

paid on the original transfer to the incorporator; and (b) that it was documented on or before the original transfer that the incorporator was receiving title to the property on behalf of that corporation during its formation process. This tax exemption does not apply where a real property owner had acquired title in his/her own name and later transferred title to the corporation upon formation.

(5) Real property transfers qualifying for other tax exemptions under chapter 458-61 WAC. [Statutory Authority: RCW 82.45.120 and 82.45.150. 84-17-002 (Order PT 84-3), § 458-61-320, filed 8/2/84; 82-15-070 (Order PT 82-5), § 458-61-320, filed 7/21/82.]

WAC 458-61-400 Fulfillment deed. A deed given the vendee in fulfillment of the terms of mortgage or contract is not subject to the real estate excise tax, provided that the proper tax was paid on the original transaction. The real estate excise tax affidavit is not required. The fulfillment deed must be stamped by the county treasurer as required by RCW 82.45.090. Such stamp shall show the affidavit number on the sale which this deed is fulfilling. [Statutory Authority: RCW 82.45.120 and 82.45.150. 84-17-002 (Order PT 84-3), § 458-61-400, filed 8/2/84; 82-15-070 (Order PT 82-5), § 458-61-400, filed 7/21/82.]

WAC 458-61-510 Lease with option to purchase. The real estate excise tax shall apply to a lease with option to purchase when the purchase option is exercised:

(1) If the option to purchase must be exercised within a period no longer than two years after the original commencement of the lease and the amount of lease payments will not exceed half of the purchase price; or

(2) If none of the lease payments apply toward the ultimate sales price.

Transactions lacking the above criteria are taxable at the time that the lease with option to purchase agreement originates. The sales price shall be considered to be the purchase price stated in the lease-option agreement. If the selling price is not stated in the instrument, the grantor, grantee or the agent of either shall, by affidavit, state the option price intended and the tax levied hereunder shall be on such stated option price: *Provided*, That upon execution and delivery of the instrument of conveyance or transfer pursuant to such option a second affidavit stating the actual consideration shall be filed with the county treasurer. If the actual consideration passing is greater than the option price stated in the affidavit filed at the time the lease-option was executed, there shall be collected the tax on such additional amounts prior to the time the deed is accepted for recording. If the actual consideration is the same as the option price originally stated, no additional tax will be collected. If the actual consideration is less than the option price stated, refund of excess tax shall be made. [Statutory Authority: RCW 82.45.120 and 82.45.150. 84-17-002 (Order PT 84-3), § 458-61-510, filed 8/2/84; 82-15-070 (Order PT 82-5), § 458-61-510, filed 7/21/82.]

WAC 458-61-590 Rescission of sale. The real estate excise tax does not apply to the transfer back of property from vendee to vendor. The tax paid on the original transfer is not refundable unless both parties are restored to their original positions. (See WAC 458-61-330; and 458-61-100 (4)(a).) [Statutory Authority: RCW 82.45.120 and 82.45.150. 84-17-002 (Order PT 84-3), § 458-61-590, filed 8/2/84; 82-15-070 (Order PT 82-5), § 458-61-590, filed 7/21/82.]

WAC 458-61-680 Trust. The real estate excise tax does not apply to a conveyance into a revocable trust when such trust agreement names the grantor or the grantor's spouse and/or children as beneficiaries. The tax does not apply to a conveyance from a trustee to the original grantor or a beneficiary where no consideration passes. The real estate excise tax applies to the sale of real property by the trustee to a third party for valuable consideration. (See WAC 458-61-410: Gifts and 458-61-460: Inheritance.) [Statutory Authority: RCW 82.45.120 and 82.45.150. 84-17-002 (Order PT 84-3), § 458-61-680, filed 8/2/84; 82-15-070 (Order PT 82-5), § 458-61-680, filed 7/21/82.]

Title 460 WAC

SECURITIES DIVISION (DEPARTMENT OF LICENSING)

Chapters

460-16A	General rules.
460-20A	Broker-dealers and salesmen.
460-24A	Investment advisers.
460-44A	Exempt transactions.
460-90A	Camping clubs--Contracts--Resale, etc.

Chapter 460-16A WAC GENERAL RULES

WAC

460-16A-109 Hi-tech exemption from cheap stock rule.

WAC 460-16A-109 Hi-tech exemption from cheap stock rule. (1) "Hi-tech companies" do not have to comply with the provisions of WAC 460-16A-106, 460-16A-107, and 460-46A-050.

