (d) Critical or urgent need;
 - (e) Geographic location (urban, suburban, or rural).
- (2) Relative resources:
 - (a) Availability and sources of funds (grants, donations, taxes);
 - (b) Equipment availability;
 - (c) Alternate resources available.
- (3) Ability to utilize:
 - (a) Ability of the donee to select and remove property from the distribution center or federal activity on a timely basis;
 - (b) Contemplated length of time and frequency of use;
 - (c) When item can be put in use;
 - (d) Ability to repair or maintain property.

Where competing requests are received for property items, the state agency will make a determination as to the donee based on the evaluation of the criteria above.

Donees which suffer or experience a loss of property due to a local disaster such as fire, flood, tornado, etc., will be given a temporary priority for all requested property. Special efforts will be made to locate and distribute needed property to them.

[Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-004, filed 6/8/84.]

WAC 236-47-005 Eligibility. The state agency will contact and instruct all known potential donees in the state on the procedures to follow in establishing their eligibility to participate in the surplus property program. Contacts will be made by letter, telephone calls, meetings and conferences

with the groups listed below, supplemented when necessary by news releases and informational bulletins.

(1) In establishing a listing of the potential donees the state agency will use the standards and guidelines set forth in FPMR 101-44.207 as well as the following sources:

(a) Public agencies:

(i) Listings of cities and towns;

(ii) Listings of counties, judiciary, state departments, divisions, councils, commissions, institutions, etc.;

(iii) Listings of local departments, divisions, commissions, councils, etc.

(b) Nonprofit tax-exempt units:

(i) State departments and others for listings of all local units approved or licensed by them;

(ii) Existing listings of units now eligible to participate in the surplus property program;

(iii) Inquiries, letters, telephone calls, etc., received relative to eligibility.

(2) As a condition of eligibility each unit will be required to file with the state agency:

(a) An **application for eligibility** signed by the chief executive/administrative officer accepting the terms and conditions under which the property will be transferred.

(b) A written authorization signed by the chief executive/administrative officer of the donee activity, or a resolution of a governing board designating one or more representatives to act for the applicant, obligate any necessary funds and execute issue sheets.

(c) An **assurance of compliance** in accordance with GSA regulations and requirements indicating acceptance of the civil rights law which states they will not discriminate on the basis of race, color, national origin, sex, age, or handicap.

(d) The legal name of applicant, address, and telephone number and their status as a public agency or nonprofit tax-exempt educational or public health unit.

(e) Proof of tax exemption under Section 501 of the Internal Revenue Code of 1954 (for nonprofit units only).

(f) Proof that the applicant is approved, accredited, or licensed in accordance with FPMR 101-44.207.

(g) Details and scope of their program including different activities and functions.

(h) Listing as to the types and kinds of equipment, vehicles, machines, or other items needed.

(i) Financial information to help in evaluating their relative needs and resources.

Eligibility approvals of all skilled nursing homes, intermediate care facilities, alcohol and drug abuse centers, programs for older individuals, and any other programs that are certified, approved, and/or licensed will be updated each year. All other approvals of eligibility will be updated every three years.

[Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-005, filed 6/8/84.]

WAC 236-47-006 Terms and conditions. As a condition of eligibility, the donee will be required to file an application for eligibility with the state agency. Each form must be signed by the chief executive/administrative officer of the donee organization agreeing to the requirements prior to the donation of any surplus property. The certifications

and agreements, and the terms, conditions, reservations and restrictions are printed on this document and on the reverse side of each state agency warehouse issue sheet and invoice (Exhibit 3).

The state agency will impose the statutory requirement that all property acquired by donees must be placed into use within one year of donation and be used for one year thereafter.

Following are periods of additional restriction established by the state agency:

(1) All passenger motor vehicles and items with a unit acquisition cost of three thousand dollars or more - an additional six-month period of restriction will be added, making a total of eighteen months from the date the property is placed in use.

(2) Aircraft (except combat-type) and vessels (fifty feet or more in length) with a unit acquisition cost of three thousand dollars or more - a total of sixty months from the date the property is placed in use. Such donations shall be subject to the requirements of the conditional transfer document (Exhibits 4 and 5).

(3) Aircraft (combat-type) - restricted in perpetuity. Donations of combat-type aircraft shall be subject to the requirements of a conditional transfer document (Exhibit 6).

When considered appropriate, the state agency may impose such terms, conditions, reservations, and restrictions as it deems reasonable on the use of donable property other than passenger motor vehicles or items with a unit acquisition cost of three thousand dollars or more.

The state agency will impose on the donation of any surplus item of property, regardless of unit acquisition cost, such conditions involving special handling or use limitations as the general services administration may determine necessary because of the characteristics of the property.

The state agency may amend, modify, or grant release of any term, condition, reservation, or restriction it has imposed on donated item of personal property.

[Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-006, filed 6/8/84.]

WAC 236-47-007 Compliance and utilization. At least once during the period of restriction, state agency personnel will review all passenger motor vehicles and issued items with an original acquisition cost of three thousand dollars or more to determine that these items are being utilized in accordance with the purposes for which acquired. Review will consist of physical inspections and written certification or utilization of property by donees.

Also during the physical review, the state agency representative will insure that the donee is complying with any special handling conditions or use limitations imposed on items of property by GSA in accordance with FPMR 101-44.108. The review will include a survey of donee compliance with the statutory requirement that all items of property acquired by the donee since the last utilization survey have been placed into use within one year of acquisition and used for one year thereafter. Written reports on utilization and compliance review will be made and placed on file.

The state agency shall provide adequate assurance that they will initiate appropriate investigations of alleged fraud in the acquisition of donated property or misuse of such

property. The FBI and GSA will be notified immediately of any cases involving alleged fraud. Further, GSA shall be advised of any misuse of donated property. The state agency will take necessary actions to prosecute cases of fraud or misuse and will assist GSA and other federal and state agencies in investigating such cases.

All passenger motor vehicles and all items having an acquisition cost of three thousand dollars or more will be identified at the distribution center by a blue stock tag. Separate warehouse issue sheets will be prepared for each of these items and will include the following statement:

Note: Compliance Item
See Terms and Conditions on the reverse side of this form

All passenger motor vehicles registered by the department of licensing will show the state agency as lien holder. When the vehicle has been used in compliance with the terms and conditions, and eighteen months of use have expired, the state agency will release the title to the donee.

[Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-007, filed 6/8/84.]

WAC 236-47-008 Financing and service charges.

A revolving fund established by legislative action finances the acquisition and distribution of federal surplus property and is designed to maintain a working capital reserve to cover one year of operational expenses. These reserve moneys are invested in interest-bearing accounts and certificates as authorized by state law.

To maintain the revolving fund, service charges are assessed at a rate designed to cover all direct and indirect costs involved in acquiring and distributing federal surplus property. Emphasis will be placed on keeping the service charge to a minimum but at the same time providing the necessary service to donees and operating the agency on a sound financial basis. Factors considered in applying service charges are: Original acquisition cost, present value, screening cost, quantity, condition, desirability of property, transportation cost, loading and unloading cost, and administrative costs. Service charge funds may be used to improve or acquire office and warehouse facilities and to purchase necessary equipment and supplies to repair and rehabilitate equipment and to purchase replacement parts.

When the working capital reserve reflects an insufficient or excessive amount, service charges will be adjusted accordingly.

As a general guide and based on the listed factors and the following exceptions, the following schedule will be used in determining service charges:

Percent	Acquisition Cost
0-30	\$ 0.00 - 200.00
0-25	\$ 201.00 - 2500.00
0-15	\$ 2501.00 - 10000.00
0-7.5	\$ 10001.00 - 25000.00
0-3	(not to exceed \$5000.00) above \$25001.00

EXCEPTIONS:

The following exceptions to the above schedule have been developed to address two important areas which are frequently encountered. These two areas are incorrect condition code assignment and acquisition cost. Corrections

of condition code or adjustment of acquisition costs will be coordinated with the GSA regional office.

Condition code - When an obviously incorrect condition code has been assigned, the correct code will be used for discount purposes.

Acquisition cost - When an incorrect acquisition cost has been detected, there will be an adjustment for service charge purposes which will reflect the correct acquisition cost. This figure will be assigned by research of available records for similar equipment or supplies, including federal stock/pricing manuals.

Special or extraordinary costs may be added to the service charge as follows:

- (1) **Rehabilitated property** - Direct costs for rehabilitating property will be added to the service charge.
- (2) **Overseas property** - Additional direct costs for returning the property may be added.
- (3) **Long-haul property** - Charges for major items with unusual costs may be added. Any such costs which are anticipated will be discussed with the donee prior to shipment.
- (4) **Special handling** - An additional charge may be made for dismantling, packing, crating, shipping, delivery, and other extraordinary handling charges.
- (5) **Screening** - Extraordinary costs incurred in screening property may be added.

Minimum service charges are assessed in cases where the state agency provides document processing only and no other direct costs are involved. Based on an analysis of state agency expenses, where direct transfers of property to eligible donees are made, the service charge will be discounted approximately twenty-five percent for locating and screening the material, and ten percent for direct pickup by the donee, based on the service charge that would have been assessed if the property had been transferred from the state agency distribution center.

[Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-008, filed 6/8/84.]

WAC 236-47-009 Inventory controls and accounting systems.

Inventory control.

The following actions will be the responsibility of the state agency in acquiring items for the distribution center inventory and subsequent reallocation to donees.

Immediately upon receipt, property is moved into a receiving area for check-in. Shipping documents and the applicable S.F. 123 and its attachments are used to check and identify property. Overage and shortage reports, and supplemental S.F. 123's will be prepared in accordance with the requirements of the Federal Property Management Regulations (FPMR) 101-44.115 and mailed to the GSA regional office. Upon verification of the description, condition, and quantity, a stock tag is prepared and attached to the commodity with the following data:

- Allocation number.
- Item number.
- Unit acquisition cost.
- Description, including serial number if applicable.
- Unit of measure.
- Unit service and handling charge.

Following verification of receiving information, individual stock record cards are prepared on all items having an individual acquisition cost of five dollars or more. All actions, including receipt, issue and inventory status, are recorded on this card. The stock record card will be retained on file for not less than three years after the property has been issued.

A complete physical inventory will be taken annually of all material in possession of the state agency. Shortages and overages are listed on the annual inventory report which is used to record inventory adjustments and must be approved by the supervisor before posting to stock cards. Adjustments are made only when all reasonable efforts have been exhausted to determine the reason for variance. A statement explaining the variances will be included in the corrected inventory report.

Accounting systems.

A state approved double entry accounting system will be used. It will include a chart of accounts, a general ledger with accounts for all assets, liabilities, income and expense, and journals for all original record of transactions. It will identify and separately account for funds accumulated from service charges. Monthly and year-end reports will be provided for management visibility and program control.

[Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-009, filed 6/8/84.]

WAC 236-47-010 Return of donated property.

When a determination has been made that property has not been put into use by a donee within one year from the date of receipt of the property or has not used the property for one year thereafter under terms and conditions of the application for eligibility, if the property is still usable the donee must:

- (1) Return the property at its own expense to the state agency distribution center. Property returned by a donee will be received into inventory stock control for reissuance to other donees; or
- (2) Retransfer the property to another eligible donee as directed by the state agency; or
- (3) Make such other disposal as the state agency may direct.

The state agency will periodically emphasize this utilization requirement when corresponding and meeting with donees and when surveying the utilization of donated property at donee facilities.

[Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-010, filed 6/8/84.]

WAC 236-47-011 Nonutilized donable property.

All property in the possession of the state agency for six months which cannot be utilized by eligible donees shall be reported to GSA for disposal authorization in accordance with FPMR 101-44.205. In accordance with this regulation the state agency shall:

- (1) Transfer the property to another state agency or federal agency; or
- (2) Sell the property by public sale; or
- (3) Abandon or destroy the property.

In the event of disposal by transfer to another state agency or by public sale, the state agency may seek such

reimbursement as is authorized in accordance with FPMR 101-44.205.

[Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-011, filed 6/8/84.]

WAC 236-47-012 Audit. An internal audit of the state agency will be conducted by the department of general administration annually.

A fiscal audit and a performance review (external audit) will be conducted every two years by the state auditor's office in accordance with normal audit procedures for a public agency. The fiscal audit and the performance review will cover the conformance of the state agency with the state plan of operation and the requirements of FPMR 101-44.202. Copies of all audits will be made available to GSA, with a full report of corrective actions taken with respect to any exceptions or violations.

