

Title 298 WAC

LEASED TIDELANDS VALUATION BOARDS

**Chapters
298-08**

King County leased tidelands valuation board—Rules of practice and procedure.

Chapter 298-08 WAC

KING COUNTY LEASED TIDELANDS VALUATION BOARD—RULES OF PRACTICE AND PROCEDURE

WAC

298-08-005	General provisions.
298-08-010	Appearance and practice before board—Who may appear.
298-08-020	Appearance and practice before board—Appearance in certain proceedings may be limited to attorneys.
298-08-030	Appearance and practice before board—Standards of ethical conduct.
298-08-040	Computation of time.
298-08-050	Notice and opportunity for hearing in contested cases.
298-08-060	Service of process—By whom served.
298-08-070	Service of process—Upon whom served.
298-08-080	Service of process—Service upon parties.
298-08-090	Service of process—Method of service.
298-08-100	Service of process—When service complete.
298-08-110	Service of process—Filing with board.
298-08-120	Depositions and interrogatories in contested cases—Right to take.
298-08-130	Depositions and interrogatories in contested cases—Scope.
298-08-140	Depositions and interrogatories in contested cases—Officer before whom taken.
298-08-150	Depositions and interrogatories in contested cases—Authorization.
298-08-160	Depositions and interrogatories in contested cases—Protection of parties and deponents.
298-08-170	Depositions and interrogatories in contested cases—Oral examination and cross-examination.
298-08-180	Depositions and interrogatories in contested cases—Recordation.
298-08-190	Depositions and interrogatories in contested cases—Signing attestation and return.
298-08-200	Depositions and interrogatories in contested cases—Use and effect.
298-08-210	Depositions and interrogatories in contested cases—Fees of officers and deponents.
298-08-220	Depositions and interrogatories in contested cases—Depositions upon interrogatories—Submission of interrogatories.
298-08-230	Depositions and interrogatories in contested cases—Interrogation.
298-08-240	Depositions and interrogatories in contested cases—Attestation and return.
298-08-250	Depositions and interrogatories in contested cases—Provisions of deposition rule.
298-08-260	Official notice—Matters of law.
298-08-270	Official notice—Material facts.
298-08-280	Presumptions.
298-08-290	Stipulations and admissions of record.
298-08-300	Form and content of decisions in contested cases.
298-08-310	Definition of issues before hearing.
298-08-320	Prehearing conference rule.
298-08-330	Prehearing conference rule—Record of.
298-08-340	Submission of documentary evidence in advance.
298-08-350	Excerpts from documentary evidence.
298-08-360	Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses.
298-08-370	Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements.

298-08-380	Expert or opinion testimony and testimony based on economic and statistical data—Supporting data.
298-08-390	Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance with WAC 298-08-360 or 298-08-370.
298-08-400	Continuances.
298-08-410	Rules of evidence—Admissibility criteria.
298-08-420	Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections.

WAC 298-08-005 General provisions. Be it resolved by the King County leased-tidelands valuation board that:

(1) This board shall be known as "King County leased-tidelands valuation board" and shall operate under the provisions of RCW 79.01.520.

(2) The presiding officer of this board shall be ex officio chairman of the board of county commissioners of King County, Washington, and all notice, process and determinations shall be executed by him.

(3) The secretary of the board and custodian of the board's records shall be ex officio the assessor of King County.

(4) Rules of practice and procedure shall be those set forth in WAC 298-08-010 through 298-08-420.

(5) The seat of hearing shall be at Room 402, King County Courthouse, Seattle, Washington.

(6) All issues of practice and procedure during the conduct of any hearing shall be determined by the chairman. Any member of the board may appeal any such determination to the full board for a final determination by majority vote of the board.

(7) A quorum of the board necessary to hear any matter shall be a majority of its members. The number of members of the board necessary finally to determine any matter shall be a majority of the entire board.

[Resolution No. 1, filed 12/13/67.]

WAC 298-08-010 Appearance and practice before board—Who may appear. No person may appear in a representative capacity before the board other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington.