(2) For the purposes of this section "Hi-tech company" means a company that is primarily engaged in the development or production, for commercial marketing, of a new product or products that involve new technology. The principal product or products must be developed at least to the stage of having a working prototype or example and shall include computer software and products of genetic engineering. [Statutory Authority: RCW 21.20.280(8) and 21.20.450. 84-07-043 (Order SDO-39-84), § 460-16A-109, filed 3/21/84.]

**Chapter 460-20A WAC
BROKER-DEALERS AND SALESMEN**

WAC

460-20A-210	Notice of changes by broker-dealers.
460-20A-220	Salesperson registration and examination.
460-20A-230	Broker-dealer registration and examination.
460-20A-400	Dual representation and affiliation.
460-20A-405	Receipt of both securities sales commission and investment adviser fees.
460-20A-420	Dishonest or unethical business practices—Broker-dealers.
460-20A-425	Dishonest or unethical business practices—Salespersons.

WAC 460-20A-210 Notice of changes by broker-dealers. (1) Each licensed broker-dealer shall, upon any change in the information contained in its application for a certificate (other than financial information contained therein) promptly file an amendment to such application setting forth the changed information (and in any event within 30 days after the change occurs).

(2) Each licensed broker-dealer shall notify the administrator of the employment of any new agent in Washington and of the termination of employment of any agent in Washington, giving the full name and Social Security number of the individual involved, the date of employment or termination, and the location of the office in which he was or will be employed by submitting a completed NASD Form U-4 to the administrator or the administrator's designee within (21) days after the event occurs.

(3) Each licensed broker-dealer shall notify the administrator of the termination of employment of any agent in Washington by submitting a completed NASD Form U-5 to the administrator or the administrator's designee, within 30 days after the event occurs.

(4) With respect to any broker-dealer registered under the Securities Exchange Act of 1934, it shall be sufficient compliance with subsection (1) of this section if a copy of an amendment to Form BD of the Securities and Exchange Commission containing the required information, or transmitted for filing to, the administrator not later than the date on which such amendment is required to be filed with the Securities and Exchange Commission. [Statutory Authority: RCW 21.20.450, 85-23-063 (Order SDO-220-85), § 460-20A-210, filed 11/19/85; 85-16-068 (Order SDO-128-85), § 460-20A-210, filed 8/1/85; Order 304, § 460-20A-210, filed 2/28/75, effective 4/1/75. Formerly chapter 460-20 WAC.]

WAC 460-20A-220 Salesperson registration and examination. (1) Every applicant for registration as a securities salesperson, unless exempt as provided herein, shall pass the following examinations with a score of 70% or better and complete the NASD Form U-4.

(a) For a salesperson's license to effect or attempt to effect sales of general securities, the individual shall pass the NASD uniform securities agent state law examination and the NASD general securities representative examination.

(b) For a limited salesperson's license to effect or to attempt to effect sales of investment company securities, variable contracts or mutual funds, the individual shall pass the NASD investment company products/variable contracts representative examination and the uniform securities agent state law examination.

(c) For a limited salesperson's license to effect or to attempt to effect sales of limited partnership interests and interests in tax shelters, the individual shall pass the NASD direct participation program representative examination and the uniform securities agent state law examination.

(d) For a limited salesperson's license to effect or to attempt to effect sales of municipal bonds, the individual shall pass the NASD municipal securities representative examination and the uniform securities agent state law examination.

(e) For a limited salesperson's license to effect or to attempt to effect sales of real estate program offerings, the individual shall pass the uniform real estate securities examination and the uniform securities agent state law exam.

(2) Any individual out of the business of effecting transactions in securities for less than two years and who has previously passed the required examinations in (a), (b), (c), (d) or (e) above or the Washington state securities examination shall not be required to retake the examination(s) to be eligible to be relicensed upon application.

(3) Upon written application and approval, the director may exempt the following persons from the testing requirements in subsection (1) above:

(a) For a particular original offering of an issuer's securities, not more than two officers of an issuer or corporate general partner or two individual general partners. No such person may again register within five years as a salesperson without passing the written examinations.

(b) A salesperson engaged exclusively in the sale of condominium securities provided that written notice is given to the director five days prior to the exercise of the exemption and that such salesperson submit a copy of his/her current Washington real estate license to the director. If that license is cancelled, suspended or revoked, the exemption will not apply to any further transaction.