GSA representatives shall review state agency operations periodically and may, for appropriate reasons, conduct its own audit of the state agency following due notice to the governor of the reasons for such audit. Financial records and all other books and records of the state agency shall be made available to all authorized federal activities.

[Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-012, filed 6/8/84.]

WAC 236-47-013 Consultation with advisory bodies and private groups.

An advisory board will be established representing both public and nonprofit donee agencies, institutions, and organizations and will be comprised of donee representatives from the various geographic locations of the state. The supervisor of the property redistribution office (PRO) will act as chairperson.

The board will meet annually or at the discretion of the chairperson. The membership may fluctuate to fully meet the interests of eligible activities in the state. The minutes of the meetings will be used to report on the donation program to the groups concerned, and the board will solicit expressions of need and interest from eligible donees so that the state agency and GSA may be advised of such requirements, including requirements for specific items of property.

Additionally, state agency staff will speak at meetings and public and private groups representing donee activities to explain the program, encourage participation and to obtain expressions of need and interest for surplus property.

[Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-013, filed 6/8/84.]

WAC 236-47-014 Cooperative agreements. The property redistribution office of the state of Washington is authorized to enter into cooperative agreements through and by the director of the department of general administration with GSA for use of property, facilities, personnel, and services, with or without payment or reimbursement, for use by the state agency of any surplus personal property in its possession subject to conditions imposed by GSA. It is the desire of the agency to continue, renew, or enter into such agreements authorized under section 203(n) of the act.

[Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-014, filed 6/8/84.]

WAC 236-47-015 Forms. Application for eligibility (Exhibit 7).

Assurance of compliance (Exhibit 8).

Resolution (Exhibit 9).

Request for surplus personal property (donee want card - SASP-117) (Exhibit 10).

Donee identification card (Exhibit 11).

Copy of terms, conditions, reservations, and restrictions on reverse side of warehouse issue/invoice document (Exhibit 3).

Conditional transfer document - noncombat type aircraft (Exhibit 4).

Conditional transfer document - vessels (Exhibit 5).

Conditional transfer document - combat type aircraft (Exhibit 6).

[Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-015, filed 6/8/84.]

WAC 236-47-016 Records retention. Copies of all S.F. 123 allocations, warehouse issue sheets, invoice documents, log books, and all other official records of the agency will be maintained for no less than three years. Documents concerning items subject to restriction will be maintained for one year beyond the expiration of the restriction period. Whenever property is in compliance status, records will be maintained for one year after the case is closed.

[Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-016, filed 6/8/84.]

WAC 236-47-017 Liquidation. Should a determination be made to liquidate the state agency, advance notice will be given to GSA in accordance with the specific requirements of FPMR 101-44.202 (c)(14) indicating the reason for such action including a schedule of time to effect the closure and a report of the property on hand for retransfer, sale, or destruction. Assets will be converted to cash and will be divided among the participating donees of the past two years based on a proration of the amount of service charges paid by each donee during the period. Records and accounting information will be retained for two years after closure.

[Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-017, filed 6/8/84.]

Chapter 236-48 WAC OFFICE OF STATE PROCUREMENT

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

236-48-001	Promulgation. [Promulgation, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-010	Bids—In general. [§ 1, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-020	Bidder's mailing list application. [§ 2, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-022	Criteria for qualification. [Order 77-2, § 236-48-022, filed 1/28/77.] Repealed by 83-18-004 (Order 83-03), filed 8/26/83. Statutory Authority: Chapter 43.19 RCW.

- 236-48-030 Bid forms. [§ 3, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
- 236-48-040 Telegraphed bids. [§ 4, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
- 236-48-050 Telephone bids. [§ 5, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
- 236-48-060 Hand carried bids. [§ 6, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
- 236-48-070 Letter bids. [§ 7, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
- 236-48-080 Standard specifications. [§ 8, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
- 236-48-090 Acceptance, rejection of bids. [§ 9, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
- 236-48-100 Time of bids. [§ 10, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
- 236-48-110 Alteration of bid prohibited. [§ 11, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
- 236-48-120 Handling of bids at opening. [§ 12, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
- 236-48-130 Delivery date guarantee. [§ 13, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
- 236-48-140 Complaints. [§ 14, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
- 236-48-150 Breach of contract. [§ 15, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
- 236-48-160 Penalty. [§ 16, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
- 236-48-161 Performance bonds. [Order 77-2, § 236-48-161, filed 1/28/77.] Repealed by 89-17-094 (Order 89-02), filed 8/22/89, effective 9/22/89. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538.
- 236-48-200 Sale of surplus property to state elected officials or employees. [Order 75-7, § 236-48-200, filed 9/12/75.] Repealed by Order 77-1, filed 1/28/77.

WAC 236-48-002 Purpose. The purpose of this chapter is to set forth rules and regulations applicable to the purchase or sale of goods and services by, through, or under authority delegated by, the office of state procurement.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-002, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-002, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-002, filed 1/28/77.]

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

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

(2) **Alternate.** Goods and services which are not at least a functional equal in features, performance or use of the brand, model or specification designated as the standard.

(3) **Bid.** A written offer to perform a contract to purchase or supply goods or services in response to an invitation for bid.

(4) **Bidder.** A supplier who submits a bid or quotation.

(5) **Bidder's bond.** As used in RCW 43.19.1915 shall mean either a bid guarantee or performance guarantee as addressed herein.

(6) **Buyer.** An employee of the office of state procurement designated as a buyer, contract administrator, or similar designation by the director, including, where appropriate, the

director and other management personnel. Also, authorized employee(s) of a purchasing activity.

(7) **Confidential information.** Any information meeting the criteria in RCW 42.17.310.

(8) **Contractor.** Individual, company, corporation, firm, or combination thereof with whom purchaser develops a contract for the procurement of goods and services.

(9) **Delegated authority.** Authority to purchase goods and services delegated to an agency by office of state procurement pursuant to RCW 43.19.190(4) and which is delegated in three forms:

(a) General. Those purchases delegated annually by the office of state procurement which are common to multiple state agencies.

(b) Specific. Those purchases delegated annually to specific agencies for continuing individual commodity requirements.

(c) Limited. Those purchases delegated to a specific agency for one-time commodity requirements.

(10) **Direct buy limit.** Dollar amount established by the supply management advisory board pursuant to RCW 43.19.1906(2) below which competitive acquisition is not required.

(11) **Director.** Except where otherwise specifically noted shall mean the state purchasing and material control director, who is the assistant director, office of state procurement.

(12) **Emergency purchase.** A purchase made pursuant to RCW 43.19.200.

(13) **Equal.** Goods and services which meet or exceed the quality, performance and use of the brand, model, or specifications in the invitation for bid or request for quotation.

(14) **Fair market price.** The price determined pursuant to RCW 43.19.530.

(15) **Formal sealed bid procedure.** Procedure by which the buyer solicits written competitive bids from a sufficient number of prospective bidders drawn from established supplier lists and from any other source thought to be of advantage to the state to assure adequate price and product competition by means of a written invitation for bid (IFB) setting forth specifications and all material and objectively measurable criteria for the intended purchase. All bids are to be submitted in sealed envelopes to the location indicated in bid documents and must be received by the time indicated therein. No disclosure of bids or bid information is made prior to the public bid opening. After the public bid opening, all bid information shall be referred to the buyer and treated as confidential working papers until after award at which time all bids become public information. The award is to be made in accordance with RCW 43.19.1911.

(16) **Goods and/or services.** Material, supplies, services, and equipment offered for sale by a supplier(s) and required by an agency to accomplish continuing and necessary functions and not otherwise statutorily exempted from chapter 43.19 RCW as a personal service under RCW 39.29.006(8); an architectural and engineering service under RCW 39.80.020(5); or data information systems and telecommunications equipment, software, and services under chapter 43.105 RCW.

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

(18) **Invitation for bid.** The form utilized to solicit bids in the formal, sealed bid procedure and any amendments thereto issued in writing by the buyer.

(19) **Office of state procurement.** The division of purchasing of the department of general administration in RCW 43.19.180 et seq. Whenever a purchase or sale is made by the office of state procurement on behalf of another agency, the office of state procurement is acting in the capacity of agent for such agency.

(20) **Purchase.** Shall include purchase, lease, renting or lease-purchase of goods and services.

(21) **Purchasing activity.** The office of state procurement or an agency authorized by state statute to conduct acquisition of goods and services or delegated that authority by the office of state procurement.

(22) **Quotation.** An offer to perform a contract to supply goods and services in response to a request for quotation.

(23) **Recovered material.** Goods containing recovered materials as defined in RCW 43.19.537 et seq. and federal, regional, or state guidelines approved by the director.

(24) **Request for quotation.** The form used when purchases are solicited in accordance with RCW 43.19.1906(2). The request and the quote in response may be either written or oral as specified by the buyer.

(25) **Requisition.** A standard state form which serves as a procurement request and which requests the office of state procurement to purchase stated requirements.

(26) **Sealed bid limit.** That dollar amount established by RCW 43.19.1906 or pursuant thereto above which the formal sealed bid procedure will be used. Said amount may be lowered by the director to maintain full disclosure or competitive procurement or otherwise achieve overall state efficiency and economy.

(27) **Single source purchase.** A purchase of goods or services which is clearly and legitimately limited to a single source of supply.

(28) **Specifications.** The explicit requirements furnished with an invitation for bid or request for quotation upon which a purchase order or contract is to be based. Specifications set forth the characteristics of the goods and services to be purchased or sold so as to enable the bidder or supplier to determine and understand that which is to be supplied or sold. This information may be in the form of a description of the physical or performance characteristics, a reference brand name or both. It may include a description of any requirement for inspecting, testing, or preparing a material, equipment, supplies, or service for delivery.

(29) **State contract.** Contracts for goods and/or services administered by office of state procurement on behalf of agencies. The contract document will identify the conditions under which usage by agencies is required.

(30) **Supplier.** A vendor of purchased goods and services.

(31) **Supplier list.** List of potential bidders maintained by the office of state procurement from which names may be drawn for solicitation of bids/quotes.

(32) **Used equipment.** Goods offered for sale to the state which do not have a full factory warranty and which are not being rented, leased, or otherwise in the actual possession of the state agency considering the purchase at the time of the purchase transaction.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-003, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-003, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-003, filed 1/28/77.]

WAC 236-48-004 Procedure followed in the solicitation of bids. Whenever practicable the governing standard for purchases of goods and services exceeding the sealed bid limit by purchasing activities is the formal sealed bid procedure. Invitations to bid may call for bid prices with and without trade-in.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-004, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-004, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-004, filed 8/26/83; Order 77-2, § 236-48-004, filed 1/28/77.]

WAC 236-48-005 Exceptions to formal sealed bid procedure. Purchases meeting the following criteria and within an agency's statutory purchase authority or the purchase authority delegated to that agency by office of state procurement need not be purchased by formal sealed bid:

(1) **Emergency purchase.** Unless revoked by the office of state procurement, all agencies have the delegated authority to conduct emergency purchases pursuant to RCW 43.19.200.

(2) Purchases not exceeding the sealed bid limit unless the director specifically requires a formal sealed bid.

(3) **Single source or special facilities, services or market conditions.** Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions may be acquired through direct negotiation with documented source selection.

(4) **Used equipment.** The purchase of used equipment from private suppliers is generally considered by the office of state procurement to be a purchase falling within the exception set forth in subsection (3) of this section. A state agency desiring to purchase used equipment shall be responsible to determine what used equipment is available on the market and properly record this search. All agencies have delegated authority to purchase used equipment for less than the sealed bid limit provided that the purchase file located at the state agency shall be fully documented with agency determination as to market competitiveness of price and source selection. For purchases of used equipment exceeding the sealed bid limit, a purchase requisition is to be submitted to office of state procurement with two written appraisals and justification for the acquisition of used equipment including documentation to sufficiently establish market competitiveness of pricing and proposed source selection. All appraisals must be from competent firms or

persons not associated with the supplier or agency and certify whether a physical inspection of the used equipment was conducted and that the price is competitive with the market for comparable equipment. The appraisals will normally be made by individuals or firms knowledgeable of a particular market, not just knowledgeable of the equipment. For purchases exceeding the sealed bid limit, the appraisals must include a statement as to the price of like goods if purchased new (e.g., with full factory warranty). All equipment with full factory warranty shall be purchased as new equipment.

(5) Purchases from correctional industries and other suppliers who, under law, receive a preference.

(6) Purchases from sheltered workshops and programs of the department of social and health services based upon fair market price as determined pursuant to RCW 43.19.520 et seq.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-005, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-005, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-005, filed 8/26/83; Order 77-2, § 236-48-005, filed 1/28/77.]

