

TRANSMITTAL OF RULES ADOPTED

FROM: WASHINGTON STATE ENERGY OFFICE  
(Name of Agency)

TO: CODE REVISER  
LEGISLATIVE BLDG. (Southwest Corner, Ground Floor)  
OLYMPIA 98504

The enclosed rules Permanent rules  , being Order No. 1  
Emergency rules

relating to (Name of rules or description of subject matter)

Establishment of administrative procedures for the issuance of state petroleum allocation orders and appeals therefrom pursuant to the Emergency Petroleum Allocations Act.

(ALTERNATIVE A. Use only for adoption of permanent rules)

pursuant to Notice No. 7308 <sup>①</sup> filed with the code reviser on 12/13/76 <sup>②</sup> were regularly adopted as permanent rules of this agency at 1000 Cherry, Olympia <sup>(place)</sup> 1/5/77 <sup>(date)</sup> and are herewith filed in the office of the code reviser pursuant to chapter 34.04 RCW. The effective date of such rules shall be 1/5/77. <sup>③</sup>

(ALTERNATIVE B. Use only for adoption of emergency rules)

pursuant to its finding in the attached administrative order, that the immediate adoption of these rules is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest, were regularly adopted as emergency rules of this agency at \_\_\_\_\_ on \_\_\_\_\_ and \_\_\_\_\_ <sup>(place)</sup> <sup>(date)</sup> are herewith filed in the office of the code reviser pursuant to chapter 34.04 RCW.

The undersigned hereby certifies that the requirements of chapter 34.04 RCW and of the Open Public Meetings Act of 1971, chapter 42.30 RCW have been fulfilled.

Dated this Eighteenth day of January 1977.

STATE OF WASHINGTON  
**FILED**  
JAN 18 1977

WASHINGTON STATE ENERGY OFFICE  
(AGENCY)

Kevin M. Ryan  
By Kevin M. Ryan

Assistant Attorney General  
Title

CODE REVISER'S OFFICE  
#0938  
SECRET #2304 FILE # 1

- ① Notice number as appears on the copy of notice returned to you by reviser's office (if proceedings were continued, use no. of last notice)
- ② Stamped date as appears on the copy of notice returned to you by reviser's office (if proceedings were continued, use date of last notice)
- ③ Unless a later date is specified in this order or is prescribed in another statute, rules are effective 30 days after filing:  
RCW 34.04.040. Leave this space blank except in such special cases.  
[Order 9, filed 9/25/74, eff. 10/25/74] [Form CR-2: Rev. 9/21/74]

STATE OF WASHINGTON

RESOLUTION NO. 1  
Administrative Order No. 1  
(Agency) Order Register (WAC 1-12-040)

A RESOLUTION Relating to (permanent) (~~emergency~~) rules of the

WASHINGTON STATE ENERGY OFFICE

BE IT RESOLVED that rules pertaining to

1. Disclosure of public documents retained by the Washington State Energy Office.
2. Establishment of administrative procedures for the issuance of state petroleum allocation orders and appeals therefrom pursuant to the Emergency Petroleum Allocations Act.
3. The establishment of guidelines implementing the Washington Environmental Policy Act of 1971 as it relates to the Washington State Energy Office and to implement the guidelines of the Council on Environmental Policy.

(ALTERNATIVE A. USE ONLY FOR ADOPTION OF PERMANENT RULES.)

after due notices and in meeting open to the public, held at Conference  
Room, Washington State Energy Office, 1000 Cherry on January 5,  
Olympia, Washington

19 77 as required by chapters 34.04 and 42.30 RCW,

are hereby approved and adopted as (permanent) (~~emergency~~) rules of the

(ALTERNATIVE B. USE ONLY FOR ADOPTION OF EMERGENCY RULES.)

I, \_\_\_\_\_, find further that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is:

The said rules are therefore adopted as emergency rules to take effect immediately.

(2) This order, after being first recorded in the order register of this agency, shall be forwarded to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED January 5, 19 77.

By: \_\_\_\_\_

Kevin M. Ryan  
KEVIN M. RYAN

Assistant Attorney General

(Title)

NOTICE OF INTENTION TO ADOPT, AMEND, OR REPEAL RULES

(Instructions for completion on back of page)

(Additional information may be typed on back of page)

(1) Notice is hereby given in accordance with the provisions of RCW 34.04.025 and 43.41F.050 (1) that the Washington State Energy Office intends to

(name of agency)

adopt, amend, or repeal rules concerning: (2) establishment of administrative procedures for the issuance of state petroleum allocation orders and appeals therefrom pursuant to the Emergency Petroleum Allocations Act.