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law.

(3) A bona fide officer, partner, or full time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership, or corporation.

[Order, § 298-08-010, filed 1/13/70; § 1, filed 12/13/67.]

WAC 298-08-020 Appearance and practice before board—Appearance in certain proceedings may be limited to attorneys. In all hearings involving the taking of testimony and the formulation of a record subject to review by the courts, where the board determines that representative activity in such hearing requires a high degree of legal training, experience, and skill, the board may limit those who may appear in a representative capacity to attorneys at law.

[Order, § 298-08-020, filed 1/13/70; § 2, filed 12/13/67.]

WAC 298-08-030 Appearance and practice before board—Standards of ethical conduct. All persons appearing in proceedings before the board in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to such standards, the board may decline to permit such person to appear in a representative capacity in any proceeding before the board.

[Order, § 298-08-030, filed 1/13/70; § 3, filed 12/13/67.]

WAC 298-08-040 Computation of time. In computing any period of time prescribed or allowed by the board rules, by order of the board or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless, it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

[Order, § 298-08-040, filed 1/13/70; § 4, filed 12/13/67.]

WAC 298-08-050 Notice and opportunity for hearing in contested cases. In any contested case, all parties shall be served with a notice at least five days before the date set for the hearing. The notice shall state the time, place, and issues involved.

[Order, § 298-08-050, filed 1/13/70; § 5, filed 12/13/67.]

WAC 298-08-060 Service of process—By whom served. The board shall cause to be served all orders, notices and other papers issued by it, together with any other papers which it is required by law to serve. Every other paper shall be served by the party filing it.

[Order, § 298-08-060, filed 1/13/70; § 6, filed 12/13/67.]

WAC 298-08-070 Service of process—Upon whom served. All papers served by either the board or any party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance subsequent to the initiation of the proceeding shall notify all other counsel then of record and all parties not represented by counsel of such fact.

[Order, § 298-08-070, filed 1/13/70; § 7, filed 12/13/67.]

[Title 298 WAC—p. 2]

WAC 298-08-080 Service of process—Service upon parties. The final order, and any other paper required to be served by the board upon a party, shall be served upon such party or upon the agent designated by him or by law to receive service of such papers, and a copy shall be furnished to counsel of record.

[Order, § 298-08-080, filed 1/13/70; § 8, filed 12/13/67.]

WAC 298-08-090 Service of process—Method of service. Service of papers shall be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail, or by telegraph.

[Order, § 298-08-090, filed 1/13/70; § 9, filed 12/13/67.]

WAC 298-08-100 Service of process—When service complete. Service upon parties shall be regarded as complete: By mail, upon deposit in the United States mail properly stamped and addressed; by telegraph, when deposited with a telegraph company properly addressed and with charges prepaid.

[Order, § 298-08-100, filed 1/13/70; § 10, filed 12/13/67.]

WAC 298-08-110 Service of process—Filing with board. Papers required to be filed with the board shall be deemed filed upon actual receipt by the board accompanied by proof of service upon parties required to be served.

[Order, § 298-08-110, filed 1/13/70; § 11, filed 12/13/67.]

WAC 298-08-120 Depositions and interrogatories in contested cases—Right to take. Except as may be otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding, except that leave must be obtained if notice of the taking is served by a proponent within ten days after service of original process.

[Order, § 298-08-120, filed 1/13/70; § 12, filed 12/13/67.]

WAC 298-08-130 Depositions and interrogatories in contested cases—Scope. Unless otherwise ordered, the deponent may be examined regarding any matter not privileged, which is relevant to the subject matter involved in the proceeding.

[Order, § 298-08-130, filed 1/13/70; § 13, filed 12/13/67.]