WAC 236-48-009 Bids in general. All bids or quotes are subject to the invitation for bid or request for quotations, the specifications and plans, the applicable contract terms and conditions and the rules and regulations set forth in this chapter. In the event of conflict among any of the above the following order shall govern:

- (1) Rules and regulations;
- (2) Specifications and plans; and
- (3) Applicable contract terms and conditions.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-009, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-009, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-009, filed 1/28/77.]

WAC 236-48-011 Public notice. A listing or copy of all purchases being made through formal sealed bid by or through the office of state procurement shall be posted in the foyer of the Office of State Procurement, Room 216, General Administration Building, Olympia, Washington 98504. Purchases made by colleges or universities shall be posted or otherwise publicized by the purchasing office of that college or university.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-011, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-011, filed 8/26/83; Order 77-2, § 236-48-011, filed 1/28/77.]

WAC 236-48-012 Bidding or quoting time. The bidding or quoting time shall be as determined by the buyer involved. All invitations for bid shall provide sufficient time to allow bidders an opportunity to prepare and submit their bid. The buyer shall have the discretion to lengthen or shorten bid or quote times, should special circumstances or needs dictate a shorter or longer time frame. When extending or shortening the time allowed to submit a bid or quote, the buyer is to issue an addendum notifying bidders of the revised opening/due date. If it is determined that regular

mail will not reach bidders in time to respond, the buyer shall attempt to notify each prospective bidder by telephone or other available means of communication. All bids must be received by the time specified for bid opening. No deviations will be allowed. Late bids will be returned unopened unless retention is deemed by the director to be in the best interests of the state. Quotations must be received by close of the normal business day on the date indicated. Late quotations will not be considered or returned to bidders. Time of receipt will be determined by the official time stamp located at the purchasing activity.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-012, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-012, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-012, filed 8/26/83; Order 77-2, § 236-48-012, filed 1/28/77.]

WAC 236-48-013 Amendment of invitation to bid. An invitation for bid may be changed or amended by the buyer involved, provided the change is issued in writing prior to the bid opening date. Any material information provided a prospective bidder with regard to an invitation for bid, shall be furnished in writing by the buyer to all bidders receiving a copy of the original invitation. Oral interpretations of contract terms and conditions shall not be binding on the state unless confirmed in writing by the buyer.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-013, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-013, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-013, filed 1/28/77.]

WAC 236-48-021 Supplier lists. Supplier lists are categorized according to specific categories of purchased goods and services and are maintained and updated by the office of state procurement. Such lists are used by buyers to determine suppliers from which to solicit bids. Due to cost considerations not all suppliers are solicited for each bid invitation. In order to be considered for inclusion on a supplier list, suppliers must apply to the office of state procurement. A purchasing activity may deny issuance of a bid to a prospective supplier until such supplier registers on a supplier list when requested. The office of state procurement may deny or limit placement on supplier list(s) for reason(s) outlined under WAC 236-48-024.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-021, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-021, filed 8/22/89, effective 9/22/89; Order 77-2 § 236-48-021, filed 1/28/77.]

WAC 236-48-023 Nonacceptance. If an application to be placed on a supplier list is refused, the applicant shall be advised in writing as to the reason for nonacceptance and how the applicant might qualify in the future.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-023, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-023, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-023, filed 1/28/77.]

WAC 236-48-024 Removal or suspension. The director, or designee, may remove or suspend a supplier

from any supplier list(s) for cause. Examples of reasons for removal or suspension include but are not limited to the following:

- (1) Illegal act(s);
- (2) Repetitive failure to respond to invitations to bid;
- (3) Unreasonable number of "no bid" responses;
- (4) Any material failure to perform, e.g., delivery, quality;
- (5) Any significant detrimental change in supplier status, e.g., financial condition, lines carried, service ability;
- (6) Unauthorized product substitution, or representation of an alternate as an equal; or
- (7) Discriminatory practices.

Any supplier so removed or suspended shall be notified in writing of the reason(s) therefore, the conditions of any removal or suspension, and/or corrective action required for reinstatement.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-024, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-024, filed 8/26/83; Order 77-2, § 236-48-024, filed 1/28/77.]

WAC 236-48-025 Appeal. Any supplier removed from a supplier list or who is not placed upon such list after request, may appeal the decision to the director or designee. If such an appeal is made, it must be submitted in writing within ten days of notification of the action taken.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-025, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-025, filed 1/28/77.]

WAC 236-48-026 Reapplication or reinstatement. If a supplier's application to be placed on a supplier list has been refused, or if a supplier has been removed or suspended from such list, that supplier may reapply to be placed on such list, or apply for reinstatement when the conditions for reinstatement have been met.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-026, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-026, filed 1/28/77.]

WAC 236-48-035 Bid guarantee. When required in the invitation for bid, all bidders shall provide with their bid a bid guarantee unilaterally payable to the purchasing activity. The amount of the bid guarantee shall be identified in the invitation for bid in dollars and shall be sufficient to redress damages to the state in the event of bidder withdrawal as determined by the buyer. Bid guarantees may be in the form of a certified check, cashier's check, escrow agreement, or irrevocable letter of credit drawn on a separate account in a banking or savings and loan institution regulated by the state of Washington or federal government, cash or a surety bond with a surety company. Surety bonds or escrow agreements must be on a form approved by the purchasing activity. Personal or company checks are not acceptable. Failure to submit a bid guarantee in the specified form will be a cause for rejection. Bid guarantees shall be returned to bidders after award of contract. Interest will not be paid on funds deposited directly with the state. Bidders who regularly conduct business with the purchasing activity shall be permitted to file an annual bid guarantee in lieu of bid

guarantees for individual contracts in an amount determined by the purchasing activity. When a bid guarantee is submitted, the bidder covenants that he/she will accept a contract award. Violation of this covenant will result in forfeiture of the bid guarantee and payment of the same into the Washington state treasury as and for liquidated damages.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-035, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-035, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-035, filed 1/28/77.]

WAC 236-48-036 Performance guarantees. When required in the invitation for bid the successful bidder shall post a performance guarantee unilaterally payable to the purchasing activity after notice of award. The amount of the performance guarantee shall be identified in the invitation for bid in dollars and/or a percentage of contract worth sufficient to redress damages to the state in the event of breach by the contractor(s). The required performance guarantee shall be in the form of a certified check, cashier's check, escrow agreement, or irrevocable letter of credit drawn on a separate account in a banking or savings and loan institution regulated by the state or federal government, cash, surety bond with a surety company. Surety bonds or escrow agreements must be on a form approved by the purchasing activity. Personal or company checks are not acceptable. The performance guarantee shall be held by the state or deposited to the state account until contract terms have been fully executed to the satisfaction of the state. Interest will not be paid on funds deposited directly with the state. Failure to submit a performance bond as required in the invitation for bid shall be grounds for contract termination.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-036, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-036, filed 8/22/89, effective 9/22/89.]

WAC 236-48-041 Telegraphed bids. Telegraphed bids will not be accepted unless approved in advance by the buyer. Telegraphed withdrawals of bids will be accepted on all bids, provided they are received in written form before the opening of bids.

[Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-041, filed 8/26/83; Order 77-2, § 236-48-041, filed 1/28/77.]

WAC 236-48-051 Telephone bids. Telephone bids will not be accepted unless solicited under emergency purchase procedures. Telephone withdrawals of bids will not be accepted.

[Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-051, filed 8/26/83; Order 77-2, § 236-48-051, filed 1/28/77.]

WAC 236-48-052 Facsimile bids. Facsimile bids will not be accepted under any circumstances. A facsimile withdrawal of a bid or quotation may be accepted, provided that it is received prior to opening of bids or quotations, it meets the approval of the buyer and is immediately confirmed in writing.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-052, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-052, filed 8/22/89, effective 9/22/89.]

WAC 236-48-061 Hand carried bids. Hand carried bids must be delivered to the bid supervisor at the purchasing activity or placed in a secure bid depository in the purchasing activity on or before the bid opening time stipulated on the invitation for bid.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-061, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-061, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-061, filed 1/28/77.]

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

Bids must be filled out in ink or with typewriter and properly signed by an authorized representative of the bidder. All changes and/or erasures shall be initialed in ink. The buyer may declare that a quotation (not a bid) prepared in pencil is an informality and may accept and consider a clear pencil quotation. Unsigned bids will be rejected on opening. However, the buyer may accept such bids if it is determined that satisfactory evidence was submitted prior to bid opening which clearly indicates the bidder's desire to be bound by his/her bid such as a signed cover letter or bid bond.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-071, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-071, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-071, filed 8/26/83; Order 77-2, § 236-48-071, filed 1/28/77.]

WAC 236-48-079 Standard specifications. Specifications contained in the invitation for bid will, where practical, be nonrestrictive so as to provide an equal basis for competition and participation by an optimum number of qualified bidders. Unless otherwise specifically provided in the invitation for bid, reference to any equipment, material or supplies by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. All bids which offer a different trade name, make, or catalog number must state whether the item offered is an equal or an alternate, and literature which describes the item offered must be provided when available. The final decision as to whether an item is an equal or an alternate shall rest with the purchasing activity. In the absence of a bidder's statement of a bid being an "alternate" it shall be evaluated as an "equal."

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-079, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-079, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-079, filed 8/26/83; Order 77-2, § 236-48-079, filed 1/28/77.]

WAC 236-48-081 Interpretation of specifications. In the event of discrepancies or omissions in the bid specifications, or doubt as to their meaning, the supplier shall immediately notify the purchasing activity in writing. In

response, written instructions and/or addenda as required shall be sent to suppliers receiving the initial bid document. The purchasing activity will not be responsible for oral interpretations not confirmed in writing by the purchasing activity prior to the time stipulated in the bid opening.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-081, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-081, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-081, filed 1/28/77.]

WAC 236-48-082 Request for samples, descriptive literature. When required in the invitation for bid the buyer may require samples, competitive demonstrations, and/or descriptive literature at the bidder's expense. Unless approved in advance by the buyer, samples must be identified with the invitation for bid number. If not received within a reasonable period of time, as determined by the buyer, a bid may be rejected. If not destroyed in testing or required for quality control, bidders may request return of samples at their expense. Samples not claimed within ten days after written or verbal notification will be disposed of by the purchasing activity.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-082, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-082, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-082, filed 8/26/83; Order 77-2, § 236-48-082, filed 1/28/77.]

WAC 236-48-083 Acceptance of alternate bid/quote. The buyer shall be under no obligation whatever to accept alternate bids or quotes but shall have the discretion to accept a bid or quote if it substantially conforms to the bid specifications. Unless their bid is clearly identified as an alternate, bidders warrant the goods and services bid to be at least equal to specifications on the invitation for bid or request for quotation and shall submit with their bid or quotation complete documentation sufficient to so establish. Bids without sufficient documentation may be rejected. If a bidder misrepresents their bid as being an equal when it is an alternate, their bid may be rejected and bidder will be liable for damages caused by the misrepresentation.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-083, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-083, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-083, filed 1/28/77.]

WAC 236-48-084 Prebid conferences. Prebid conferences may be scheduled to address any questions regarding the invitation for bid. Changes to the invitation for bid shall not be binding upon the state unless confirmed in writing by the purchasing activity prior to bid opening.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-084, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-084, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-084, filed 1/28/77.]

WAC 236-48-085 In-state preference bids. In accordance with the Laws of 1983 and chapter 43.19 RCW, the director of general administration shall compile a list of

each state, relating to state purchasing, which statutes or regulations the director believes grant a preference to suppliers located within that state or to goods manufactured within that state. This list shall be updated on an annual basis and shall include only those states with currently active in-state preference clauses for procuring goods and services and the list shall contain the percentage of preference allowed. States with only reciprocity legislation will not be included on the list. The office of state procurement will be responsible for the official compilation of the list and notification to impacted state agency, college and university purchasing offices. The notification shall be made by office of state procurement circular letter.

For the purposes of determining whether to assess a percentage penalty against a supplier's bid, and the amount of that penalty, the buyer in charge of the bid will consider only the business address from which the bid was submitted. It is recognized that under certain circumstances this will adversely affect bidders with in-state operations whose bids are prepared centrally in an out-of-state office.

Buyers will add the appropriate percentage penalty to each bid bearing the address from a state with in-state preference rather than subtracting a like amount from Washington state bidders.

This action will be used only for bid analysis and award. In no instance shall the increase be paid to a supplier whose bid is accepted.

This WAC section applies only to formal invitations for bid solicited in accordance with chapter 43.19 RCW.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-085, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-085, filed 8/26/83.]

