

Chapter 468-30 WAC

HIGHWAY PROPERTY

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

468-30-030	Prohibition of fishing from bridges. [Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-30-030, filed 12/20/78. Formerly WAC 252-12-025.] Repealed by 98-18-003 (Order 182), filed 8/20/98, effective 9/20/98. Statutory Authority: RCW 34.05.354 and 47.01.101.
468-30-090	Designation of official custodian of right of way maps. [Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-30-090, filed 12/20/78. Formerly WAC 252-12-070.] Repealed by 81-19-053 (Order 66), filed 9/11/81. Statutory Authority: RCW 47.01.101(5).

WAC 468-30-010 Policy and procedure for handling assessments against state highway lands. (1) The secretary of transportation is the "chief administrative officer" of the department of transportation as that phrase is applied in chapter 79.44 RCW. The secretary of transportation is also the "agency head" as that phrase is applied in chapter 82-12 WAC.

(2) Whenever real property or real property rights are acquired all interests in the real property or real property rights shall be discharged as authorized by law. If any assessing entity may in the course of its operation assess for the maintenance, operation, or any function of the assessing entity subsequent to acquisition, the present value of those subsequent assessments shall be determined by the parties and that amount paid in exchange for a deed releasing the real property or real property interests from all subsequent assessments by the assessing entity and an order entered in the records of the assessing entity to that same effect.

(3) Whenever any assessing district as defined and provided in chapter 79.44 RCW seeks to include any real property or real property interests of the department of transportation the department shall proceed as authorized by law. If any assessing district may assess further for the maintenance, operating, or any function of the assessing district, the present value of those subsequent assessments shall be determined by the parties and that amount paid in exchange for a

deed releasing the real property or real property interests from all subsequent assessments by the assessing district and an order entered in the records of the assessing district to that same effect.

(4) Whenever the department of transportation holds any real property or real property interests which are subject to future assessments by an assessing entity the present value of those subsequent assessments shall be determined by the parties and that amount paid in exchange for a deed releasing the real property or real property interests from all subsequent assessment by the assessing entity and an order entered in the records of the assessing district to that same effect.

(5) Whenever any assessing district as defined in chapter 73.44 RCW refuses to release future assessments by payment in advance, the assessments may be paid annually.

[Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-30-010, filed 12/20/78. Formerly WAC 252-12-010.]

WAC 468-30-020 Policy for the control of irrigation waste waters encroaching upon highway rights of way. (1) When the United States bureau of reclamation or irrigation districts must permit their irrigation waste waters to encroach upon or cross highway rights of way in carrying them to a natural drainage channel or an established waterway or drainage ditch, said bureau of reclamation or irrigation districts shall request permission to do so under the provisions of chapter 47.44 RCW.

(2) Discharge of irrigation waste waters into normal highway ditches will not be tolerated. Property owners will not be permitted to carry waste waters in laterals paralleling and within highway rights of way.

[Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-30-020, filed 12/20/78. Formerly WAC 252-12-020.]

WAC 468-30-040 Use of space beneath limited access facilities in cities and towns. See WAC 468-58-040.

[Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-30-040, filed 12/20/78. Formerly WAC 252-12-030 and 252-20-035.]

WAC 468-30-050 Policy relative to granting and maintaining road approaches to state highway system. (1) Approaches granted by right of way negotiation shall include in the instrument a provision that the approach shall be maintained by the grantee outside the shoulder line of the highway. This shall obtain irrespective of whether the state constructs the approach or not.

(2) Approaches granted by permit shall continue to be maintained outside the highway shoulder line by the holder of the permit.

(3) Existing structures, which have been granted under permit but which may be reconstructed by the state with the

reconstruction of the highway, shall be maintained by the property owner and provision for such maintenance shall be set forth in the new permit or right of way instrument providing for the approach reconstruction. This is applicable to approaches which have developed but which are not covered by permit or right of way negotiation.

(4) Existing approaches outside the shoulder of the highway which were constructed by the state under a provision of a right of way transaction without mention of maintenance and which have previously been maintained by the state shall hereafter be maintained by the abutting property owner.

(5) Approaches to limited access highways shall be to frontage roads where provided and only to the main roadway where this is specifically intended under the plan showing access for the particular section within which the approach is located.

[Statutory Authority: 1977 ex.s. c 151, 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-30-050, filed 12/20/78. Formerly WAC 252-12-040.]

