



RULE-MAKING ORDER

CR-103 (7/10/97)

(RCW 34.05.360)

Agency: Agriculture	<input type="checkbox"/> Permanent Rule
(1) Date of adoption: April 16, 1998	<input type="checkbox"/> Emergency Rule
	<input checked="" type="checkbox"/> Expedited Adoption
	<input type="checkbox"/> Expedited Repeal

(2) Purpose: Pursuant to RCW 34.05.479, the department may use emergency adjudicative proceedings in situations involving an immediate danger to public health, safety and welfare. Situations when an emergency proceeding may be used are provided for in the agency practice and procedure rules chapter 16-08 WAC.

(3) Citation of existing rules affected by this order:
 Repealed:
 Amended: 16-08-151
 Suspended:

(4) Statutory authority for adoption: 34.05 RCW
 Other Authority: RCW 34.05.479

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)
 Adopted under notice filed as WSR 98-04-082 on February 4, 1998 (date).
 Describe any changes other than editing from proposed to adopted version:

EMERGENCY RULE ONLY
 Under RCW 34.05.350 the agency for good cause finds:
 (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

 Reasons for this finding:

EXPEDITED REPEAL ONLY
 Under Preproposal Statement of Inquiry filed as WSR ____ on ____ (date)

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:
 Yes No If Yes, explain:

(6) Effective date of rule:
Permanent Rules or Expedited Repeal
 31 days after filing
 Other (specify) ____*
Emergency Rules
 Immediately
 Later (specify) _____
 *(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Name (Type or Print)
 James M. Jesernig
Signature

Title
 Director
Date
 April 16, 1998

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
 STATE OF WASHINGTON
 FILED

APR 21 1998

TIME 3:18 AM
 WSR 98-09-085 PM

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	Amended	Repealed
Federal rules or standards:	New	Amended	Repealed
Recently enacted state statutes:	New	Amended	Repealed

The number of sections adopted at the request of nongovernmental entity:

New	Amended	Repealed
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The number of sections adopted in the agency's own initiative:

New	-----	Amended	<u>1</u>	Repealed
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	-----	Amended	<u>1</u>	Repealed
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The number of sections adopted using:

Negotiated rule making:	New	Amended	Repealed
Pilot rule making:	New	Amended	Repealed
Other alternative rule making:	New	Amended	Repealed

AMENDATORY SECTION (Amending WSR 93-10-059, filed 4/30/93, effective 5/31/93)

WAC 16-08-151 Emergency adjudicative proceedings. (1)

Pursuant to RCW 34.05.479, the department shall use emergency adjudicative proceedings for the suspension or cancellation of authority in situations involving an immediate danger to the public health, safety, or welfare requiring immediate action by the department. Such situations shall include:

(a) Failure to possess required insurance, bonding or other security.

(b) Health, safety, or welfare violations when the violation involves an immediate danger to the public health, safety, or welfare, including, but not limited to, decisions by the department to condemn horticultural plants under chapter 15.13 RCW; or to condemn infested or infected articles under chapter 15.08 RCW; or to issue stop sale, use, or removal order under chapter 15.49 RCW; or to quarantine apiaries under chapter 15.60 RCW; or to quarantine animals under chapter 16.36 RCW; or to impound infested, infected, or regulated articles pursuant to chapter 17.24 RCW; or to close food processing facilities under chapter 69.07 RCW; or under rules or regulations of the director adopted pursuant to such laws.

(2) The summary order shall include a brief statement of findings of fact, conclusions of law, and justification for the determination of an immediate danger to the public health, safety, or welfare. The order shall be effective when entered. Service of the order shall be made pursuant to WAC 10-08-110. The order shall also give the affected party (~~(forty-eight hours from receipt)~~) five days from service of the order to request an adjudicative proceeding on the order, or, in the alternative, the director may in the order automatically establish a date affording the affected party the opportunity to present any defense concerning why the summary order is incorrect.

(3) A decision made upon the emergency adjudicative proceeding shall be expressed in a written order which shall be served on all parties within five days after its entry. This written order is a final order.

(4) The summary order shall be effective pending disposition on the merits of the denial, suspension or revocation of authority.