WAC 236-48-093 Award. A contract shall be awarded to the lowest responsible and responsive bidder based upon, but not limited to, the following criteria where applicable and only that which can be reasonably determined:

(1) The price and the effect of term discounts (not less than thirty calendar days after receipt of goods or correct invoice, whichever is later). Consideration may be given to business and occupation tax returns from in-state suppliers and local sales and use tax cost differences between in-state suppliers. Price may be determined by life cycle costing if so indicated in the invitation for bid.

(2) The conformity of the goods and/or services bid with invitation for bid or request for quotation specifications depicting the quality and the purposes for which they are required.

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

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

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

(6) The quality of performance on previous contracts for purchased goods or services.

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

(8) Servicing resources, capability and capacity.

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

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

(11) The effect of reciprocity assessments, MWBE, correctional industries or other preferences defined by statute or rule.

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

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-093, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-093, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-093, filed 8/26/83; Order 77-2, § 236-48-093, filed 1/28/77.]

WAC 236-48-094 Partial award. A buyer shall have the discretion to award on an "all or nothing" basis or to accept any portion of the items bid, excluding others unless the bidder stipulates all or nothing on their bid.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-094, filed 4/12/91, effective 5/13/91; Order 77-2, § 236-48-094, filed 1/28/77.]

WAC 236-48-095 Exception to award to lowest responsible bidder. Whenever, in the judgment of the purchasing activity, there is a reason to believe that the lowest responsible and responsive bid is not the best bid obtainable, all bids may be rejected and the purchasing activity may call for new bids or enter into direct negotiations to achieve the best possible bid.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-095, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-095, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-095, filed 1/28/77.]

WAC 236-48-096 Bid award preference. In conducting purchases of goods and/or services, preference shall be given to the extent allowed by statute:

(1) Under RCW 43.19.536, to those goods and services produced in whole or in part by Class II inmate programs operated by the department of corrections. These goods and services shall be purchased from correctional industries through state contracts administered by the department of general administration, unless upon application by a state agency, the legislature or departments, the director of the department of general administration, or his or her representative, finds that:

(a) The correctional industries products or services do not meet the reasonable requirements of the applicant/agency, legislature or department;

(b) The correctional industries products or services are not of equal or better quality; or

(c) The correctional industries price for the product or service is higher than that available in the private sector.

However, goods or services produced by Class II correctional industries programs which primarily replace goods manufactured or services obtained from outside the state of Washington are not subject to the criteria contained in subsection (1) of this section, and shall be purchased solely from correctional industries.

(2) To bids responsive to invitations for bid with minority and women's business enterprises (MWBE) goals pursuant to chapter 39.19 RCW and chapter 236-40 WAC.

(3) To goods containing recovered material provided that the buyer sets forth in the invitation for bid a minimum percent content of recovered material that must be certified by the bidder and the producer of the goods to qualify for the preference. Bids for goods so certified shall be given a preference of ten percent of the amount of the bid in determining the lowest responsive bid for any item or grouping of items to be awarded to a single bidder. This preference shall be separate from and applied after any other preferences allowed by statute. The minimum content of recovered material shall be not less than fifteen percent provided that for those goods for which the Environmental Protection Agency has adopted procurement guidelines under the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 U.S.C. § 6901 et seq.), as amended, the minimum content of recovered material shall not be less than specified in the most current adopted issue of those guidelines. Bidders shall certify the post consumer and recovered or waste material content at the time of submitting bid. To qualify for the preference, the goods shall otherwise be at least functionally equal to all other invitation for bid specifications and use requirements. The preference shall be used for bid evaluation purposes only and the actual dollars bid shall be the contracted amount. In the event of a tie for lowest responsive bid between products otherwise meeting all bid specifications, the buyer shall consider the larger post consumer material content as a factor in determining the award. Should the buyer determine that the use of this preference does not encourage the use of more recovered material for reasons including inadequate competition, economics, environmental constraints, quality or availability, the buyer shall issue, consider and award bids without the preference. For the purpose of meeting Resource Conservation and Recovery Act requirements for state agency purchase of goods complying with Environmental Protection Agency recovered or waste guidelines, the office of state procurement may adopt specifications requiring that only goods meeting these guidelines are responsive and may consider bids for such goods though the cost exceeds ten percent of goods not meeting such guidelines.

[Statutory Authority: RCW 43.19.534. 94-21-017, § 236-48-096, filed 10/6/94, effective 11/6/94. Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-096, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-096, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-096, filed 8/26/83; Order 77-2, § 236-48-096, filed 1/28/77.]

WAC 236-48-097 Standard notice of award. A standard contract, or in the case of a direct purchase, a purchase order or field order, will normally be mailed to the successful bidder.

[Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-097, filed 8/26/83; Order 77-2, § 236-48-097, filed 1/28/77.]

WAC 236-48-098 Rejection. No rejection notice will be sent to unsuccessful bidders submitting higher bid/quote pricing than awarded. Bidders whose bids are lower than

the lowest responsive bidder will be rejected as nonresponsive and will be notified of the reasons for such rejection.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-098, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-098, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-098, filed 8/26/83; Order 77-2, § 236-48-098, filed 1/28/77.]

WAC 236-48-099 Acceptance of terms. Acceptance of bids or quotes shall be expressly limited to the terms and conditions of the invitation for bid or request for quotation issued by the purchasing activity. All material alterations, additional or different terms proposed by the bidder shall be and are rejected unless otherwise provided for in writing by the director or their designee.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-099, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-099, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-099, filed 8/26/83; Order 77-2, § 236-48-099, filed 1/28/77.]

WAC 236-48-101 Time of bids. All bids and withdrawals must be received on or before the time specified for bid opening at the place designated in the invitation for bid. No deviations will be allowed and late bids or withdrawals will be returned unopened. All bids shall be date and time stamped, prior to opening. Precautions will be taken to ensure security of bids. Bids which are received but which do not identify the invitation for bid or the time for bid opening may be opened but solely for identification purposes, and only by officially designated personnel.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-101, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-101, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-101, filed 1/28/77.]

WAC 236-48-111 Handling of bids at opening. The person designated as official bid supervisor shall decide when the time set for bid opening has arrived and shall so declare to those present. The bid supervisor shall then personally and publicly open all bids and read pertinent information as determined by the office of state procurement for recording. The bid form may not be completed, signed, amended or clarified after official opening time. The bid supervisor will, on request, read the documents in detail provided that sufficient time is available. Bids must remain under the control of the bid supervisor or staff.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-111, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-111, filed 1/28/77.]

WAC 236-48-121 Mistakes in bid detected prior to bid opening. Mistakes in bids detected prior to bid opening may be corrected by the bidder by withdrawing the original bid and submitting a corrected bid to the purchasing activity before the bid opening. If there is not sufficient time prior to bid opening to withdraw the original bid and submit a corrected bid, the bidder, or an authorized representative, may correct the mistake on the face of the original bid: *Provided*, That the corrected bid is time stamped by the

purchasing activity upon resubmission prior to the time designated in the invitation for bid.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-121, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-121, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-121, filed 1/28/77.]

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

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-122, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-122, filed 1/28/77.]

WAC 236-48-123 Disclosure of bid information. After award and distribution, the bids and quotes of all bidders shall be open to public inspection at the offices of the purchasing activity during normal office hours. Copies of documents subject to public disclosure will be made available upon request in accordance with purchasing activity policy. Bidders must provide a self addressed stamped envelope to obtain invitation for bid or request for quotation results. A copy of awarded purchase order or contract will be provided. Unless noted to the contrary in this invitation for bid or request for quotation, the purchasing activity assumes no responsibility for the confidentiality of bids after award.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-123, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-123, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-123, filed 8/26/83; Order 77-2, § 236-48-123, filed 1/28/77.]

WAC 236-48-124 Minor informalities or irregularities in bids or quotes. The purchasing activity reserves the right to waive minor informalities or irregularities as defined in WAC 236-48-003.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-124, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-124, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-124, filed 8/26/83.]

WAC 236-48-131 Cancellation of invitation to bid or rejection of all bids. The purchasing activity reserves the right to reject all bids or quotations or to cancel an invitation or request for quotation. Examples of reasons for cancellation of an invitation, or request, or rejection of all bids are:

- (1) Inadequate or ambiguous specifications.
- (2) Specifications have been revised.

(3) Supplies or services being purchased are no longer required.

(4) Change in agency requirements.

(5) All bids are deemed unreasonable or sufficient funds are not available.

(6) Bids were not independently arrived at, or were submitted in bad faith.

(7) A determination is made that all the necessary requirements of the bid process have not been met.

(8) Insufficient competition.

(9) For reasons which indicate that cancellation or rejection of all bids is clearly in the best interest of the state.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-131, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-131, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-131, filed 8/26/83; Order 77-2, § 236-48-131, filed 1/28/77.]

WAC 236-48-132 Notice of cancellation or rejection of bids. In the event of a cancellation of an invitation for bid or a request for quotation, or in the event all bids are rejected, all bidders will be notified by mail.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-132, filed 4/12/91, effective 5/13/91; Order 77-2, § 236-48-132, filed 1/28/77.]

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

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-141, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-141, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-141, filed 1/28/77.]

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

The buyer shall consider all of the facts available and issue a decision in writing within ten business days after receipt of the protest, unless more time is needed. The protestant and the bidder(s) against whom the protest is made will be notified if longer time is necessary. If the protesting bidder or the bidder against whom the protest is made is not satisfied with the decision of the buyer, he/she shall have the right to appeal to the director. Such appeal must be received by the director within five business days

after notification of the buyer's decision. The director shall consider all of the facts available and issue a decision in writing within ten business days after receipt of the appeal, unless more time is needed. The appealing bidder will be notified if longer time is necessary.

Unless an emergency exists, award of the contract, if one is to be made, will be postponed until after the director has issued a decision.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-142, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-142, filed 1/28/77.]

WAC 236-48-143 Protest procedure after award.

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

If the director finds that the award should not have been made he/she shall notify the bidder which received the award of his/her intent to cancel the award and the reasons therefor. Such bidder shall then have five business days in which to appeal the decision to the director of general administration. The director of general administration shall consider all of the facts available and issue a decision within ten business days after receipt of the appeal, unless more time is needed. If more time is needed, the appellant and the protestant shall be so notified.

If the director of general administration agrees that the award should be canceled he/she shall order the director of the office of state procurement to cancel the award within ten business days after the decision is delivered to the bidder to whom the contract had been awarded. All bids shall then be rejected and new bids solicited.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-143, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-143, filed 1/28/77.]

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

The office of state procurement shall verify the complaint, note the same in the contractor's record and take appropriate action. Where a complaint is justified, the contractor shall be notified that an unsatisfactory condition exists and that the unsatisfactory condition must be cured within a stated time. If the condition is not so cured, the

office of state procurement shall have the discretion to do any or all of the following: To remove the contractor from the relevant supplier list; demand performance of the contract; modify or cancel the contract and purchase elsewhere; and pursue any other legal remedies available.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-151, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-151, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-151, filed 1/28/77.]

WAC 236-48-152 Offset against contractor payments. In addition to other methods of collection available, the purchasing activity may offset any damages for which the contractor is responsible against payments owing to the contractor from any agency which may be indebted to the contractor.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-152, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-152, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-152, filed 1/28/77.]

WAC 236-48-153 Delivery date. Whenever a specific delivery date has been stated, that date shall be an essential condition of the contract. If a contractor is unable to meet the delivery date, he/she shall notify the buyer at the earliest possible time. The contractor shall include in such notification the projected revised delivery date. The purchaser shall then have the option to accept such revised dates, or cancel and purchase elsewhere.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-153, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-153, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-153, filed 1/28/77.]

WAC 236-48-155 Recording of conversations. RCW 9.73.030 prohibits the recording or interception of the private conversations and communications of individuals without their knowledge and consent. A violation of this statute shall be considered grounds for cancellation of a contract and removal from all supplier lists.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-155, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-155, filed 1/28/77.]

WAC 236-48-162 Product fitness. By submission of a bid, bidder warrants that the articles supplied under the contract conform to the specifications and functional performance requirements, and are fit for the purpose for which such goods are ordinarily employed.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-162, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-162, filed 1/28/77.]

WAC 236-48-163 Nondiscrimination. Bidders and contractors must agree not to discriminate against any client, employee or applicant for employment or services because of race, creed, color, national origin, sex, marital status, age or the presence of any sensory mental or physical handicap with regard to, but not limited to, the following: Employ-

ment upgrading; demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; selection for training, rendition of services. It is further understood that any contractor who is in violation of this clause or an applicable affirmative action program shall be barred forthwith from receiving awards of any contract from the office of state procurement unless a satisfactory showing is made that discriminatory practices or noncompliance with applicable affirmative action programs have terminated and that a recurrence of such acts is unlikely.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-163, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-163, filed 1/28/77.]

