

quality assurance procedure report, affidavit concerning quality assurance procedure, operator course outline, operator refresher course outline, and operator training record. A fee may be charged to cover the cost of providing these copies.

[Statutory Authority: RCW 46.61.506, 95-20-025, § 448-13-200, filed 9/27/95, effective 10/28/95; 91-06-022, § 448-13-200, filed 2/26/91, effective 3/29/91.]

WAC 448-13-210 Address for correspondence.

Persons seeking information regarding currently approved protocols and procedures, or information regarding those persons currently authorized as operators, instructors, solution changers, or technicians for the DataMaster, shall direct their request to the State Toxicologist, State Toxicology Laboratory, University of Washington, Department of Laboratory Medicine, 2203 Airport Way S., Seattle, WA 98134.

[Statutory Authority: RCW 46.61.506, 95-20-025, § 448-13-210, filed 9/27/95, effective 10/28/95; 91-06-022, § 448-13-210, filed 2/26/91, effective 3/29/91.]

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

[Statutory Authority: RCW 46.61.506, 95-20-025, § 448-13-220, filed 9/27/95, effective 10/28/95; 91-06-022, § 448-13-220, filed 2/26/91, effective 3/29/91.]

Title 456 WAC TAX APPEALS, BOARD OF

Chapters

- 456-09 Formal hearings—Practice and procedure.**
456-10 Informal hearings—Practice and procedure.

Chapter 456-09 WAC FORMAL HEARINGS—PRACTICE AND PROCEDURE

WAC

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WAC 456-09-110 Definitions. As used in this chapter, the following terms shall have the following meaning:

(1) "Board" means the board of tax appeals as described in chapter 82.03 RCW and chapters 456-09 and 456-10 WAC. Where appropriate, the term "board" also refers to the designated hearing officers or agents of the board of tax appeals.

(2) "Presiding officer" or "hearing officer" shall mean any member of the board, tax referee, administrative law judge, or any person who is assigned to conduct a conference or hearing by the board. The presiding officer shall have authority as provided by WAC 10-08-200 and chapter 34.05 RCW.

(3) "Appellant" means a person, natural or otherwise, who appeals any order or decision to the board of tax appeals.

(4) "Respondent" means a person, natural or otherwise, who is named as a responding party in any appeal before the board of tax appeals.

(5) "Formal hearing" means a proceeding conducted pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(6) "Informal hearing" means a proceeding governed by those rules specified in chapter 456-10 WAC.

(7) "Decision" means a written judgment or ruling, including orders, issued by the board of tax appeals or the designated hearing officers or agents of the board of tax appeals.

[Statutory Authority: RCW 82.03.170, 95-05-033 (Order 95-01), § 456-09-110, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160, 90-11-105, § 456-09-110, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-110, filed 5/2/89.]

WAC 456-09-130 Organization and office. The board consists of three members, one of whom is elected chair. Members of the board are appointed by the governor with the consent of the senate and serve on a full-time basis.

The board offices are open each day for the transaction of business from 8:00 a.m. to 5:00 p.m., excluding Saturdays, Sundays, and legal holidays. All submissions, requests, and communications shall be sent to the board at its principal office at 910 5th Avenue S.E., Post Office Box 40915, Olympia, Washington 98504-0915.

[Statutory Authority: RCW 82.03.170, 95-05-033 (Order 95-01), § 456-09-130, filed 2/8/95, effective 3/11/95; 89-10-056 (Order 89-02), § 456-09-130, filed 5/2/89.]

WAC 456-09-230 Ex parte communication. (1) No one shall make or attempt to make any ex parte communications prohibited by the Administrative Procedure Act. The

board, in conducting a formal proceeding governed by the Administrative Procedure Act, may not make or attempt to make ex parte communications prohibited by such act. Attempts by anyone to make such prohibited ex parte communications shall subject such person to the sanctions of WAC 456-09-220 and 456-09-750.

(2) The requirements and procedures of RCW 34.05.455 apply to ex parte communications.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-230, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-230, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-230, filed 5/2/89.]