WAC 468-30-060 Rental of state highway lands and improvements. (1) All improved property acquired by the department of transportation for future transportation purposes may be rented to the occupying owner or tenant (initial displacee) for a period of up to ninety days. If the improvement is deemed unrentable or does not meet DS & S standards, there are no further rentals. The improvement is then scheduled for sale and removal or demolition. Other improvements may be rented to subsequent tenants on a month-to-month basis until the property is required by pending construction. In no event shall the property be rented to the original displacee beyond the initial ninety day period unless there are extenuating circumstances and prior written approval of the chief right of way agent.

(2) Leases and rental agreements in furtherance of the policy set forth in subsection (1) of this section and pursuant to authority contained in chapter 162, Laws of 1949, shall be negotiated by the land management branch of the department of transportation where directed by the secretary of transportation. Said division shall prepare all necessary documents to accomplish such leases and shall submit same to the secretary for action thereon as indicated in subsection (4) of this section.

(3) The rental rates are based on the following:

(a) The rental rate is economic rent as determined by either a market data report of rentals or a written determination by appraisal.

(b) For those rentals subject to excise tax under the provisions of chapter 82.29A RCW, the tax is payable in addition to the determined rental rate.

(c) The rental rate is evaluated as economic conditions require, but no more often than once per year.

(d) Where the acquired improvement is tenant occupied, the rental rate in effect at the time of acquisition shall continue for ninety days. Thereafter the rental rate shall be economic rent. Should the tenant be paying more than economic rent, the rent is to be immediately lowered to economic rent.

(e) The rent for the first month (pay period) is calculated and adjusted to the next closest first or fifteenth day. This adjusted rent and the last month's (pay period) rent are payable upon execution of the rental agreement.

(4) Authority to approve rental agreements:

(a) All rental agreements in which the rental rate equals or exceeds the "minimum standard rental rates" of the applicable provisions of subsection (3) of this section may be approved by the secretary of transportation or his designee.

(b) The following described agreements (i) and (ii) will not be considered under the provisions of subsection (3) of this section and may be approved by the secretary of transportation.

(i) Interim possession agreements—Interim agreements will give possession to a prospective air space lessee during the period prior to the formalization and approval of an air space lease. The agreements will provide interim rental at a negotiated figure and will be terminable on thirty days' notice.

(ii) Mutual benefits possession agreements—Mutual benefits possession agreements will involve those properties where the benefits to the state will equal those derived by the lessee and will be terminable on thirty days' notice. The value of mutual benefit will be determined by the secretary or his designee.

(5) Leases and rental agreements shall be subject to termination on a maximum of sixty days' written notice, provided, that the secretary or his designee may approve time extensions in specific cases.

[Statutory Authority: RCW 47.12.120 and 47.01.101(5), 86-18-039 (Order 104), § 468-30-060, filed 8/28/86. Statutory Authority: RCW 47.12.120, 83-19-012 (Order 82), § 468-30-060, filed 9/12/83. Statutory Authority: 1977 ex.s. c 151, 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-30-060, filed 12/20/78. Formerly WAC 252-12-050.]

WAC 468-30-070 Procedure for transfer of abandoned state highways to counties. A public highway which is or has been a part of the route of a state highway and is no longer necessary as such may be certified to the county in which it is located in the following manner:

The department of transportation shall notify the affected board of county commissioners and the county engineer of any certifications anticipated for the ensuing calendar year not later than August 1 of the previous year, so that the county may provide in its budget for the maintenance and/or reconstruction of roads which are transferred to it by the department of transportation in accordance with RCW 36.75.090.

(1) When a tentative date has been determined on which the transfer of the highway is to be made, the appropriate department of transportation region shall arrange for a joint maintenance inspection by representatives of the department of transportation and the county.

(2) Any and all routine maintenance deficiencies which are noted at the time of this inspection shall be corrected by the department of transportation region maintenance forces.

(3) Upon completion of any maintenance work deemed necessary, the department of transportation shall by letter inform the county engineer to the effect that all maintenance deficiencies noted during the inspection have been corrected.

(4) The county engineer shall by letter subsequently inform the department of transportation that the road or highway to be transferred is either (a) in a condition acceptable to the county, or (b) in a condition not acceptable to the county,

in which case the unacceptable conditions shall be enumerated in detail.

(5) In the event that the department of transportation feels that additional maintenance work is required, it shall direct such work to be done and again follow the procedure outlined in subsection (3) of this section; and the county engineer shall then follow the procedure outlined in subsection (4) of this section.

(6) In the event that it becomes impossible for the department of transportation and the county to reach agreement, a full report of the initial inspection and the apparent points of disagreement shall be transmitted to the highways and local programs engineer, who will then consult with the state maintenance engineer and the county engineer and provide the secretary of transportation with all significant information and with their own recommendations.

