

WSR 24-17-143

PROPOSED RULES

DEPARTMENT OF TRANSPORTATION

[Filed August 21, 2024, 10:11 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-14-138.

Title of Rule and Other Identifying Information: Proposed new WAC 468-30-130 Transfer, lease, disposal of public property for affordable housing.

Hearing Location(s): On October 2, 2024, at 3:00 p.m., virtual hearing in Microsoft Teams https://bit.ly/WAC_468-30-130_10-02-24. To join the hearing, please use the web address shown for the location or dial in by phone +1-206-531-0324,,956920994# United States, Seattle, 206-531-0324,,956920994# United States (toll-free), find a local number <https://dialin.teams.microsoft.com/039e7852-bef4-4986-949b-6b82f4e2095f?id=956920994>, Phone conference ID 956 920 994#. For further details about joining a Microsoft Teams meeting, you can visit this web page <https://aka.ms/JoinTeamsMeeting?omkt=en-US>.

Date of Intended Adoption: October 2, 2024.

Submit Written Comments to: Robin Curl, P.O. Box 47338, Olympia, WA 98504-7338, email robin.curl@wsdot.wa.gov, beginning September 3, 2024, at 8:00 a.m., by October 1, 2024, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Washington state department of transportation (WSDOT) ADA office, toll-free 855-362-4ADA (4232), TTY 711, email wsdotada@wsdot.wa.gov, by September 24, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 39.33.015(3) requires rules for the disposition of property for public benefit purposes. WSDOT anticipates that this rule will result in the creation of affordable housing.

Reasons Supporting Proposal: This rule will implement the requirements of RCW 39.33.015(3).

Statutory Authority for Adoption: RCW 39.33.015(3).

Statute Being Implemented: RCW 39.33.015.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WSDOT, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Robin Curl, 7345 Linderson Way S.W., Tumwater, WA 98501, 360-705-6968; Enforcement: J. Kevin Workman, 7345 Linderson Way S.W., Tumwater, WA 98501, 360-705-7324.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This is not required because WSDOT is not subject to RCW 34.05.328 (5)(a)(i), and RCW 34.05.328 (5)(a)(ii) has not been made applicable to this rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: WSDOT is not exercising regulatory authority. The rule only relates to WSDOT's proprietary management of real property. The rule does not impose costs on anyone; it actually does the opposite and eliminates costs. The rule does not apply to private businesses, only government entities and select nonprofits.

Any indirect costs to small businesses would likely be "minor costs" allowed by the statute.

Scope of exemption for rule proposal:
Is fully exempt.

August 21, 2024
Nikki Nisbet
Acting Director
Business Support Services

OTS-5717.3

NEW SECTION

WAC 468-30-130 Transfer, lease, disposal of public property for affordable housing. (1) The department may enter into lease agreements with public, private, and nongovernmental bodies, allowing them to construct and operate affordable housing on land under the jurisdiction of the department, for less than fair economic rent if the following conditions are met:

- (a) The leased premises is not presently needed for highway purposes;
- (b) The leased premises is used for housing for low-income and very low-income households as defined in RCW 43.63A.510, and related facilities that support the goals of affordable housing development in providing economic and social stability for low-income persons;
- (c) The tenant pays all appraisal costs, debt services, and any other liabilities to the department for the processing and execution of the lease;
- (d) The leased premises is subject to the provisions and requirements of zoning ordinances of political subdivisions of government;
- (e) The use of the leased premises is consistent with existing locally adopted comprehensive plans as described in RCW 36.70A.070;
- (f) The lease terminates if the tenant fails to use the premises for affordable housing;
- (g) The lease authorizes the department to terminate the lease if the leased premises is needed for a highway purpose;
- (h) The lease provides that prior to termination, the tenant agrees, if so directed by the department, to restore the leased premises to its condition prior to tenant's occupancy, reasonable wear and tear excepted. This work is to be done at tenant's expense to the satisfaction of the department. In the event tenant fails to restore leased premises upon termination, the department may restore the leased premises as it deems appropriate and at tenant's expense.

(2) The department may transfer real property to public, private, and nongovernmental bodies, at less than fair market value for the construction and operation of affordable housing if the following conditions are met:

- (a) The property is no longer required for transportation purposes;
- (b) The property is used for housing for low-income and very low-income households as defined in RCW 43.63A.510, and related facilities

that support the goals of affordable housing development in providing economic and social stability for low-income persons;

(c) Consideration includes appraisal costs, debt services, all closing costs, and any other liabilities to the department;

(d) The use of the property is consistent with existing locally adopted comprehensive plans as described in RCW 36.70A.070;

(e) The transfer is executed with a quitclaim deed;

(f) The deed contains a covenant or other requirement that the property shall be used for the designated public benefit purpose;

(g) The deed contains remedies that apply if the grantee fails to use the property for the designated purpose or ceases to use it for such purpose. Such remedies shall include clauses reverting title to the department, or the payment of fair market value.

(3) The department must comply with RCW 39.33.020.