WAC 456-09-320 Notice of appeal—Service and filing. (1) Notice of appeal shall be filed with the board and a copy served upon all other parties in accordance with the provisions of this chapter. A certificate of service shall be filed with the board pursuant to WAC 456-09-440.

(2) Appeals not timely filed and served as provided by statute and this regulation shall be dismissed. Appeals not properly filed and served may be dismissed if the appealing party fails to substantially comply with this regulation.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-320, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.160. 90-11-104, § 456-09-320, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-320, filed 5/2/89.]

WAC 456-09-325 Date of filing—Filing via facsimile machine transmission. (1) The date of filing of a notice of appeal shall be the date of actual receipt by the board at its Olympia office if the appeal is to be hand delivered. The board's date stamp placed thereon shall be prima facie evidence of the date of receipt. If the filing of the notice of appeal is by mail, the postmark will control and shall be prima facie evidence of the date of filing.

(2) All documents may be filed with the board via facsimile machine transmission. However, filing will not be deemed complete unless the following procedures are strictly observed:

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

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

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

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-325, filed 2/8/95, effective 3/11/95; 94-07-044, § 456-09-325, filed 3/10/94, effective 4/10/94; 91-07-038 (Order 91-01), § 456-09-325, filed 3/15/91, effective 4/15/91. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-325, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-325, filed 5/2/89.]

WAC 456-09-330 Acknowledgement of notice of appeal. The board will acknowledge receipt of a notice of appeal.

[1996 WAC Supp—page 1534]

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-330, filed 2/8/95, effective 3/11/95; 89-10-056 (Order 89-02), § 456-09-330, filed 5/2/89.]

WAC 456-09-340 Jurisdiction—Issue raised by board—Procedure. (1) Any party may, by motion, challenge the jurisdiction of the board in any appeal. The board may, upon its own motion, raise such jurisdictional issues.

(2) When the board determines that an appeal has been untimely filed, an order of dismissal will be mailed to all parties. An exception to the order of dismissal may be filed within twenty calendar days after mailing of such order. The exception shall be filed with the board and a copy served upon all other parties.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-340, filed 2/8/95, effective 3/11/95; 89-10-056 (Order 89-02), § 456-09-340, filed 5/2/89.]

WAC 456-09-350 Notice of appeal—Response. The respondent may file a response with the board. If filed, the respondent shall file the original with the board at least ten business days prior to hearing and serve a copy thereof upon all other parties in accordance with the provisions of this chapter. A certificate of service shall be filed with the board pursuant to WAC 456-09-440.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-350, filed 2/8/95, effective 3/11/95; 89-10-056 (Order 89-02), § 456-09-350, filed 5/2/89.]

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

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

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

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-365, filed 2/8/95, effective 3/11/95; 94-07-044, § 456-09-365, filed 3/10/94, effective 4/10/94; 91-07-038 (Order 91-01), § 456-09-365, filed 3/15/91, effective 4/15/91; 89-10-056 (Order 89-02), § 456-09-365, filed 5/2/89.]

WAC 456-09-540 Subpoena—Service. Service of subpoenas shall be made by delivering a copy of the subpoena to such person and tendering on demand, where entitled to make a demand, the fees for one day's attendance and the mileage allowed by law. All costs, which include the cost of producing records, shall be paid by the party requesting issuance of the subpoena. A subpoena may be served by any suitable person at least eighteen years of age, by exhibiting and reading it to the witness, or by giving him or her a copy thereof, or by leaving such copy at his or her abode. Proof of service shall be made when service is made by a person other than an officer authorized to serve process.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-540, filed 2/8/95, effective 3/11/95; 89-10-056 (Order 89-02), § 456-09-540, filed 5/2/89.]

WAC 456-09-705 Advance submission of evidence—Delivery to adverse party. (1) Documentary evidence which is to be introduced at hearing shall be submitted to the board at least ten business days prior to hearing. Failure to comply may be grounds for exclusion of such evidence or dismissal in accordance with WAC 456-09-750.