(2) (Use only if hearing is to be held)

that such agency will at (time) (day) (date) (3)

in the (place)

conduct a public hearing relative thereto;

(3) and that the adoption, amendment, or repeal of such rules will take place at 10:30 a.m., Wednesday, January 5, 1977, (time) (day) (date) (4)

in the Conference Room, Washington State Energy Office, 1000 Cherry Street. (place)

(4) The authority under which these rules are proposed is:

RCW 43.41F.050 and 10 CFR § 205

(5) Interested persons may submit data, views, or arguments to this agency --

(a) [XX] in writing to be received by this agency prior to January 5, 1977 and/or (date)

(b) [XX] orally at 10:30 am, Wednesday, January 5, 1977, (time) (day) (date) (3)

Conference Room, Washington State Energy Office, 1000 Cherry Street. (place)

(6) The additional notice required by RCW 34.04.025 has been made by mailing copies of this notice to all persons who have made timely request of this agency for advance notice of its rule-making proceedings.

(7) This notice is connected to and continues the matter noticed in Notice Nos. filed with

the reviser's office on (date) (5)

Keith Sherman

WASHINGTON STATE ENERGY OFFICE (AGENCY)

Dated: Jan. 5, 1977

By: KEVIN M. RYAN Assistant Attorney General (TITLE)

STATE OF WASHINGTON FILED

DEC 13 1976

CODE REVISER'S OFFICE

DOCKET # FILE #

NOTICE # 7308

(Do not write in this space)

N.B. These proceedings may require additional notice pursuant to the Open Public Meetings Act of 1971; consult Chapter 42.30 RCW.

HEARING DATE & PLACE

WAC 194-14-010 AUTHORITY. This chapter is promulgated pursuant to the authority granted in RCW 34.04.020 and according to the guidelines established in 10 C.F.R. § 205 of the Federal Mandatory Petroleum Allocation Regulations.

WAC 194-14-020 PURPOSE. The purpose of this chapter is to establish administrative procedures with respect to state orders issued under the authority granted by the Emergency Petroleum Allocation Act and appeals from such orders.

WAC 194-14-030 DEFINITIONS. The following words and terms have the following meanings for the purposes of this chapter, unless otherwise indicated:

- (1) Assignment: An action designating that an authorized purchaser be supplied at a specified entitlement level by a specified supplier.
- (2) Base Period Supply Volume: The volume of purchases from a supplier or to purchasers during the base period as defined in 10 C.F.R. § 211.17.
- (3) Coordinator: The Director or his designee who is authorized to sign orders and authorizing documents for permanent assignments.
- (4) Current Requirements: The supply of an allocated product needed by an end-user or wholesale purchaser to meet its present supply requirement for any single month.
- (5) Director: The Director of the Washington State Energy Office.
- (6) Emergency Petroleum Allocation Act: Public Law 93-159.
- (7) End-User: Any person who is an ultimate consumer of an allocated product other than a wholesale purchaser-consumer.
- (8) Office: The Washington State Energy Office.
- (9) Officer: The Director or his designee who is authorized to sign orders and authorizing documents for state set-aside assignments.
- (10) Order: A written directive or verbal communication of a written directive if promptly confirmed in writing, issued by the Office concerning state set-aside assignments or permanent assignments, or a written document issued by the Fuel Allocation Appeals Board deciding an appeal from an order of the Office. An order is effective on the date of its issuance. An order shall be deemed to be issued on the date on which it is signed by the Officer or Coordinator.
- (11) Permanent Assignment: A recommendation by the Office to the Federal Energy Administration that an applicant be assigned a permanent supplier and an allocation entitlement.
- (12) Prime Supplier: The supplier or producer which makes the first sale of any allocated product subject to the state set-aside into the state distribution system for consumption within the state.
- (13) Purchaser: Wholesale purchaser, end-user, or both.
- (14) Retail Gasoline Outlet: Wholesale purchaser-reseller which purchases or otherwise obtains gasoline and resells or otherwise transfers it to ultimate consumers.
- (15) Set-Aside: The amount of an allocated product which is made available from the total supply of a prime supplier to resolve emergencies and hardships due to fuel shortages, pursuant to 10 C.F.R. § 211.17.