WAC 298-08-140 Depositions and interrogatories in contested cases—Officer before whom taken. Within the United States or within a territory or insular possession subject to the dominion of the United States depositions shall be taken before an officer authorized to administer oaths by the laws of the state of Washington or of the place where the examination is held; within a foreign country, depositions shall be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or a person designated by the board or agreed upon by the parties by stipulation in writing filed with the board. Except by stipulation, no deposition shall be taken before a

person who is a party or the privy of a party, or a privy of any counsel of a party, or who is financially interested in the proceeding.

[Order, § 298-08-140, filed 1/13/70; § 14, filed 12/13/67.]

WAC 298-08-150 Depositions and interrogatories in contested cases—Authorization. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than three days in writing to the board and all parties. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. On motion of a party upon whom the notice is served, the hearing officer may for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.

[Order, § 298-08-150, filed 1/13/70; § 15, filed 12/13/67.]

WAC 298-08-160 Depositions and interrogatories in contested cases—Protection of parties and deponents. After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the board may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel or that after being sealed, the deposition shall be opened only by order of the board, or that business secrets or secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the board; or the board may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. At any time during the taking of the deposition, on motion of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the board may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as above provided. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the board. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

[Order, § 298-08-160, filed 1/13/70; § 16, filed 12/13/67.]

WAC 298-08-170 Depositions and interrogatories in contested cases—Oral examination and cross-examina-

(2001 Ed.)

tion. Examination and cross-examination shall proceed as at an oral hearing. In lieu of participating in the oral examination, any party served with notice of taking a deposition may transmit written cross interrogatories to the officer who, without first disclosing them to any person, and after the direct testimony is complete, shall propound them seriatim to the deponent and record or cause the answers to be recorded verbatim.

[Order, § 298-08-170, filed 1/13/70; § 17, filed 12/13/67.]

WAC 298-08-180 Depositions and interrogatories in contested cases—Recordation. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under his direction and in his presence, record the testimony by typewriter directly or by transcription from stenographic notes, wire or record recorders, which record shall separately and consecutively number each interrogatory. Objections to the notice, qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented or to the conduct of the officer, or of any party, shall be noted by the officer upon the deposition. All objections by any party not so made are waived.

[Order, § 298-08-180, filed 1/13/70; § 18, filed 12/13/67.]

WAC 298-08-190 Depositions and interrogatories in contested cases—Signing attestation and return. When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress the board holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope indorsed with the title of proceeding and marked "Deposition of (here insert name of witness)" and shall promptly send it by registered or certified mail to the board for filing. The party taking the deposition shall give prompt notice of its filing to all other parties. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

[Order, § 298-08-190, filed 1/13/70; § 19, filed 12/13/67.]

WAC 298-08-200 Depositions and interrogatories in contested cases—Use and effect. Subject to rulings by the

[Title 298 WAC—p. 3]

board upon objections a deposition taken and filed as provided in this rule will not become a part of the record in the proceeding until received in evidence by the board upon its own motion or the motion of any party. Except by agreement of the parties or ruling of the hearing officer, a deposition will be received only in its entirety. A party does not make a party, or the privy of a party, or any hostile witness his witness by taking his deposition. Any party may rebut any relevant evidence contained in a deposition whether introduced by him or any other party.

[Order, § 298-08-200, filed 1/13/70; § 20, filed 12/13/67.]

WAC 298-08-210 Depositions and interrogatories in contested cases—Fees of officers and deponents. Deponents whose depositions are taken and the officers taking the same shall be entitled to the same fees as are paid for like services in the superior courts of the state of Washington, which fees shall be paid by the party at whose instance the depositions are taken.

[Order, § 298-08-210, filed 1/13/70; § 21, filed 12/13/67.]

WAC 298-08-220 Depositions and interrogatories in contested cases—Depositions upon interrogatories—Submission of interrogatories. Where the deposition is taken upon written interrogatories, the party offering the testimony shall separately and consecutively number each interrogatory and file and serve them with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom they are to be taken. Within 10 days thereafter a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within five days thereafter, the latter may serve redirect interrogatories upon the party who served cross-interrogatories.

[Order, § 298-08-220, filed 1/13/70; § 22, filed 12/13/67.]