(7) The secretary of transportation will take final action on the transfer of the road and the county shall be provided with a copy of the decision two weeks before the certification is made.

(8) After the certification has been made, the department of transportation will provide the county with all available maps, conveyances, permits, franchises and other documents which may relate to that portion of the road or highway transferred.

Maintenance is described as being the preservation and upkeep of a highway, including all of its elements, in as nearly its original, or as constructed, or as subsequently improved, condition as possible. This includes traffic control devices and other safety control measures deemed necessary.

In the alternative, the department with any county may enter into an agreement that modifies the above highway certification process so long as the agreement complies with the provisions of RCW 36.75.090.

[Statutory Authority: RCW 36.75.090. 09-09-068, § 468-30-070, filed 4/14/09, effective 5/15/09. Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-30-070, filed 12/20/78. Formerly WAC 252-12-055.]

WAC 468-30-075 Procedure for transfer of abandoned state highways to cities and towns. A public highway which is or has been a part of the route of a state highway and is no longer necessary as such may be certified to the city or town in which it is located in the following manner:

The department of transportation shall notify the affected legislative body and the city or town engineer of any certifications anticipated for the first half of July of the ensuing calendar year not later than August 1 of the previous year, so that the city or town may provide in its budget for the maintenance and/or reconstruction of roads which are transferred to it by the department of transportation in accordance with RCW 36.75.090 and 47.24.010.

(1) The department of transportation shall make such certifications between the first and fifteenth of July each year. A reasonable time prior to the certification of a highway, the appropriate department of transportation region shall arrange for a joint maintenance inspection by representatives of the department of transportation and the city or town.

(2) Any and all routine maintenance deficiencies which are noted at the time of this inspection shall be corrected by

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the department of transportation region maintenance forces or by contract.

(3) Upon completion of any maintenance work deemed necessary, the department of transportation shall by letter inform the city or town engineer to the effect that all maintenance deficiencies noted during the inspection have been corrected.

(4) The city or town engineer shall by letter subsequently inform the department of transportation that the road or highway to be transferred is either (a) in a condition acceptable to the city or town or (b) in a condition not acceptable to the city or town in which case the unacceptable conditions shall be enumerated in detail.

(5) In the event that the department of transportation feels that additional maintenance work is required, it shall direct such work to be done and again follow the procedure outlined in subsection (3) of this section; and the city or town engineer shall then follow the procedure outlined in subsection (4) of this section.

(6) In the event that it becomes impossible for the department of transportation and the city or town to reach agreement, a full report of the initial inspection and the apparent points of disagreement shall be transmitted to the highways and local programs engineer, who will then consult with the department of transportation maintenance engineer and the city or town engineer and provide the secretary of transportation with all significant information and with their recommendations.

(7) The secretary of transportation will take final action on the transfer of the road and the city or town shall be provided with a copy of the decision two weeks before the certification is made.

(8) After the certification has been made, the state will provide the city or town with all available maps, conveyances, permits, franchises and other documents which may relate to that portion of highway transferred.

Maintenance is described as a program to preserve and repair a system of roadways together with its elements to ensure its designed or established structural life and operational expectancy. This includes traffic control devices and other safety control measures deemed necessary.

In the alternative, the department with any city or town may enter into an agreement that modifies the above highway certification process so long as the agreement complies with the provisions of RCW 36.75.090.

[Statutory Authority: RCW 36.75.090. 09-09-068, § 468-30-075, filed 4/14/09, effective 5/15/09. Statutory Authority: Chapter 34.04 RCW. 79-09-044 (Order 35), § 468-30-075, filed 8/20/79.]

WAC 468-30-080 Policy and procedure for sales of personalty. Whenever the department of transportation shall have acquired any lands, except state granted lands, upon which are located any structures, timber or other thing of value attached to the land, same may be severed from the land and sold at public auction subject to the following guidelines:

(1) Such items of value may be approved for sale at public auction or for removal by demolition under contract procedures approved by the secretary of transportation.

(2) Authorized sales of personalty shall be made by the department of transportation acting through the secretary of

transportation at public auction upon a date, place and hour to be set by the secretary.

(3) The authorization for sale shall include a minimum price at which any item or items may be sold.

(4) Notice of sale shall be given as follows:

(a) By publishing notice of the time and place of sale two successive times with an interval of one week between publications, in any daily or weekly newspaper of general circulation published in the county in which the sale is to take place. If there is no legal newspaper published in the county, then such notice shall be published in the legal newspaper published in this state nearest to the place of sale.