WAC 236-48-164 Price escalation. Contractors shall not be entitled to price escalation except where specifically provided for in writing in the contract.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-164, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-164, filed 1/28/77.]

WAC 236-48-165 Change in product offered. A bidder or contractor shall not be allowed to substitute goods and services from that offered: *Provided, however,* If the goods or services offered are no longer available to the bidder or contractor for reasons beyond its control, the purchasing activity may consider a request by the bidder or contractor for substitution. All such requests must be in writing, must set forth the reasons the product or service is no longer available, and must be accompanied by samples, record of performance, certified copies of tests by impartial and recognized laboratories, and such additional data as the purchaser may request. Samples and data shall be furnished sufficiently in advance to allow for investigation before a decision is made. The bidder or contractor shall warrant that the contracted article is equal or better than the specified article. If the change results in any cost savings to the bidder or contractor, the cost savings shall be reflected in full in a reduction in price to the using agency. State contracts may only be so amended by the office of state procurement.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-165, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-165, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-165, filed 1/28/77.]

WAC 236-48-166 Extension. If contract provisions allow, a contractor and the purchasing activity may covenant and agree that the contract in question may be extended for predetermined periods by the purchasing activity under the same terms and conditions as comprise the original contract.

The buyer shall have discretion to extend a contract with the justification for extension being documented. The contractor shall be notified in writing of the intent to extend prior to the termination date of the existing or extended contract. If the contractor does not wish to have the contract extended, he/she shall so notify the purchasing activity in writing. Extensions, to be effective, must be in writing and signed by authorized representatives of both the contractor and purchasing activity.

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[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-166, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-166, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-166, filed 8/26/83; Order 77-2, § 236-48-166, filed 1/28/77.]

WAC 236-48-167 Additions or deletions to the contract. Within reason, the office of state procurement may increase or decrease the items, quantities, or locations specified in a state contract.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-167, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-167, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-167, filed 8/26/83; Order 77-2, § 236-48-167, filed 1/28/77.]

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

- (1) Sale or transfer to state agencies (including state universities and colleges);
- (2) Sale or transfer to other tax-supported educational agencies;
- (3) Sale or transfer to tax-supported agencies, municipalities or political subdivisions within the state of Washington;
- (4) Sale or transfer to tax-exempt nonprofits;
- (5) Donation of surplus, tangible personal property to qualified shelters as described in and in accordance with RCW 43.19.1920.
- (6) Sale to the general public including by auction, sealed bid and negotiation; and
- (7) Other action as needed, such as destruction where it has been determined that the item has no sale value.

[Statutory Authority: RCW 43.19.1919. 94-22-056, § 236-48-190, filed 11/1/94, effective 12/2/94. Statutory Authority: RCW 43.19.1919 and HB 2106. 92-09-016, § 236-48-190, filed 4/3/92, effective 5/4/92; Order 77-2, § 236-48-190, filed 1/28/77.]

WAC 236-48-1901 Surplus property—Exceptions to disposal priorities[.] Excess and/or surplus property may be disposed of without offering to other state agencies if the director of general administration determines that it is in the best interest of the state. In this event, the following guidelines will apply:

- (1) Items will be transferred or sold for reasonable cost if practical.
- (2) Items for which a reasonable cost cannot be obtained will be donated to a nonprofit organization (which is registered under state law and exempt from federal income tax liability) with an ongoing equipment rehabilitation program.
- (3) Recipients of donated items, if not designated by the director of general administration, will be determined by state surplus property.
- (4) Successful donees will be notified by state surplus property and removal will be the responsibility of the donee.
- (5) Items that can be documented to have a higher overhead cost than can be realized from their sale, can, at the discretion of the director of general administration, be

scrapped or dumped if there is not an acceptable donee organization available.

(6) All surplus actions, including those described in the regulation, will require submittal of the appropriate surplus document form to general administration.

[Statutory Authority: RCW 43.19.1919. 89-18-004 (Order 89-3), § 236-48-1901, filed 8/24/89, effective 9/24/89.]

WAC 236-48-1902 Surplus property—Intent of state surplus priorities. Surplus property purchased, transferred or donated pursuant to the priorities of WAC 236-48-190 (1) through (5) is intended for the sole use of the purchaser, transferee or donee. Entities with priority under WAC 236-48-190 (1) through (5) shall not profit from the immediate resale of surplus property.

The director of general administration may take action against accounts in arrears or priority buyers who do not comply with the intent of this section. An account is in arrears when it is sixty days past due or ninety days past issuance of invoice. Such action includes, but is not limited to, cancellation or suspension of shopping privileges, cancellation or suspension of priority shopping status.

[Statutory Authority: RCW 43.19.1919. 94-22-056, § 236-48-1902, filed 11/1/94, effective 12/2/94.]

WAC 236-48-191 Surplus property auction. Auctions shall be advertised to the general public, provisions being made for interested parties to inspect items either at the auction site or user's location.

[Order 77-2, § 236-48-191, filed 1/28/77.]

WAC 236-48-192 Sealed bid—Surplus property. Public notice shall be given of the sealed bid and the date set for public bid openings. In addition, information will be provided to interested parties describing the merchandise in question, together with an opportunity for inspection of the same.

[Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-192, filed 8/26/83; Order 77-2, § 236-48-192, filed 1/28/77.]

WAC 236-48-193 Negotiation—Surplus property. Negotiation shall be the method of disposal whenever it is determined by the director that such procedure is the most advantageous to the state. The reasons for choosing negotiation shall be set forth in writing and placed in the file relating to the disposition.

[Order 77-2, § 236-48-193, filed 1/28/77.]

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

[Order 77-2, § 236-48-194, filed 1/28/77.]

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

[Order 77-2, § 236-48-195, filed 1/28/77.]

WAC 236-48-196 Removal—Surplus property. Surplus property must be removed within a reasonable time after purchase, or if a specific time is stated, within that time.

[Order 77-2, § 236-48-196, filed 1/28/77.]

WAC 236-48-197 Withdrawal from sale or rejection of bids—Surplus property. The state may withdraw from sale the item(s) scheduled for disposal at any time prior to the formation of a contract. The state may also reject any or all bids if the best interests of the state so require.

[Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-197, filed 8/26/83; Order 77-2, § 236-48-197, filed 1/28/77.]

WAC 236-48-198 Sale of surplus property to state elected officials or employees. Surplus property available for disposal under the provisions of RCW 43.19.1919 shall not be sold to state elected officials, officers or employees, except at public sale: *Provided, however*, An item valued at less than direct buy limit and declared surplus of a personal nature such as a chair, desk or bookcase, which in some way depicts or represents the office in which they have served, may be sold to an elected official after leaving office at private sale as used equipment: *Provided further*, That a retiring commissioned officer of the Washington state patrol or other state-wide law enforcement activity may purchase his or her career service handgun at private sale as used equipment.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-198, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.190(11) and 43.17.060. 90-16-075, § 236-48-198, filed 7/30/90, effective 8/30/90. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-198, filed 8/26/83; Order 77-2, § 236-48-198, filed 1/28/77.]

WAC 236-48-230 Leases. If a purchasing activity leases without option to purchase goods or services, the state standard form lease developed by office of state procurement shall be used. Any deviations therefrom must be approved as to form by the office of state procurement and the attorney general's office. For goods to be leased with an option to purchase or lease-purchased, agencies are responsible for coordinating the finance agreement with state treasurer prior to the purchasing activity conducting the purchase.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-230, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-230, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-230, filed 1/28/77.]

WAC 236-48-240 Late payments. The purchaser should make payment expeditiously in order to benefit from prompt payment discounts. If the purchaser fails to make timely payment, the contractor may invoice for a minimum of one dollar or a maximum of one percent per month, on the amount overdue. Complaints made to the office of state procurement with regard to late payment will be referred to the purchaser. For effective communication and supervision, copies of correspondence dealing with delays in payment should be directed to the buyer in charge of the contract.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-240, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-240, filed 8/26/83; Order 77-2, § 236-48-240, filed 1/28/77.]

WAC 236-48-250 Use of credit/charge cards. All credit/charge cards, other than those for gasoline, vehicle rental, travel, and telephone, shall be ordered by the director of an agency or designee. It shall not be mandatory upon an agency to obtain credit or charge cards.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-250, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-250, filed 8/26/83.]

WAC 236-48-251 Distribution of credit/charge cards. Agency heads (or their designees) shall institute a system for responsibility, control and distribution of credit/charge cards within each agency. Control shall be so structured that, upon request of the office of state procurement, each agency will be able to report the number of cards used, the type of cards used, the amount of purchases made by card within a stated time together with any problems they have encountered.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-251, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-251, filed 8/26/83.]

WAC 236-48-252 Credit limits. When an agency determines that the use of credit/charge cards will be to its advantage, the source will be the existing state contract. The director will establish an aggregate credit limit for each agency. Each agency director will then establish a credit limit for each card ordered within that aggregate limit. Any requests for exception to the agency aggregate monetary limit must be made in writing by the agency head to the director, office of state procurement, who will approve or deny. Dollar limitations shall not apply to travel related expenditures such as food, lodging, airfare, and vehicle rental.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-252, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-252, filed 8/26/83.]

WAC 236-48-253 Payments of credit card bills. Statements received from the financial institution or firm issuing credit cards shall be handled in the same manner as an invoice bearing a prompt payment discount. Payments shall be made in full each month to avoid late payment penalties imposed by credit card issuers.

[Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-253, filed 8/26/83.]

WAC 236-48-254 Gasoline credit cards. Whenever possible, users of state gasoline credit cards shall utilize self-service pumps when servicing state vehicles.

[Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-254, filed 8/26/83.]

WAC 236-48-300 Enforcement of rules and regulations. All rules and regulations will be strictly enforced and failure to comply may be a cause for the rejection of a bid or cancellation or termination of a contract.

[Order 77-2, § 236-48-300, filed 1/28/77.]

Chapter 236-49 WAC

RELATIONSHIP AND PROCEDURES BETWEEN DIVISION OF PURCHASING AND STATE AGENCIES

WAC

236-49-001	Purpose.
236-49-010	Definitions.
236-49-020	Washington state purchasing structure.
236-49-030	Delegated authority.
236-49-040	Types of purchasing.
236-49-055	Preference for correctional industries Class II products.
236-49-060	Cooperative purchasing.
236-49-061	Cooperative purchasing program fee.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

236-49-050	Emergency purchases. [Order 77-2, § 236-49-050, filed 1/28/77.] Repealed by 78-02-060 (Order 78-1), filed 1/23/78. Statutory Authority: RCW 43.19.190 (11) and (12).
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WAC 236-49-001 Purpose. The purpose of this chapter is to set forth rules and regulations governing the relationship and procedures between the office of state procurement and state agencies.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-49-001, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-49-001, filed 1/28/77.]

WAC 236-49-010 Definitions. As used in this chapter the following terms shall have the following meanings:

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

(2) Alternate. Goods and services which are not at least a functional equal in features, performance or use of the brand, model, or specification designated as the standard.

(3) Delegated authority. Authority to purchase goods and services delegated to an agency by office of state procurement pursuant to RCW 43.19.190(4) and which is delegated in three forms:

(a) General. Those purchases delegated annually by the office of state procurement which are common to multiple state agencies.

(b) Specific. Those purchases delegated annually to specific agencies for continuing individual commodity requirements.

(c) Limited. Those purchases delegated to a specific agency for one-time commodity requirements.

(4) Director. Except where otherwise specifically noted shall mean the state purchasing and material control director, who is the assistant director of the office of state procurement.

(5) Equal. Goods and services which meet or exceed the quality, performance and use of the brand, model, or specifications in the invitation for bid or request for quotation.

(6) Field order. A standard state form used to make withdrawals from existing state contracts established by the office of state procurement or where an agency has received delegated authority for direct purchase.

(7) Goods and/or services. Material, supplies, services, and equipment offered for sale by a supplier(s) and required by a state agency to accomplish continuing and necessary functions and not otherwise statutorily exempted from chapter 43.19 RCW as a personal service under RCW 39.29.006(8); an architectural and engineering service under RCW 39.80.020(5); or data information systems and telecommunications equipment, software, and services under chapter 43.105 RCW.