WAC 298-08-230 Depositions and interrogatories in contested cases—Interrogation. Where the interrogatories are forwarded to an officer authorized to administer oaths the officer taking the same after duly swearing the deponent, shall read to him seriatim, one interrogatory at a time and cause the same and the answer thereto to be recorded before the succeeding interrogatory is asked. No one except the deponent, the officer and the court reporter or stenographer recording and transcribing it shall be present during the interrogation.

[Order, § 298-08-230, filed 1/13/70; § 23, filed 12/13/67.]

WAC 298-08-240 Depositions and interrogatories in contested cases—Attestation and return. The officer before whom interrogatories are verified or answered shall (1) certify under his official signature and seal that the deponent was duly sworn by him, that the interrogatories and answers are a true record of the deponent's testimony, that no one except deponent, the officer and the stenographer were present during the taking, and that neither he nor the stenographer, to his knowledge, is a party, privy to a party, or interested in the event of the proceedings, and (2) promptly send

by registered or certified mail the original copy of the deposition and exhibits with his attestation to the board, one copy to the counsel who submitted the interrogatories and another copy to the deponent.

[Order, § 298-08-240, filed 1/13/70; § 24, filed 12/13/67.]

WAC 298-08-250 Depositions and interrogatories in contested cases—Provisions of deposition rule. In all other respects, depositions upon interrogatories shall be governed by the previous deposition rule.

[Order, § 298-08-250, filed 1/13/70; § 25, filed 12/13/67.]

WAC 298-08-260 Official notice—Matters of law. The board upon request made before or during a hearing, will officially notice:

(1) Federal law. The Constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rule, orders and notices published in the Federal Register;

(2) State law. The Constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions and administrative agencies of the state of Washington, executive orders and proclamations by the governor; and all rules, orders and notices filed with the code reviser.

(3) Governmental organization. Organization, territorial limitations, officers, departments, and general administration of the government of the state of Washington, the United States, the several states and foreign nations.

[Order, § 298-08-260, filed 1/13/70; § 26, filed 12/13/67.]

WAC 298-08-270 Official notice—Material facts. In the absence of controverting evidence, the board, upon request made before or during a hearing, may officially notice:

(1) Business customs. General customs and practices followed in the transaction of business;

(2) Notorious facts. Facts so generally and widely known to all well-informed persons as not to be subject to reasonable dispute, or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal or state officer, department or agency;

(3) Technical knowledge. Matters within the technical knowledge of the King County assessor's office as a body of experts, within the scope or pertaining to the subject matter of its statutory duties, responsibilities or jurisdiction;

(4) Request or suggestion. Any party may request or the board may suggest that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any prehearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memorandum, or brief served upon all parties, at any time prior to a final decision;

(5) Statement. Where a decision of the board rests in whole or in part upon official notice of a material fact, such

fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of material facts, the board may consult any source of pertinent information, whether or not furnished as it may be, by any party and whether or not admissible under the rules of evidence;

(6) Controversion. Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official notice of a material fact which the parties have not had a prior opportunity to controvert, any party may controvert such fact by appropriate exceptions if such notice be taken in an initial or intermediate decision or by a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or nonexistence of the material fact assumed or denied in the decision.

[Order, § 298-08-270, filed 1/13/70; § 27, filed 12/13/67.]

WAC 298-08-280 Presumptions. Upon proof of the predicate facts specified in the following six subdivisions hereof without substantial dispute and by direct, clear, and convincing evidence, the board, with or without prior request or notice, may make the following presumptions, where consistent with all surrounding facts and circumstances:

(1) Continuity. That a fact of a continuous nature, proved to exist at a particular time, continues to exist as of the date of the presumption, if the fact is one which usually exists for at least that period of time;

(2) Identity. That persons and objects of the same name and description are identical;

(3) Delivery. Except in a proceeding where the liability of the carrier for nondelivery is involved, that mail matter, communications, express or freight, properly addressed, marked, billed and delivered respectively to the post office, telegraph, cable or radio company, or authorized common carrier of property with all postage, tolls and charges properly prepaid, is or has been delivered to the addressee or consignee in the ordinary course of business;