(16) Supplier: Any firm or subsidiary of any firm which presently sells, transfers or otherwise furnishes any allocated product or crude oil to wholesale purchasers or end-users.

(17) Wholesale Purchaser-Consumer: Any firm that is an ultimate consumer which, as part of its normal business practices, purchases or obtains an allocated product from a supplier.

(18) Wholesale Purchaser-Reseller: Any firm which purchases, receives through transfer, or otherwise obtains an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form.

WAC 194-14-040 APPLICATIONS FOR SET-ASIDE ASSIGNMENT: FORM. Except as provided in WAC 194-14-050, all applications for state set-aside assignment shall be submitted on forms approved by the Office or in a signed letter containing the following information:

(1) The applicant's name, address, telephone number, prime supplier, amount requested and an explanation of the reason for the application, including the date by which the product is needed;

(2) If the applicant is a wholesale purchaser-consumer, the allocation figure for the month of application;

(3) If the applicant is a wholesale purchaser-reseller, the allocation figure for the month of application, and the name of the applicant's oil representative.

The Office may request such additional information from an applicant as it deems necessary.

WAC 194-14-050 APPLICATIONS FOR SET-ASIDE ASSIGNMENT: FORM: EXCEPTION. An application for state set-aside assignment may be made orally when extraordinary circumstances make it impossible for the applicant to submit a written application. When a verbal request is made, the Office will require written confirmation by the applicant of the information required by WAC 194-14-040.

WAC 194-14-060 STATE SET-ASIDE ASSIGNMENTS: CRITERIA. Assignments from the state set-aside may be made to wholesale purchaser-consumers and end-users located within the state who demonstrate hardship or emergency, or to wholesale purchaser-resellers to enable them to supply such persons. An applicant may be deemed to demonstrate hardship if:

(1) Such applicant is undergoing curtailment of an energy source and must depend on an alternate source of energy for which he has no allocation or an insufficient allocation; or

(2) Said applicant is a wholesale purchaser-reseller and demonstrates:

(a) a need for additional product as a result of supply imbalance; and

(b) good faith compliance with fair marketing practices; and

(c) in cases where long term relief is available through action by the Federal Energy Administration, that such action has been initiated by the applicant; or

(3) Said applicant is an end-user or wholesale purchaser-consumer who is unable to obtain needed product for his own use from his supplier of record.

WAC 194-14-070 STATE SET-ASIDE ACTION. The Office shall take action on an application by either ordering an assignment, denying the application or requesting more information within ten business days after the application has been received by the Office. If the Office fails to take action on an application within ten days, the applicant may treat the application as having been denied in all respects and may appeal therefrom. If an application is denied, a copy of the denial shall be served upon the applicant.

WAC 194-14-080 STATE SET-ASIDE: MAXIMUM QUANTITIES. Except in unusual circumstances, assignments from the state set-aside, when totaled with any amount available for that period through the applicant's supplier or record, shall not be more than the quantity needed to satisfy the current requirements of the applicant for the 30-day period for which the assignment is made. In addition, the set-aside amount shall not represent more than 50% of the monthly average allocation of the four preceding months or 18,000 gallons, whichever is greater.

WAC 194-14-090 ASSIGNMENT OF STATE SET-ASIDE SUPPLIER. State set-aside assignments shall generally be issued through the prime supplier with whom the applicant has an established base period supply volume. In exceptional cases, the Office may order assignments through alternate prime suppliers or may split assignments between prime suppliers. When assignments are made to a retail gasoline outlet from a supplier other than the supplier associated with the outlet's brand name, the applicant shall comply with RCW 9.16.080 and shall post a disclaimer to the effect that the product sold is not the brand usually associated with the outlet.

WAC 194-14-100 SUBMISSION OF SET-ASIDE ORDER TO PRIME SUPPLIER. Upon approval by the Office of a state set-aside assignment, the Fuel Allocation Officer shall issue a written order authorizing the assignment and shall serve it on the prime supplier and, where applicable, the local distributor of the prime supplier, from whose set-aside the assigned product is to be drawn. An order issued by the Office under this section is effective upon issuance, unless stayed, modified, suspended or rescinded, and represents a call on the prime supplier's set-aside volume for the month of issuance, even if delivery of the product cannot be made until the following month.

WAC 194-14-110 APPLICATION FOR PERMANENT ASSIGNMENT: FORM. An application for a permanent assignment which falls under the state's jurisdiction shall be made on forms issued by the Federal Energy Administration for that purpose and shall be filed with the Office. Forms shall be available from the Office.