(2) Evidence of comparable sales, listed in the notice of appeal/response, which are subsequently changed, shall conform to this section and will be excepted from the requirements of WAC 456-09-345 (Amendments to notice of appeal).

(3) All correspondence and all documents filed with the board shall indicate that copies have been mailed or delivered to the attorney or representative of record or the adverse party if not represented.

(4) An acknowledgement of service or certificate of mailing as provided in WAC 456-09-440 shall be filed with the board together with the advance submission of documentary evidence as required in subsection (1) of this section.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-705, filed 2/8/95, effective 3/11/95; 89-10-056 (Order 89-02), § 456-09-705, filed 5/2/89.]

WAC 456-09-710 Hearing—Setting of time and place. (1) The board will set a time and place for hearing. The parties shall, upon request of the board, submit written estimates of the time that will be required to hear the matter.

(2) Where the board deems appropriate or at a party's request, the board may set prehearing or settlement conference dates.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-710, filed 2/8/95, effective 3/11/95; 89-10-056 (Order 89-02), § 456-09-710, filed 5/2/89.]

WAC 456-09-725 Briefs. The original and three copies of briefs shall be filed with the board at least ten business days prior to hearing unless otherwise provided by the board. When briefs are filed, a copy shall also be served on the other parties. The board may permit or require the filing of additional briefs.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-725, filed 2/8/95, effective 3/11/95; 89-10-056 (Order 89-02), § 456-09-725, filed 5/2/89.]

WAC 456-09-730 Hearing—Notice of hearing—Time—Contents. (1) Time. Notice of a hearing will be mailed to all parties and to all persons having filed written petitions to intervene not less than twenty calendar days before the hearing date unless a different period is required by law. The notice shall include the information specified in RCW 34.05.434 and if the hearing is to be conducted by teleconference call the notice shall so state.

(2) The notice shall state that if a limited-English speaking or hearing-impaired party or witness needs an interpreter, a qualified interpreter will be appointed and that there will be no cost to the party or witness. The notice shall also state that persons with disabilities may request

reasonable accommodations to allow their participation in the hearing. The notice shall include a form for a party to indicate if an interpreter is needed and identification of the primary language, or if a participant is hearing impaired; or to describe the reasonable accommodations requested.

(3) Defects in notice may be waived if the waiver is knowing and voluntary.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-730, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-730, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-730, filed 5/2/89.]

WAC 456-09-930 Initial or final decision. Every decision, whether initial or final, shall:

(1) Be correctly captioned as to the name of the board and name of the proceeding;

(2) Designate all parties and representatives participating in the proceeding;

(3) Include a concise statement of the nature and background of the proceeding;

(4) Contain appropriate numbered findings of fact meeting the requirements in RCW 34.05.461;

(5) Contain appropriate numbered conclusions of law, including citations of statutes and rules relied upon;

(6) Contain an initial or final decision disposing of all contested issues;

(7) Contain a statement describing the available posthearing remedies.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-930, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-930, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-930, filed 5/2/89.]

WAC 456-09-935 Petition for review and replies.

(1) Any party to an adjudicative proceeding may make a petition for review of an initial decision.

(2) The petition for review shall be made, by mail or otherwise, with the board within twenty calendar days of the date of mailing of the initial decision unless the decision specifies otherwise. Copies of the petition shall be served upon all other parties or their representatives at the time the petition is made.

(3) The petition for review shall specify the portions of the initial decision to which exception is taken and shall refer to the evidence of record which is relied upon to support the petition. The original and four copies of the petition shall be provided to the board.

(4) Any party may make a reply to a petition for review. The reply shall be made, by mail or otherwise, with the board within ten business days of the date of service of the petition. Copies of the reply shall be served upon all other parties or their representatives at the time the reply is made. The original and four copies of the reply shall be provided to the board.

(5) The board may require the parties to submit written briefs or statements of position or to appear and present oral argument regarding the matters on which exceptions were taken, within such time and on such terms as may be prescribed. The board may schedule a hearing to take

additional evidence if it deems it necessary or helpful to reach a proper result.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-935, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-935, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-935, filed 5/2/89.]