(4) Ordinary course. That a fact exists or does not exist, upon proof of the existence or nonexistence of another fact which in the ordinary and usual course of affairs, usually and regularly coexists with the fact presumed;

(5) Acceptance of benefit. That a person for whom an act is done or to whom a transfer is made has, does or will accept same where it is clearly in his own self-interest so to do;

(6) Interference with remedy. That evidence, with respect to a material fact which in bad faith is destroyed, eloi-gned, suppressed or withheld by a party in control thereof, would if produced, corroborate the evidence of the adversary party with respect to such fact.

[Order, § 298-08-280, filed 1/13/70; § 28, filed 12/13/67.]

WAC 298-08-290 Stipulations and admissions of record. The existence or nonexistence of a material fact, as made or agreed in a stipulation or in an admission of record, will be conclusively presumed against any party bound

(2001 Ed.)

thereby, and no other evidence with respect thereto will be received upon behalf of such party, provided:

(1) Upon whom binding. Such a stipulation or admission is binding upon the parties by whom it is made, their privies and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or nonexistence of the material fact so admitted or stipulated, upon the making thereof, if made on the record at a prehearing conference, oral hearing, oral argument or by a writing filed and served upon all parties within five days after a copy of such stipulation or admission has been served upon them;

(2) Withdrawal. Any party bound by a stipulation or admission of record at any time prior to final decision may be permitted to withdraw the same in whole or in part by showing to the satisfaction of the board that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding.

[Order, § 298-08-290, filed 1/13/70; § 29, filed 12/13/67.]

WAC 298-08-300 Form and content of decisions in contested cases. Every decision and order shall:

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

(2) Designate all parties and counsel to the proceeding;

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

(4) Be accompanied by appropriate numbered findings of fact and conclusions of law;

(5) Whenever practical, the conclusions of law shall include the reason or reasons for the particular order or remedy afforded;

(6) Wherever practical, the conclusions and/or order shall be referenced to specific provisions of the law and/or regulations appropriate thereto, together with reasons and precedents relied upon to support the same.

[Order, § 298-08-300, filed 1/13/70; § 30, filed 12/13/67.]

WAC 298-08-310 Definition of issues before hearing.

In all proceedings the issues to be adjudicated shall be made initially as precise as possible, in order that the board may proceed promptly to conduct the hearings on relevant and material matter only.

[Order, § 298-08-310, filed 1/13/70; § 31, filed 12/13/67.]

WAC 298-08-320 Prehearing conference rule. In any proceeding the board upon its own motion, or upon the motion of one of the parties or their qualified representatives, may in its or his discretion direct the parties or their qualified representatives to appear at a specified time and place for a conference to consider

(1) The simplification of the issues;

(2) The necessity of amendments to the pleadings;

(3) The possibility of obtaining stipulations, admissions of facts and of documents;

(4) The limitation of the number of expert witnesses;

(5) Such other matters as may aid in the disposition of the proceeding.

[Order, § 298-08-320, filed 1/13/70; § 32, filed 12/13/67.]

WAC 298-08-330 Prehearing conference rule—Record of. The board shall make an order or statement which recites the action taken at the conference, the amendments allowed to the pleadings and the agreements made by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements; and such order or statement shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

[Order, § 298-08-330, filed 1/13/70; § 33, filed 12/13/67.]

WAC 298-08-340 Submission of documentary evidence in advance. Where practicable the board may require:

(1) That all documentary evidence which is to be offered during the taking of evidence be submitted to the hearing examiner and to the other parties to the proceeding sufficiently in advance of such taking of evidence to permit study and preparation of cross-examination and rebuttal evidence;

(2) That documentary evidence not submitted in advance, as may be required by section (1), be not received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the evidence sooner;

(3) That the authenticity of all documents submitted in advance in a proceeding in which such submission is required, be deemed admitted unless written objection thereto is filed prior to the hearing, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

[Order, § 298-08-340, filed 1/13/70; § 34, filed 12/13/67.]