WAC 194-14-120 PERMANENT ASSIGNMENTS: CRITERIA: PRIORITY END-USERS. Applications from priority end-users as described in 10 C.F.R. § 211, subparts F-K will be approved. These end-users must satisfy the Office through proper verification and certification that they meet the classification of priority end-user.

WAC 194-14-130 PERMANENT ASSIGNMENTS: CRITERIA: NON-PRIORITY END-USERS. Applications from non-priority users will not be approved unless the following conditions apply:

- (1) There is severe economic impact on the business directly resulting from reliance on retail purchases by that business; and
- (2) An energy conservation program is in effect as demonstrated to the Office; and
- (3) Every attempt has been made, including feasible changes in regular business operations, to obtain needed fuel through retail outlets.

WAC 194-14-140 PERMANENT ASSIGNMENT ACTION. If a permanent assignment is approved by the Office, the Coordinator shall issue a written recommendation to the regional office of the Federal Energy Administration for final deposition. A copy of the recommendation shall be sent to the applicant and to the applicant's supplier. If a permanent assignment is denied by the Office, the Coordinator shall issue an order of denial. The order shall be served upon the applicant.

WAC 194-14-150 APPEALS. Any person aggrieved by an order of the Office may file an appeal from such order with the Director. Notice of appeal shall be filed within 15 days of the order from which the appeal is taken, and shall be in writing and signed by the appellant. Each appeal shall state:

- (1) The reason for the appeal, including the reasons appellant believes the order to be unjust or unwise;
- (2) The names and addresses of persons known to appellant who might be adversely affected by the outcome of the appeal;
- (3) The nature of the relief sought, whether reversal, modification or some other relief;
- (4) A demand for a hearing, or all appeal documents if no oral hearing is requested.

WAC 194-14-160 APPEALS BOARD. All appeals taken under these regulations shall be heard by the Fuel Allocation Appeals Board which shall consist of three employees of the Office appointed by the Director. The Board members shall be persons who were not involved in the decision from which the appeal is taken.

WAC 194-14-170 HEARING. Within 20 days after the receipt of a notice of appeal, the Director shall set a hearing date or,

if no hearing is requested, a date for consideration of the appeal by the Appeals Board. The Director shall serve upon all affected persons known to the Director:

- (1) A statement of the time, place and nature of the proceeding;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) A reference to the particular sections of the statutes and rules involved;
- (4) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon request a more definite and detailed statement shall be furnished.

WAC 194-14-180 PARTIES. For purposes of these rules, the parties to an appeal shall be the appellant and the Office. If the appellant is a person other than the original applicant for the order, the applicant may be permitted to intervene. Upon application, any other person may be permitted to intervene upon a showing that he will be adversely affected by the outcome of the appeal, unless the Board determines that his interest is adequately represented by one of the parties or intervenors to the appeal.

WAC 194-14-190 APPEAL PROCEEDINGS. The provisions of chapter 1-08, WAC, shall govern all proceedings before the Appeals Board.

WAC 194-14-200 PREHEARING CONFERENCE. In any proceeding the Board may, upon its motion or upon the motion of one of the parties, direct the parties to appear at a specified time and place for a conference. Such notice shall be provided not less than five days before the date of the conference.

WAC 194-14-210 INFORMAL DESPOSITION. Informal disposition may be made of an appeal or any issue therein by stipulation, agreed settlement, or consent order at any point in the proceedings.

WAC 194-14-220 TRANSCRIPT. A verbatim record of the hearing shall be taken by a court reporter or recording equipment. A court reporter shall be used if demanded by any party, and the expense of the court reporter shall be paid by the demanding party, unless the Office agrees otherwise. The verbatim recording will not be transcribed unless requested by a party. If a transcript is requested, the Board may require the requesting party to pay the reasonable cost of preparing the transcript.



WAC 194-14-230 JUDICIAL REVIEW. The decision of the Appeals Board shall constitute a final decision for the purposes of RCW 34.04.130 and review of such final decision may be had to a superior court of competent jurisdiction pursuant to RCW 34.04.130.

WAC 194-14-240 AGENCY DECISION. Every decision of the Appeals Board shall:

- (1) Be correctly captioned as to name of proceeding and the Fuel Allocation Appeals Board;
- (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 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.

A copy of the order shall be delivered or mailed to each party or his designated representative, and to any person readily identifiable by the Appeals Board as one who is aggrieved by such order.