WAC 456-09-945 Final decision following initial decision—Record. (1) After the filing of a petition for review and any replies, the record before the board shall be considered by at least two members of the board.

(2) The record before the board shall consist of the decision from which appeal was taken, the notice of appeal, responsive pleadings, if any, and any other notices, written applications, motions, stipulations, requests, prehearing orders, and the initial decision of the presiding officer. The record shall also include all depositions admitted at the hearing, the transcript of testimony, if any, and other proceedings at the hearing, together with all exhibits.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-945, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-945, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-945, filed 5/2/89.]

WAC 456-09-955 Petition for reconsideration. After a final decision has been issued, any party may file a petition for reconsideration with the board as provided by RCW 34.05.470. Such petition must be made, by mail or otherwise, within ten business days from the mailing of the final decision, and shall state the specific grounds upon which relief is requested. The petition for reconsideration shall be filed with the board and served upon all parties and representatives of record. The board may require that a response be made and served in the same manner. The board may deny the petition, modify its decision, or reopen the hearing. The petition shall be deemed denied if, within twenty calendar days from the date the petition is received by the board, the board does not either: (1) Dispose of the petition; or (2) serve the parties with a written notice specifying the date by which it will act on the petition. The disposition shall be in the form of a decision denying the petition, granting the petition and dissolving or modifying the final decision, or granting the petition and setting the matter for further hearing.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-955, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-955, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-955, filed 5/2/89.]

Chapter 456-10 WAC

INFORMAL HEARINGS—PRACTICE AND PROCEDURE

WAC

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WAC 456-10-110 Definitions. As used in this chapter, the following terms shall have the following meaning:

(1) "Board" means the board of tax appeals as described in chapter 82.03 RCW and chapters 456-09 and 456-10 WAC. Where appropriate, the term "board" also refers to the designated hearing officers or agents of the board of tax appeals.

(2) "Presiding officer" or "hearing officer" shall mean any member of the board, tax referee, administrative law judge, or any person who is assigned to conduct a conference or hearing by the board. The presiding officer shall have authority as provided by WAC 10-08-200 and chapter 34.05 RCW.

(3) "Appellant" means a person, natural or otherwise, who appeals any order or decision to the board of tax appeals.

(4) "Respondent" means a person, natural or otherwise, who is named as a responding party in any appeal before the board of tax appeals.

(5) "Formal hearing" means a proceeding conducted pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(6) "Informal hearing" means a proceeding governed by those rules specified in chapter 456-10 WAC.

(7) "Decision" means a written judgment or ruling, including orders, issued by the board of tax appeals or the designated hearing officers or agents of the board of tax appeals.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-110, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-106, § 456-10-110, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-110, filed 5/2/89.]

WAC 456-10-140 Organization and office. The board consists of three members, one of whom is elected chair. Members of the board are appointed by the governor with the consent of the senate and serve on a full-time basis.

The board offices are open each day for the transaction of business from 8:00 a.m. to 5:00 p.m., excluding Saturdays, Sundays, and legal holidays. All submissions, requests, and communications shall be sent to the board at its principal office at 910 5th Avenue S.E., Post Office Box 40915, Olympia, Washington 98504-0915.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-140, filed 2/8/95, effective 3/11/95; 89-10-057 (Order 89-03), § 456-10-140, filed 5/2/89.]

WAC 456-10-320 Notice of appeal—Service and filing. (1) Notice of appeal shall be filed with the board and a copy served upon all other parties in accordance with the

provisions of this chapter. A certificate of service shall be filed with the board pursuant to WAC 456-10-440.

(2) Appeals not timely filed and served as provided by statute and this regulation shall be dismissed. Appeals not properly filed and served may be dismissed if the appealing party fails to substantially comply with this regulation.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-320, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-103, § 456-10-320, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-320, filed 5/2/89.]

WAC 456-10-325 Date of filing—Filing via facsimile machine transmission. (1) The date of filing of a notice of appeal shall be the date of actual receipt by the board at its Olympia office if the appeal is to be hand delivered. The board's date stamp placed thereon shall be prima facie evidence of the date of receipt. If the filing of the notice of appeal is by mail, the postmark will control and shall be prima facie evidence of the date of filing.