WAC 298-08-350 Excerpts from documentary evidence. When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered, to the hearing examiner and to the other parties. Only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document shall be made available for examination and for use by all parties to the proceeding.

[Order, § 298-08-350, filed 1/13/70; § 35, filed 12/13/67.]

WAC 298-08-360 Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses. The board in all classes of cases where practicable shall make an effort to have the interested parties agree upon the witness or witnesses who are to give expert or opinion testimony, either by selecting one or more to speak for all parties or by limiting the number for each party; and, if the interested parties cannot agree, shall require them to submit to him and to the other parties written statements containing the names, addresses and qualifications of their respective opinion or expert witnesses, by a date determined by him and fixed sufficiently in advance of

[Title 298 WAC—p. 6]

the hearing to permit the other interested parties to investigate such qualifications.

[Order, § 298-08-360, filed 1/13/70; § 36, filed 12/13/67.]

WAC 298-08-370 Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements. The board, in all classes of cases in which it is practicable and permissible, shall require, and when not so permissible, shall make every effort to bring about by voluntary submission, that all direct opinion or expert testimony and all direct testimony based on economic or statistical data be reduced to written sworn statements, and, together with the exhibits upon which based, be submitted to it and to the other parties to the proceeding by a date determined by the board and fixed a reasonable time in advance of the hearing; and that such sworn statements be acceptable as evidence upon formal offer at the hearing, subject to objection on any ground except that such sworn statements shall not be subject to challenge because the testimony is not presented orally. Witnesses making such statements shall not be subject to cross-examination unless a request is made sufficiently in advance of the hearing to insure the presence of the witnesses.

[Order, § 298-08-370, filed 1/13/70; § 37, filed 12/13/67.]

WAC 298-08-380 Expert or opinion testimony and testimony based on economic and statistical data—Supporting data. That the board, consistent with the rights of the parties, cause the parties to make available for inspection in advance of the hearing, and for purposes of cross-examination at the hearing, the data underlying statements and exhibits submitted in accordance with WAC 298-08-370, but, wherever practicable that it restrict to a minimum the placing of such data in the record.

[Order, § 298-08-380, filed 1/13/70; § 38, filed 12/13/67.]

WAC 298-08-390 Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance with WAC 298-08-360 or 298-08-370. Whenever the manner of introduction of opinion or expert testimony or testimony based on economic or statistical data is governed by requirements fixed under the provisions of WAC 298-08-360 or 298-08-370, such testimony not submitted in accordance with the relevant requirements shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to conform to such requirements.

[Order, § 298-08-390, filed 1/13/70; § 39, filed 12/13/67.]

WAC 298-08-400 Continuances. Any party who desires a continuance shall, immediately upon receipt of notice of a hearing, or as soon thereafter as facts requiring such continuance come to his knowledge, notify the board of said desire, stating in detail the reasons why such continuance is necessary. The board in passing upon a request for continuance, shall consider whether such request was promptly and timely made. For good cause shown, the board may grant such a continuance and may at any time order a continuance

(2001 Ed.)

upon its own motion. During a hearing, if it appears in the public interest or in the interest of justice that further testimony or argument should be received the board may in its discretion continue the hearing and fix the date for introduction of additional evidence or presentation of argument. Such oral notice shall constitute final notice of such continued hearing.

[Order, § 298-08-400, filed 1/13/70; § 40, filed 12/13/67.]

WAC 298-08-410 Rules of evidence—Admissibility criteria. Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the board, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the board shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior court of the state of Washington.

[Order, § 298-08-410, filed 1/13/70; § 41, filed 12/13/67.]

WAC 298-08-420 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections. When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The board, either with or without objection, may exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state precise grounds of such objection at the time such evidence is offered.

[Order, § 298-08-420, filed 1/13/70; § 42, filed 12/13/67.]