(8) Materials management center. That activity managed by the department of general administration office of state procurement whose function is to provide for the:

(a) Centralized storage and distribution of commonly used supplies and equipment to ensure administrative efficiency and economy in such purchases by state agencies;

(b) Centralized salvage, maintenance, repair, and servicing of equipment, furniture, or furnishings used by state agencies.

(9) Office of state procurement. The division of purchasing of the department of general administration in RCW 43.19.180 et seq. Whenever a purchase or sale is made by the office of state procurement on behalf of another agency the office of state procurement is acting in the capacity of agent for such agency.

(10) Political subdivision. Any agency, political subdivision, or unit of local government of Washington state including, but not limited to, municipal corporations, quasi-municipal corporations, special purpose districts, and local service districts; any agency of Washington state government; any agency of the United States; any Indian tribe recognized as such by the federal government; and any political subdivision of another state of the United States.

(11) Purchase. Shall include purchase, lease, renting or lease-purchase of goods and services.

(12) Purchase order. A standard state form signed by an authorized buyer of the office of state procurement which notifies the contractor to provide the stated material, equipment, supplies, or services under the terms and conditions set forth thereon.

(13) Purchasing activity. The office of state procurement or an agency authorized by state statute to conduct

acquisition of goods and services or delegated that authority by the office of state procurement.

(14) Requisition. A standard state form which serves as a procurement request and which requests the office of state procurement to purchase stated requirements.

[Statutory Authority: Chapter 43.19 RCW. 91-09-034, § 236-49-010, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-49-010, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-49-010, filed 1/28/77.]

WAC 236-49-020 Washington state purchasing structure. The office of state procurement has been charged by the legislature with the responsibility to purchase all goods and/or services needed for the support, maintenance and use of all state institutions, colleges, community colleges and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. Primary authority for the purchase of specialized equipment, instructional and research material for their own use rests with the colleges, community colleges and universities. Primary authority for the purchase of goods and/or services for resale to other than public agencies rests with the state agency concerned. The legislature has the responsibility of making purchases necessary for the operation of the legislature.

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

[Statutory Authority: Chapter 43.19 RCW. 91-09-034, § 236-49-020, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-49-020, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-49-020, filed 1/28/77.]

WAC 236-49-030 Delegated authority. The office of state procurement shall administer the purchase and sale of all goods and services for state agencies except those for which the agencies have statutory or delegated authority. Delegated purchases are set forth in: (1) General authorities; (2) specific authorities; and (3) limited purchase authorities. All delegations must be given in writing prior to the purchase or sale.

[Statutory Authority: Chapter 43.19 RCW. 91-09-034, § 236-49-030, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-49-030, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-49-030, filed 1/28/77.]

WAC 236-49-040 Types of purchasing. Acquisition of goods and services by the office of state procurement is divided into three major types:

(1) State contracts: Contracts for goods and/or services administered by office of state procurement on behalf of agencies. The contract document will identify the condition(s) under which usage by agencies is required.

(2) Materials management center: The office of state procurement maintains a materials management center for the storage and distribution of a wide variety of supplies in high common use. Any agency which is in need of such supply items must purchase from the materials management center regardless of whether authority to purchase such supply items has been delegated to it. In addition, the materials management center also handles the maintenance, repair and servicing of office equipment used by state agencies in their servicing areas.

(3) Single acquisitions: Purchase of goods and services for which an agency does not have statutory authority nor delegated authority and for which there is no existing state contract or which the materials management center is unable to supply, must be made by submitting a requisition to the office of state procurement. Such requisition must refer to any applicable Washington state specifications, standards and qualified products lists unless otherwise provided by the director or designee. Requests to use specifications, standards or qualified products which differ from the established Washington state specifications, standards and qualified products must be in writing to the director or designee. If a proprietary item is required, the agency must attach adequate justification. After consultation with the using agency, the office of state procurement shall award the contract pursuant to RCW 43.19.1911 and chapter 236-48 WAC. The contract may be awarded to a bidder offering a bid or quote for brands or models other than specified on the requisition and/or invitation for bid or request for quotation if equal to the specifications therein.

[Statutory Authority: Chapter 43.19 RCW. 91-09-034, § 236-49-040, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-49-040, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-49-040, filed 1/28/77.]

WAC 236-49-055 Preference for correctional industries Class II products. The following provisions indicate how the department of corrections and the department of general administration will implement a purchasing program for correctional industries, Class II goods and services:

(1) Correctional industries will identify the goods and services available for purchase through the office of state procurement and confirm the same in writing to the director of the department of general administration at least one hundred twenty days before the expiration of any existing contract(s). The writing from correctional industries will include a request that the office of state procurement tender to correctional industries a mandatory use contract to sell these goods and services to state agencies, the legislature and departments in accordance with RCW 43.19.534. A mandatory use contract will be executed between the office of state procurement and correctional industries that complies with state law and covers all specified Class II goods and services

that are produced in whole, or in part, by correctional industries.

(2) All goods and services covered by the general administration mandatory use contract are to be purchased from correctional industries. General administration will administer these contracts.

(3) Any state agency, branch of the legislature or department may apply for an exemption from the correctional industries purchase preference. The exemption request shall be in the form of a written application presented to the director of general administration. For an exemption to issue, there shall first be a contract executed between correctional industries and the department of general administration, and the following elements must be proven to the satisfaction of the director of general administration:

(a) The goods or services provided by correctional industries do not meet the reasonable requirements of the applicant/agency, legislature or department;

(b) The goods or services provided by correctional industries are not of equal or better quality than comparable goods or services available from the private marketplace; or

(c) The correctional industries price for the goods or services is higher than that produced by the private sector.

(4) However, goods or services produced by Class II correctional industries programs which primarily replace goods manufactured or services obtained from outside the state of Washington are not subject to the criteria contained in subsection (3) of this section, and shall be purchased solely from correctional industries.

(5) Correctional industries, Class II purchasing requirements supersede the second proviso of RCW 43.19.190(2), where correctional industries offers the goods or services through state contract and the goods are manufactured and/or services are obtained from outside the state of Washington.

[Statutory Authority: RCW 43.19.534. 94-21-017, § 236-49-055, filed 10/6/94, effective 11/6/94.]

WAC 236-49-060 Cooperative purchasing. Under the authority of chapter 39.34 RCW, political subdivisions may enter into an interlocal cooperative purchasing agreement with the office of state procurement. Participation is voluntary—A political subdivision may use state contracts and purchase orders when the office of state procurement provides therefore.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-49-060, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-49-060, filed 8/26/83.]

WAC 236-49-061 Cooperative purchasing program fee. In order to distribute contract copies to political subdivisions in a manner similar to that provided for state agencies, it is necessary to require payment of an annual fee to cover costs. This fee may be adjusted periodically to reflect current program costs. When the nature of a contract requires that the political subdivision orders be prepared by the office of state procurement, an additional charge per order processed may be assessed.

[Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-49-061, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-49-061, filed 8/26/83.]

Chapter 236-50 WAC
STATE RECORDS COMMITTEE RULES

WAC

236-50-010 Regular meeting dates.

WAC 236-50-010 Regular meeting dates. The state records committee's regular meeting dates shall be the first Wednesday of each month at 10:30 o'clock a.m. at the archives and records center, Olympia, Washington.

[Order 1, § 236-50-010, filed 10/15/71.]

Chapter 236-56 WAC
PUBLIC RECORDS

WAC

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

WAC 236-56-010 Purpose. The purpose of this chapter shall be to ensure compliance by the department of general administration with the provisions of chapter 1, Laws of 1973 (Initiative 276) (chapter 42.17 RCW), Disclosure—Campaign finances—Lobbying—Records; and in particular with sections 25-32 of that act, dealing with public records.

[Order 75-6, § 236-56-010, filed 8/20/75.]

WAC 236-56-020 Scope-conflict with other regulations. This chapter is intended to apply only to those divisions, sections, and agencies of the department of general administration for which separate rules and regulations on the subject of public records have not been or may not be promulgated. In case of any conflict between these rules and regulations, and other rules and regulations adopted for any division, section or agency of the department of general administration, adopted prior to or subsequent to these regulations, such other rules and regulations shall control and these rules and regulations shall be deemed inapplicable to such a division, section or agency.

[Order 75-6, § 236-56-020, filed 8/20/75.]

WAC 236-56-030 Definitions. (1) **Public records.** "Public record" includes any writing containing information relating to the conduct of governmental or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(2) **Writing.** "Writing" means handwriting, 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 of general administration.** The department of general administration is established by chapter 43.19 RCW. The department of general administration shall hereinafter be referred to as the "department." Where appropriate, the term department also refers to the staff and employees of the department of general administration.

[Order 75-6, § 236-56-030, filed 8/20/75.]

WAC 236-56-040 Description of central and field organization of department of general administration.

The department is an administrative, service and regulatory agency. The administrative office of the department and its staff are located at the General Administration Building, Olympia, Washington 98504. The department maintains permanent and temporary field offices and stations at other locations throughout the state of Washington for administrative convenience, but the central administrative office is the only place at which public records are permanently stored and the only place at which the department will accept requests for information or copies of public records and agency decisions.

[Order 75-6, § 236-56-040, filed 8/20/75.]

WAC 236-56-050 Organizations, operations and procedures. The department of general administration is the primary business and service agency of Washington state government.

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

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

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

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

(3) As the contracting agency for the state of Washington, administers and manages the federal surplus property program and the U.S.D.A. donable food program including direct distribution;

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

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

(6) Supervises the design and construction of new buildings and alterations in the capitol group and does comprehensive planning for the capitol area; provides similar services for other state buildings and all state institutions, four year colleges and community colleges, except the University of Washington and Washington State University, and all other agencies which do not maintain their own architectural staff;

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

(8) Maintains and has the care, custody and control of all buildings and grounds of the capitol group including the west campus, east capitol site, Deschutes Basin, Deschutes Parkway and Capitol Lake including all access roads and the maintenance and care of all parking facilities;

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

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

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

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

(13) Operates and manages the state archives, records center and records management program for state and local records and an essential records program to assure the continuity of civil government; operates a centralized microfilm bureau; supervises and manages within the facilities and services revolving fund the recovery of costs incurred in this program;

(14) Operates and manages the forms management center; provides guidance to state agencies in forms development and design, maintains inventories of standard forms for support of all state activities; coordinates forms procurement requirements with the state printer;

(15) Supervises, manages and operates the state data processing service center including all software and data communications, systems development and agency coordination, programming and systems, as well as operations;

(16) Manages, administers and operates statewide communications systems including statewide intercity telephone system (SCAN), WATS, CENTREXES, data communication, and similar systems; provides counsel and assistance to all state agencies relative to development of communication systems; administers and manages coordination of state systems with other governmental entities as required;

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

(18) Provides staff support on various matters to the administrative board, state purchasing advisory committee, Washington state management improvement council, and various other committees.

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

Titles 236, 50 and 419 WAC all pertain to the operation of the department of general administration or specific divisions or sections thereof.

[Order 75-6, § 236-56-050, filed 8/20/75.]

WAC 236-56-060 Public records available. All public records of the department, as defined in WAC 236-56-020 are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided in chapter 1, Laws of 1973 (chapter 42.17 RCW) or other provisions of law.

[Order 75-6, § 236-56-060, filed 8/20/75.]

WAC 236-56-070 Public records officer. The department's public records shall be in the charge of the public records officer designated by the department. The office of the person so designated shall be located in the administrative office of the department. The public records officer shall be responsible for the following: The implementation of the department's rules and regulations regarding release of public records, coordinating the staff of the department in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973.

[Order 75-6, § 236-56-070, filed 8/20/75.]

WAC 236-56-080 Office hours. Public records shall be available for inspection and copying during the customary office hours of the department. For the purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

[Order 75-6, § 236-56-080, filed 8/20/75.]

WAC 236-56-090 Requests for public records. In accordance with requirements of chapter 1, Laws of 1973 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copies or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

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

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

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

[Order 75-6, § 236-56-090, filed 8/20/75.]

WAC 236-56-100 Copying. No fee shall be charged for the inspection of public records. The department shall charge a fee of 25¢ per page of copy for providing copies of public records and for use of the department's copy equipment. This charge is the amount necessary to reimburse the department for its actual costs incident to such copying.

[Order 75-6, § 236-56-100, filed 8/20/75.]

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

(2) In addition, pursuant to section 26, chapter 1, Laws of 1973, the department reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records will be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief

explanation of how the exemption applies to the record withheld.

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

WAC 236-56-120 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request for review must be accompanied by a copy of the written statement by the public records officer or other staff member which constituted or accomplished the denial.