(2) All documents may be filed with the board via facsimile machine transmission. However, filing will not be deemed complete unless the following procedures are strictly observed:

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

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

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

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-325, filed 2/8/95, effective 3/11/95; 94-07-043, § 456-10-325, filed 3/10/94, effective 4/10/94. Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-106, § 456-10-325, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-325, filed 5/2/89.]

WAC 456-10-330 Acknowledgement of notice of appeal. The board will acknowledge receipt of a notice of appeal.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-330, filed 2/8/95, effective 3/11/95; 89-10-057 (Order 89-03), § 456-10-330, filed 5/2/89.]

WAC 456-10-340 Jurisdiction—Issue raised by board—Procedure. (1) Any party may, by motion, challenge the jurisdiction of the board in any appeal. The board may, upon its own motion, raise such jurisdictional issues.

(2) When the board determines that an appeal has been untimely filed, an order of dismissal will be mailed to all parties. An exception to the order of dismissal may be filed within twenty calendar days after mailing of such order. The exception shall be filed with the board and a copy served upon all other parties.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-340, filed 2/8/95, effective 3/11/95; 89-10-057 (Order 89-03), § 456-10-340, filed 5/2/89.]

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

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

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

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-360, filed 2/8/95, effective 3/11/95; 94-07-043, § 456-10-360, filed 3/10/94, effective 4/10/94; 91-07-039 (Order 91-02), § 456-10-360, filed 3/15/91, effective 4/15/91; 89-10-057 (Order 89-03), § 456-10-360, filed 5/2/89.]

WAC 456-10-505 Advance submission of evidence—Delivery to adverse party. (1) Documentary evidence which is to be introduced at hearing shall be submitted to the board at least ten business days prior to hearing. Failure to comply may be grounds for exclusion of such evidence or dismissal in accordance with WAC 456-10-555.

(2) Evidence of comparable sales, listed in the notice of appeal, which are subsequently changed, shall conform to this section and will be excepted from the requirements of WAC 456-10-345 (Amendments of notice of appeal).

(3) All correspondence and all subsequent pleadings or papers filed with the board shall indicate that copies have been mailed or delivered to the attorney or representative of record or the adverse party if not represented.

(4) An acknowledgement of service or certificate of mailing as provided in WAC 456-10-440 shall be filed with the board together with the advance submission of documentary evidence as required in subsection (1) of this section.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-505, filed 2/8/95, effective 3/11/95; 89-10-057 (Order 89-03), § 456-10-505, filed 5/2/89.]

WAC 456-10-510 Hearing—Setting of time and place. The board will set a time and place for hearing. The parties shall, upon request of the board, submit written estimates of the time that will be required to hear the matter.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-510, filed 2/8/95, effective 3/11/95; 89-10-057 (Order 89-03), § 456-10-510, filed 5/2/89.]

WAC 456-10-525 Briefs. The original and one copy of briefs shall be filed with the board at least ten business days prior to hearing unless otherwise provided by the board. When briefs are filed, a copy shall also be served on the other parties. The board may permit or require the filing of additional briefs.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-525, filed 2/8/95, effective 3/11/95; 89-10-057 (Order 89-03), § 456-10-525, filed 5/2/89.]

WAC 456-10-530 Hearing—Notice of hearing—Time—Contents. (1) Time. Notice of a hearing shall be mailed to all parties not less than twenty calendar days before the hearing date. The twenty-day notice provision may be waived by agreement of all parties.