(b) The notice shall describe with reasonable particularity each item of property to be sold, shall state the location at which said property can be viewed, shall state the date, time and place at which the auction is to be held, and shall be signed by the secretary of transportation or such other person as he may designate.

(5) All items sold shall be removed from the right of way or premises of the department of transportation within a maximum period of sixty days following sale, provided, that the secretary of transportation may increase said maximum period when in his judgment it would not be practical to make such removal within sixty days.

(6) The secretary of transportation is authorized at his discretion to include as a condition of any sale a requirement that the purchaser provide a surety deposit guaranteeing satisfactory performance in removal of the item purchased and correction of all unsightly or hazardous conditions caused by such removal, and the secretary is further authorized to determine the amount of deposit to be required.

(7) If a minimum price shall have been set and the highest bid at the auction is less than such minimum, one of the following alternative procedures shall be pursued:

(a) When time permits, the building shall be readvertised for sale at a later date and this shall be announced to the bidders immediately.

(b) If the building cannot be readvertised due to the imminence of construction, the bidders shall be advised immediately of the minimum acceptable bid and that a sale will be made to the first responsible bidder offering the minimum bid plus the required deposit.

[Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-30-080, filed 12/20/78. Formerly WAC 252-12-060.]

WAC 468-30-100 Policy relative to the installation of signs and markings on state highway rights of way. No permits shall hereafter be issued for the installation of signs and markings other than traffic control signs and state historical markers on state highway rights of way. Traffic control signs shall be consistent with the manual on Uniform Traffic Control Devices for Streets and Highways, as modified and adopted by the department of transportation.

[Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-30-100, filed 12/20/78.]

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WAC 468-30-110 Nonhighway use of airspace on state highways. (1) Definitions:

(a) "Airspace" is that space located above, at or below the highway's established gradeline lying within the approved right of way limits.

(b) "Department" is the Washington state department of transportation.

(2) Any use of such space shall be subject to approval of the Federal Highway Administration.

(3) Any use of such space shall be subject to compliance with all applicable city, town or county zoning requirements.

(4) Any application to the department for the lease of such space shall describe in detail the use to be made of such space and the physical facilities to be installed and maintained on state right of way.

(5) The lessee shall be solely responsible and shall hold the state harmless for liability for any and all damage to persons or to public or private property that may result from or be caused by the use of such space or from the erection or maintenance of any structure or facility upon the highway right of way. The lessee shall be liable to the department for any moneys expended by it for the protection or repair of any state facility required as a result of any such use.

(6) The lessee shall be required to carry liability and property damage insurance in amounts required by the department.

(7) No use of such space shall be allowed which subjects the highway facility or the public to undue risk or impairs the use of the facility for highway purposes.

(8) Use of such space shall be covered by a properly executed airspace lease.

(9) Consideration for occupancy:

(a) Where the airspace can be developed and used as an entity the consideration shall be economic rent.

(b) Where the proposed use of the airspace is in conjunction with an abutting tract, rent shall be based on its contribution value to the abutting property but not less than economic rent.

(c) When the use of the property constitutes a highway purpose the rent may be offset in part or in whole with other valuable considerations as determined by the department.

(10) The granting of any use of such space shall be subject to the discretion of the department and upon such terms and conditions in addition to those stated herein as it shall deem proper.

(11) No assignment of any lease by the lessee shall be of any force and effect unless prior written approval of such assignment has been given by the department.

[Statutory Authority: RCW 47.01.101(5) and 47.12.120. 81-19-052 (Order 65), § 468-30-110, filed 9/11/81.]

WAC 468-30-120 Surplus property sales in agricultural zoned areas. Priority consideration shall be given to abutting property owners in agricultural zoned areas.

(1) A written notice and offer to sell shall be sent by certified mail to the abutting owner as shown on the records of the county assessor.

(2) The abutting owner shall have thirty days after receiving notice of the proposed sale to respond in writing to the department's offer to sell.

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(3) If the abutting owner rejects the state's offer or does not respond in writing within the thirty-day period, the department may then dispose of the property pursuant to RCW 47.12.063.

(4) If there is more than one abutting owner, then the procedures in RCW 47.12.063 (2)(f) shall apply.

(5) Sales to abutting property owners may at the department's option be for cash or by real estate contract.

[Statutory Authority: RCW 47.12.063 and 47.01.101(5). 89-01-052 (Order 118), § 468-30-120, filed 12/15/88.]