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

(3) Administrative remedies shall not be considered exhausted until the department has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

[Order 75-6, § 236-56-120, filed 8/20/75.]

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

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

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

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

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

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

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

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

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

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

(j) Records will be returned to the public records officer or his designee by the requester when no longer required and no later than the end of the customary office hours as set forth in WAC 236-56-080.

[Order 75-6, § 236-56-130, filed 8/20/75.]

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

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

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

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

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

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

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

(2) **Availability.** The current index promulgated by the Department shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Order 75-6, § 236-56-140, filed 8/20/75.]

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

[Order 75-6, § 236-56-150, filed 8/20/75.]

WAC 236-56-160 Adoption of form. The department hereby adopts for use by all persons requesting inspection and/or copying or copies of its records, the form attached hereto as Appendix "A," entitled "Request for public record." [Form—Request for public records, was not attached when filed.]

[Order 75-6, § 236-56-160, filed 8/20/75.]

Chapter 236-60 WAC

SUGGESTED DESIGN AND CONSTRUCTION STANDARDS OF SIDEWALK AND CURB RAMPS FOR THE PHYSICALLY HANDICAPPED PERSON WITHOUT UNIQUELY ENDANGERING THE BLIND

WAC

236-60-001	Purpose.
236-60-005	Scope.
236-60-010	Definition.
236-60-020	Design standards.
236-60-030	Advance warning system for the blind.
236-60-040	Types of suggested textures.
236-60-050	Curb ramp types.
236-60-060	Curb ramp typical.
236-60-070	Curb ramp—Type "A."
236-60-080	Curb ramp—Type "B."
236-60-090	Curb ramp—Type "C."

236-60-100 Factors to be considered.

WAC 236-60-001 Purpose. The purpose of this chapter is to provide several suggested model design, construction, and location standards to aid counties, cities, and towns in constructing curb ramps to allow reasonable access to the crosswalk for physically handicapped persons without uniquely endangering blind persons in accordance with chapter 137, Laws of 1977 ex. sess. (chapter 35.68 RCW).

[Statutory Authority: RCW 35.68.076. 78-02-066 (Order 77-5), § 236-60-001, filed 1/24/78.]

WAC 236-60-005 Scope. The design construction and location standards set forth in chapter 236-60 WAC are suggestions only, and must be read in conjunction with the requirements of RCW 35.68.075 and any applicable code.

If these suggested standards are followed they should be used as a guide and not as a substitute for engineering judgment based on the conditions existing at any particular location.

[Statutory Authority: RCW 35.68.076. 78-02-066 (Order 77-5), § 236-60-005, filed 1/24/78.]

WAC 236-60-010 Definition. As used in this chapter, the following words shall have the following meanings:

(1) Handicapped pedestrian - a pedestrian, or person in a wheelchair, who has limited mobility, stamina, agility, reaction time, impaired vision or hearing, or who may have difficulty walking, with or without assistive devices.

(2) Curb ramp - an interruption in a curb with a ramp from roadway to walk which forms a part of the accessible route of travel, no part of which projects into the roadway. It includes a center ramp and two shoulder slopes.

(3) Center ramp - the sloped surface providing pedestrian access to the roadway.

(4) Shoulder slope - the sloped flared sides on each side of the center ramp, providing a gradual incline from the edge of the center ramp to the sidewalk.

(5) Landing - a level area at least as wide as and, as long as, the width (except as otherwise provided), and within or at a terminus of, a stair or ramp, but not less than 5'["']0" in width.

(6) Main pedestrian path - the walkway used by the pedestrian traffic clear of utility poles, signs, and parking meters.

[Statutory Authority: RCW 35.68.076. 78-02-066 (Order 77-5), § 236-60-010, filed 1/24/78.]

WAC 236-60-020 Design standards. The following construction standards are applicable to all curb-ramps set forth in this chapter.

(1) The width of the center ramps shall be at least thirty-six inches.

(2) Shoulder slopes shall not exceed one inch in 6.

(3) The center ramp slope shall not exceed 1 in 12 and the cross slope shall not exceed 1 in 50.

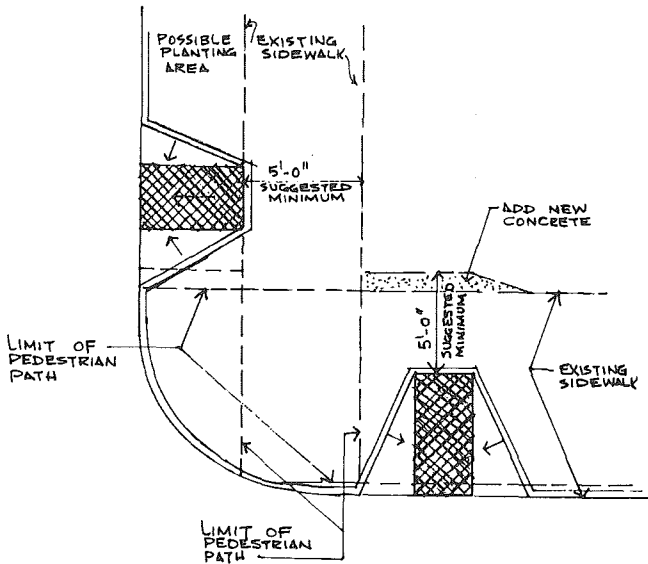
(4) Curb ramps should contain a slip-resistant surface.

(5) The site of the curb ramp should be graded and drained to eliminate pooling of water or the accumulation of

WAC 236-60-070 Curb ramp—Type "A."

[Statutory Authority: RCW 35.68.076. 78-02-066 (Order 77-5), § 236-60-080, filed 1/24/78.]

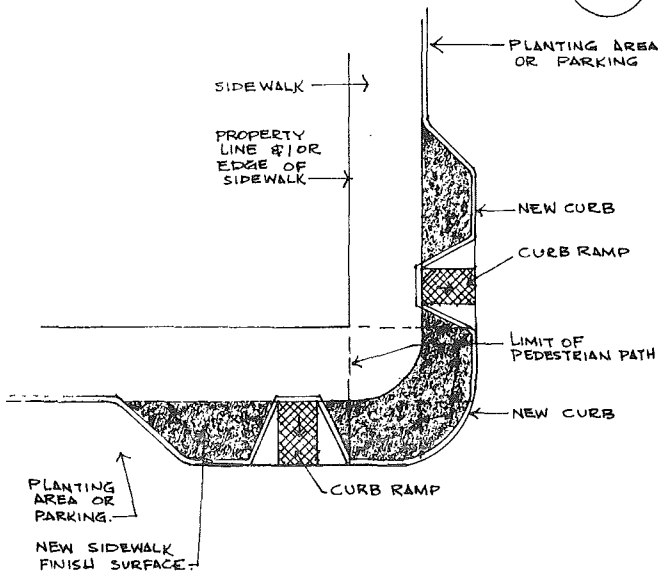
TYPE A



[Statutory Authority: RCW 35.68.076. 78-02-066 (Order 77-5), § 236-60-070, filed 1/24/78.]

WAC 236-60-080 Curb ramp—Type "B."

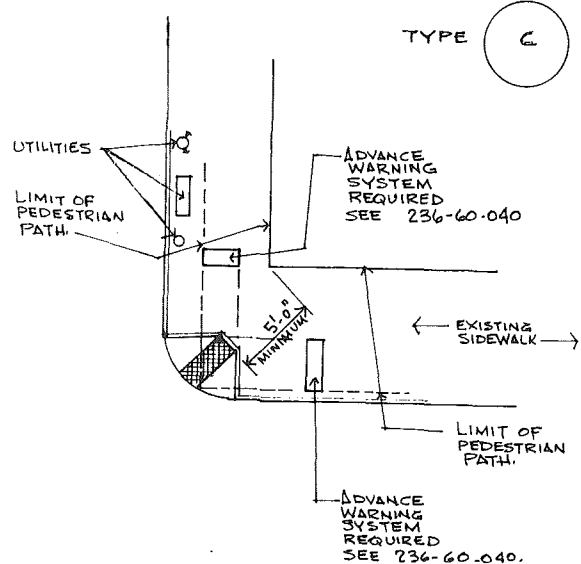
TYPE B



- (1) This curb ramp type can be used with the existing planting area or with the sidewalk extension into the parking area.

WAC 236-60-090 Curb ramp—Type "C."

TYPE C



This curb ramp type is acceptable when utilities are a conflict and/or the street grade exceeds twenty-five to one (4%).

[Statutory Authority: RCW 35.68.076. 78-02-066 (Order 77-5), § 236-60-090, filed 1/24/78.]

WAC 236-60-100 Factors to be considered. Factors which should be considered by a city, town or county when deciding whether to follow or deviate from the design, surface textures and/or location standards set forth in this chapter include, but are not limited to, the following:

- (1) Street alignments and curb configurations that are substantially different from the curb situations shown.
- (2) An adjacent driveway or loading ramp.
- (3) Unusual sidewalk textures in the vicinity.
- (4) Steeper street grades.
- (5) Utility vaults.
- (6) Whether a different design or location would assist the handicapped pedestrian without uniquely endangering the blind.

[Statutory Authority: RCW 35.68.076. 78-02-066 (Order 77-5), § 236-60-100, filed 1/24/78.]

Chapter 236-70 WAC

A RULE TO FACILITATE PRIVATE INVESTMENT IN ENERGY CONSERVATION FOR STATE-OWNED FACILITIES

WAC

- 236-70-010 Authority.
- 236-70-020 Purpose.
- 236-70-030 Scope and coverage of this chapter.
- 236-70-040 Definitions.
- 236-70-050 Department of general administration responsibilities.
- 236-70-060 State agency responsibilities.

236-70-070	Procurement of energy conservation measures and services with private financing.
236-70-080	Monitoring and reporting requirements.

WAC 236-70-010 Authority. This rule is promulgated pursuant to RCW 43.19.680(4) and is intended to administratively implement that statute.

[Statutory Authority: RCW 43.19.680(4). 84-24-030 (Order 84-03), § 236-70-010, filed 11/30/84.]

WAC 236-70-020 Purpose. The purpose of this chapter is to establish rules which can be used to facilitate private investment in energy conservation measures and services for state-owned facilities.

[Statutory Authority: RCW 43.19.680(4). 84-24-030 (Order 84-03), § 236-70-020, filed 11/30/84.]

WAC 236-70-030 Scope and coverage of this chapter. The scope of this chapter is to provide guidelines for state agencies acquiring private financing for energy conservation measures and services, and for administration of this rule by the department of general administration. This chapter does not provide authority or guidance for private financing of nonenergy related projects.

[Statutory Authority: RCW 43.19.680(4). 84-24-030 (Order 84-03), § 236-70-030, filed 11/30/84.]

WAC 236-70-040 Definitions. The following words and terms have the following meanings for the purposes of this chapter:

(1) "Base period" means a preceding twelve-month period, or longer, selected as the standard for measurement of energy consumption and energy savings due to implementation of energy conservation measures or services.

(2) "Energy conservation maintenance and operating procedure" means modification or modifications in maintenance and operations of a facility, and any installations within the facility, which are designed to reduce energy consumption in the facility and which require no significant expenditure of funds.

(3) "Energy conservation measure" means an installation or modification of an installation in a facility which is primarily intended to reduce energy consumption or allow use of an alternative energy source.

(4) "Energy conservation service" means a service which provides preestablished levels of heating, cooling, lighting, and equipment use at reduced energy consumption levels. The services may include, but are not limited to, providing financing, design, installation, repair, maintenance, management, technical advice, and/or training.

(5) "Energy cost savings" means energy savings converted into dollar savings.

(6) "Energy savings" means the amount of energy expressed in standard units (e.g., therms, gallons, kilowatt hours) of energy saved by an energy conservation measure or service.

(7) "Facility" means a building, a group of buildings served by a central energy distribution system, components of a central energy distribution system, related structures and/or energy consuming appurtenances.

(8) "Net benefit" means the energy cost savings less the cost of the energy conservation measure or service provided.

(9) "Private investment or private financing" of energy projects means obtaining project funds by other than capital appropriation or governmental grants, and includes, but is not limited to, the following:

(a) "Guaranteed savings" means a program in which a company guarantees a user a predetermined reduction in energy costs. The company guarantees that energy costs plus all costs of the energy conservation measures or services provided will be less than the user's normal energy costs.

(b) "Leasing" means using a piece of property without transferring ownership. Leasing is an alternative to direct ownership of energy saving equipment. This is also known as an operating lease.

(c) "Municipal or capital leasing" means a tax exempt lease where the cost of equipment is amortized over the lease term. At the end of the lease period ownership passes to the lessee. This is also known as a lease purchase.