(2) Contents. The notice shall contain:

(a) The names and mailing addresses of the parties and their representatives, if any;

(b) The docket number and name of the proceeding;

(c) The name, official title, mailing address, and telephone number of the presiding officer, if known;

(d) A statement of the time, place, date, and general nature of the proceeding (e.g., excise, property, etc.);

(e) A statement that the hearing is held pursuant to this chapter and chapter 82.03 RCW;

(f) A statement of the issues or matters asserted and the particular sections of the statutes or rules involved as stated in the notice of appeal and responsive pleading, if any;

(g) A statement that a party who fails to attend or participate at a hearing may be held in default in accordance with WAC 456-10-550; and

(h) A statement that, if a limited-English speaking or hearing-impaired party or witness needs an interpreter, a qualified interpreter will be appointed at no cost to the party or witness. The notice shall also state that persons with disabilities may request reasonable accommodations to allow their participation in the hearing. The notice shall include a form for a party to indicate if an interpreter is needed and identification of the primary language, or if a participant is hearing impaired; or to describe the reasonable accommodations requested.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-530, filed 2/8/95, effective 3/11/95; 89-10-057 (Order 89-03), § 456-10-530, filed 5/2/89.]

WAC 456-10-730 Exceptions to proposed decision.

(1) Time for filing. Any party may make, by mail or otherwise, a written exception with the board within twenty calendar days from the date of mailing of the proposed decision or, upon timely application, within such further time as the board may allow. The statement of exceptions shall be filed with the board, and a copy shall be served on all other parties.

(2) Contents. Exceptions shall contain the specific factual and legal grounds upon which the exception is based. The party or parties making the exception shall be deemed to have waived all objections or irregularities not specifically set forth. The statement of exceptions may contain the exceptor's proposed findings of fact and/or conclusions of law addressing the factual and legal issues to which exceptions are being taken.

(3) Failure of a party to comply with the requirements for exceptions may result in the board issuing a decision adopting the proposed decision as the final decision of the board on the ground that no legally sufficient statement of exceptions had been made.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-730, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-106, § 456-10-730, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-730, filed 5/2/89.]

WAC 456-10-755 Petition for reconsideration.

After a final decision has been issued, any party may file a petition for reconsideration with the board. Such petition must be made, by mail or otherwise, within ten business days from the mailing of the final decision. The petition for reconsideration shall be filed with the board and served upon all parties and representatives of record. The board may require that a response be made and served in the same manner. The filing of a petition for reconsideration shall suspend the final decision until action by the board. The board may deny the petition, modify its decision, or reopen the hearing. A petition for reconsideration is not available where a proposed decision was first issued.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-755, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-106, § 456-10-755, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-755, filed 5/2/89.]

Title 458 WAC

REVENUE, DEPARTMENT OF

Chapters

- 458-08** Uniform procedural rules for the conduct of contested cases.
- 458-14** County boards of equalization.
- 458-16** Property tax—Exemptions.
- 458-16A** Nonprofit homes for the aging.
- 458-18** Property tax—Abatements, credits, deferrals and refunds.
- 458-20** Excise tax rules.
- 458-30** Open Space Taxation Act rules.
- 458-40** Taxation of forest land and timber.

Chapter 458-08 WAC

UNIFORM PROCEDURAL RULES FOR THE CONDUCT OF CONTESTED CASES

WAC

458-08-010 through 458-08-270 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 458-08-010 Application and scope of chapter 458-08 WAC. [Statutory Authority: RCW 82.01.060(2) and 34.12.080. 85-23-049 (Order PR 85-1), § 458-08-010, filed 11/18/85.] Repealed by 95-07-067, filed 3/14/95, effective 4/14/95. Statutory Authority: RCW 82.32.300.
- 458-08-020 Definitions. [Statutory Authority: RCW 82.01.060(2) and 34.12.080. 85-23-049 (Order PR 85-1), § 458-08-020, filed 11/18/85.] Repealed by 95-07-067, filed 3/14/95, effective 4/14/95. Statutory Authority: RCW 82.32.300.
- 458-08-030 Appearance and practice before agency—Who may appear. [Statutory Authority: RCW 82.01.060(2) and 34.12.080. 85-23-049 (Order PR 85-1), § 458-08-030, filed 11/18/85.] Repealed by 95-07-067, filed 3/14/95, effective 4/14/95. Statutory Authority: RCW 82.32.300.
- 458-08-040 Appearance and practice before agency—Standards of ethical conduct. [Statutory Authority: RCW 82.01.060(2)]