(d) "Shared savings" means a program in which the sole source of payment for energy conservation measures or services provided by a company is a predetermined percentage of the energy cost savings of the user resulting from the energy conservation measure or service.

(e) "Utility financing" means grants provided by utilities for energy conservation.

(f) "Vendor financing" means financing provided by an equipment supplier, equipment manufacturer, company or contractor.

(10) "Request for proposal" means the document which communicates information to prospective contractors and should include, but not be limited to:

- (a) A description of the problem;
- (b) Expected results from the project;
- (c) Extent and nature of anticipated contract services;

and

- (d) Criteria for evaluating proposals.

(11) "State agency" means all departments, boards, commissions, colleges, community colleges, and universities who own and operate state facilities, related structures, and/or appurtenances.

(12) "State-owned facilities" means those facilities which are owned outright by the state and those facilities which are being purchased by the state.

[Statutory Authority: RCW 43.19.680(4). 84-24-030 (Order 84-03), § 236-70-040, filed 11/30/84.]

WAC 236-70-050 Department of general administration responsibilities. The department of general administration shall be responsible for:

(1) Providing technical assistance through inter-agency agreements.

(2) Developing standards for requests for proposal for private financing.

(3) Developing standards for bid documents for private financing.

(4) Developing standards for contract documents for energy conservation measures and services using private financing including the means of establishing the base period

consumption, the methodology for computing energy savings and the method of payment.

(5) Soliciting bids or quotations for the lease or purchase of energy conservation measures using private financing for those state agencies included in RCW 43.19.190.

(6) Advertising for bids or proposals for energy conservation measures or services using private financing for those state agencies included in RCW 43.19.450.

(7) Developing procedures for evaluating financing proposals.

(8) Monitoring private financing contracts, conducting annual reviews and providing technical assistance as needed.

[Statutory Authority: RCW 43.19.680(4). 84-24-030 (Order 84-03), § 236-70-050, filed 11/30/84.]

WAC 236-70-060 State agency responsibilities.

State agencies seeking private financing of energy conservation measures or services will be responsible for:

(1) Notifying the department of general administration of their intent, and providing justification for project implementation.

(2) Completing all applicable maintenance and operational items as required by RCW 43.19.670. This does not preclude seeking energy conservation services to facilitate implementation of maintenance and operating procedures.

(3) Providing the department of general administration with substantive data, information, calculations, contracts, or other material which are necessary in determining the cost effectiveness of the project and the financial alternatives.

(4) Preparing, or acquiring services for the preparation of, requests for proposal for energy conservation measures and services using private financing.

(5) Providing building space and/or land for installation of energy conservation equipment.

(6) Providing maintenance and monitoring of installed energy conservation equipment unless otherwise specified.

(7) Reporting fuel and utility consumption survey information required by RCW 43.19.670 to the Washington state energy office.

(8) Providing for staff training on the function, operation and maintenance of energy conservation equipment.

(9) Reporting contract status on an annual basis to the department of general administration.

[Statutory Authority: RCW 43.19.680(4). 84-24-030 (Order 84-03), § 236-70-060, filed 11/30/84.]

WAC 236-70-070 Procurement of energy conservation measures and services with private financing. (1) In procurement of energy conservation measures and services with private financing the state agency shall comply with:

(a) Public works statutes - Chapter 39.04 RCW;

(b) Purchasing statutes - Chapter 43.19 RCW; or

(c) Personal services statutes - Chapter 39.29 RCW.

(2) Whenever practicable, energy conservation measures or services shall be obtained by means of competitive bids and awarded to the lowest responsible bidder over the intended life of the contract.

(3) Whenever it is determined that energy conservation measures or services should be obtained by means other than by bidding, the state agency shall prepare a request for proposal. Proposals shall be obtained in writing and evaluat-

ed in accordance with the evaluation procedure contained in the request for proposal.

[Statutory Authority: RCW 43.19.680(4). 84-24-030 (Order 84-03), § 236-70-070, filed 11/30/84.]

WAC 236-70-080 Monitoring and reporting requirements. The following procedures are set forth for monitoring private financing contracts and for reporting contract status to the department of general administration:

(1) The monitoring of installed energy equipment will be the responsibility of the state agency, unless otherwise specified, and will include reporting contractor response to maintenance and emergency situations to the department of general administration.

(2) The state agency will report facility operating changes, physical changes, equipment changes, equipment modifications or other changes which may affect energy consumption or base period figures to the department of general administration.

(3) The state agency, in cooperation with the department of general administration, will develop a schedule for annual review of private financing contracts for the purpose of: Evaluating projected "vs" actual energy savings; adjusting base period and energy savings formula; evaluating purchase options; evaluating contractor performance; and negotiating contract disagreements and other contract changes which may provide the state with a greater net benefit.

[Statutory Authority: RCW 43.19.680(4). 84-24-030 (Order 84-03), § 236-70-080, filed 11/30/84.]

Chapter 236-100 WAC

FLOOD MITIGATION STANDARDS FOR STATE AGENCIES

WAC

236-100-001	Authority.
236-100-010	Purpose.
236-100-011	Objectives.
236-100-012	Application.
236-100-013	Definitions.
236-100-014	Responsibilities of each state agency.
236-100-015	Flood mitigation standards.
236-100-016	Exemptions.

WAC 236-100-001 Authority. Pursuant to the authority granted by RCW 43.19.19361, 43.19.19368, and 43.17.060, the director of the department of general administration establishes the following risk management standards to be followed by all state agencies on flood mitigation.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057 § 236-100-001, filed 4/2/91, effective 5/3/91.]

WAC 236-100-010 Purpose. The purpose of these standards is to discourage state development on flood plains whenever there is a practical alternative. This will result in reduced liability and costs associated with flood damage to state-owned real and personal property.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057 § 236-100-010, filed 4/2/91, effective 5/3/91.]

WAC 236-100-011 Objectives. The objectives of these flood mitigation standards are:

(1) To protect the people and the property of the state from unnecessary loss due to flood;

(2) To restore and preserve the natural and beneficial values served by flood plains;

(3) To minimize the impact of state development on wet lands and known flood plains;

(4) To comply with chapter 86.16 RCW, Flood plain management, in which the state of Washington has adopted the National Flood Insurance Program regulations of the Federal Emergency Management Agency for flood plain management. The participation of the state in this program allows flood insurance to be sold to both the private and public sector, and satisfies some of the conditions necessary for the state to be self-insured for flood coverage, under the National Flood Insurance Program;

(5) To comply with the requirements of the National Flood Insurance Program, thereby permitting state agencies to be eligible for federal financial assistance, including disaster relief funds for the replacement, permanent repair, or reconstruction of insurable state-owned properties damaged by the flood; and

(6) To ensure that the state of Washington and its agencies are eligible to obtain flood insurance, or to be approved for self-insurance by the Federal Insurance Administrator under the National Flood Insurance Program.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057 § 236-100-011, filed 4/2/91, effective 5/3/91.]

WAC 236-100-012 Application. These standards apply uniformly to:

(1) All state agencies;

(2) Projects and proposals for state-owned developments, new construction, and property undergoing substantial improvement; and

(3) New leases except for existing leases or renewed leases.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057 § 236-100-012, filed 4/2/91, effective 5/3/91.]

WAC 236-100-013 Definitions. (1) "Agency" or "agencies" as used in this section means all Washington state agencies, boards, commissions, and all state institutions of higher education.

(2) "Development" means any man-made change to improved or unimproved real estate, including but not limited to: Buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

(3) "Facility" means something built to serve a particular function other than a structure.

(4) "New construction," for flood plain management purposes, means structures for which the start of construction commenced on or after the effective date of this regulation, WAC 236-100-001 through 236-100-016.

(5) "Property" or "properties" refer to state-owned developments, structures, facilities, and/or the contents of the structure in which the state has an interest.

(6) "Risk manager" means the assistant director of the division of risk management, department of general administration, or his/her designee.

(7) "Special flood hazard areas" refers to areas subject to inundation by a flood having a one percent or greater probability of being equaled or exceeded during any given year. This flood, which is referred to as the one hundred-year flood or the base flood, is the national standard on which the flood plain management and insurance requirements of the National Flood Insurance Program are based. Special flood hazard areas and one hundred-year flood plains are identified on flood insurance rate maps developed and issued by the Federal Emergency Management Agency.

(8) "Structure" means a walled and roofed building, including any gas or liquid storage tank, that is principally above ground and affixed to a permanent site.

(9) "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the fair market value of the structure either:

(a) Before the improvement or repair is started; or

(b) If the structure has been damaged and is being restored, before the damage occurred.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057 § 236-100-013, filed 4/2/91, effective 5/3/91.]

WAC 236-100-014 Responsibilities of each state agency. (1) Each state agency is responsible for reducing the liability and costs associated with flood damage to its state-owned property, both real and personal;

(2) When a proposal or project is initiated for the acquisition, development, and/or the construction of state-owned structures or facilities, the agency initiating the proposal shall determine the flood plain exposure and the fiscal impact of locating state-owned properties within special flood hazard areas;

(3) If the project or proposal for development, new construction, or substantial improvement is within a one hundred-year flood plain and/or special flood hazard area, then the initiating agency must include such information in its funding request to the office of financial management and shall include a statement that the project or proposal meets the requirements of WAC 236-100-015 or shall include a copy of the written exemption granted by the state risk manager; and

(4) It is the responsibility of each agency to establish and issue the necessary policies or procedures to assure that these flood plain management standards for state-owned and leased properties are carried out within their respective agency.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057 § 236-100-014, filed 4/2/91, effective 5/3/91.]

WAC 236-100-015 Flood mitigation standards. (1) When planning the location, acquisition, and/or construction of state-owned developments, structures, or property, one hundred-year flood plains and special flood hazard areas, as identified on flood insurance rate maps or by other available sources, shall be avoided whenever feasible.

(2) If it is necessary to locate, acquire, and/or construct state-owned developments, structures, new construction, or substantial improvements within one hundred-year flood plains and/or special flood hazard areas, agencies must then

adhere to the regulations of the National Flood Insurance Program (44 CFR Ch. 1).

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057 § 236-100-016, filed 4/2/91, effective 5/3/91.]

(3) In addition to subsection (2) of this section, for all new construction and substantial improvements, both within and outside of any one hundred-year flood plain and/or special flood hazard area, the elevation of the lowest floor, including the basement, shall be at least the greater of either:

- (a) One foot above the one hundred-year flood elevation; or
- (b) At the five hundred-year flood elevation.

To achieve this flood protection, state agencies shall, whenever feasible, locate structures outside of one hundred-year flood plains and special flood hazard areas rather than filling in land within one hundred-year flood plains and/or special flood hazard areas.

(4) Developments, new construction, or substantial improvements which do not meet the requirements of subsections (2) and/or (3) of this section must receive an exemption as specified in WAC 236-100-016(2).

(5) For leased structures with state-owned contents, agencies shall avoid one hundred-year flood plains and/or special flood hazard areas, whenever feasible. If it is necessary for agencies to lease property within one hundred-year flood plains and/or special flood hazard areas, then such leased structure or structures and related development shall meet the minimum requirements of the National Flood Insurance Program. Exemptions from these requirements for leased property must be obtained from the division of risk management pursuant to WAC 236-100-016(2).

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057 § 236-100-015, filed 4/2/91, effective 5/3/91.]

WAC 236-100-016 Exemptions. (1) Exemptions from the elevation requirements of WAC 236-100-015(3) are granted automatically for:

- (a) Facilities where their use and purpose require construction below one hundred-year flood plains and/or special flood hazard areas (e.g., fish pens, fish ladders, holding ponds, dams, etc.);
- (b) Roads, bridges, and highway facilities.

(2) All other exemptions from the elevation requirements of WAC 236-100-015 must be granted by the department of general administration, division of risk management. Agencies seeking an exemption must submit a purpose and use statement, including an explanation of why and how the structure, development, or substantial improvement will not comply with these flood mitigation standards. This information must be submitted in writing to the Risk Manager, Department of General Administration, Division of Risk Management, Second Floor, 2420 Bristol Court SW, MS: FS-24, Olympia, Washington 98504. These requests will be reviewed on a case-by-case basis, and the risk manager will issue a letter of exemption no later than fourteen days after receipt of such request, if in his/her sole discretion it is appropriate to do so.

Denials of any exemptions may be appealed in writing to the Director of the Department of General Administration, 218 General Administration Building, MS: AX-22, Olympia, Washington 98504 within thirty days of the date of the denial letter.