(4) The licenses in section (1) shall be effective until December 31 of the year of passage at which time it shall be renewed or delinquent. The renewal fee shall be \$15.00. For any renewal application postmarked after the expiration date but within ninety days thereafter, the fee shall be \$25.00. No renewal applications will be accepted after that time. Such licensees must submit a new application and filing fee of \$35.00. The fee for transfers shall be \$25.00.

(5) Any applicant not completing the salesperson application in full shall be issued a deficiency letter. The deficiency must be corrected within the subsequent six-month period. If not so completed, one-half the filing fee shall be returned to the applicant. A new application and filing fee must then be filed in order to initiate application.

(6) Any salesperson registered prior to August 15, 1981, and who was registered with the Washington state securities division as of the date of the adoption of these regulations and registered continuously thereafter, shall be subject to the regulation in effect at the time of the original application. [Statutory Authority: RCW 21.20.450, 85-23-063 (Order SDO-220-85), § 460-20A-220, filed 11/19/85; 85-16-068 (Order SDO-128-85), § 460-20A-220, filed 8/1/85; 82-02-033 (Order SDO-149-81), § 460-20A-220, filed 12/31/81; 80-04-037 (Order SDO-37-80), § 460-20A-220, filed 3/19/80; Order 304, § 460-20A-220, filed 2/28/75, effective 4/1/75. Formerly chapter 460-20 WAC.]

WAC 460-20A-230 Broker-dealer registration and examination. (1) In order to be licensed in this state as a broker-dealer the individual applicant, an officer if the applicant is a corporation, or a general partner if the applicant is a partnership shall pass the following examination with a score of 70% or better and complete the SEC Form B/D and complete the state of Washington registration check sheet.

(a) For a broker-dealers license to effect transactions in general securities one individual, officer or general partner shall pass the NASD general securities principal examination, the uniform securities agent state law examination, and the financial and operations principal examination.

(b) For a limited broker-dealer license to effect transactions in investment company securities, variable contracts or mutual funds one individual, officer or general partner shall pass the NASD investment company products/variable contracts principal examination and the uniform securities agent state law examination.

(c) For a limited broker-dealers license to effect transactions in limited partnership interests and interests in tax shelters one individual, officer or general partner shall pass the NASD direct participation programs principal examination and the uniform securities agent state law examination.

(d) For a limited broker-dealer's license to effect transactions in municipal bonds, one individual, officer or general partner shall pass the NASD municipal securities principal examination and the uniform securities agent state law examination.

(2) The director may upon application waive the financial and operations examination required in (a) above for brokerage firms which do not hold funds or securities for, or owe money or securities to customers and do not carry accounts of or for customers.

(3) If the individual officer who takes the examination on behalf of a corporate applicant or the individual general partner who takes the examination on behalf of a partnership ceases to be an officer or general partner, then the broker-dealer must notify the securities division of a substitute officer or general partner who has passed the same category of examination specified in (a), (b), (c) or (d) above within two months in order to maintain the broker-dealers license.

(4) The licenses in subsection (1)(a), (b), (c) or (d) of this section shall be effective until December 31 of the

year of passage at which time it shall be renewed or be delinquent. The renewal fee shall be \$75.00. For any renewal application postmarked after the expiration date but within ninety days thereafter, the fee shall be \$100.00. No renewal applications will be accepted thereafter. Such licensee must submit a new application and filing fee of \$150.00.

(5) Any applicant not completing the broker-dealer application in full shall be issued a deficiency letter. The deficiency must be corrected within the subsequent six-month period. If not so completed, one-half the filing fee shall be returned to the applicant. A new application and filing fee must then be filed in order to initiate application.

(6) Any broker-dealer registered prior to August 15, 1981, and who was registered with the Washington state securities division as of the date of the adoption of these regulations and remained registered continuously thereafter shall be subject to regulations in effect at the time of the original application. [Statutory Authority: RCW 21.20.450, 85-23-063 (Order SDO-220-85), § 460-20A-230, filed 11/19/85; 85-16-068 (Order SDO-128-85), § 460-20A-230, filed 8/1/85; 82-02-033 (Order SDO-149-81), § 460-20A-230, filed 12/31/81; Order 342, § 460-20A-230, filed 9/29/75; Order 304, § 460-20A-230, filed 2/28/75, effective 4/1/75. Formerly chapter 460-20 WAC.]

WAC 460-20A-400 Dual representation and affiliation. (1) A person may be registered simultaneously in Washington as a security salesperson with more than one broker-dealer, issuer, or owner of securities, may be registered simultaneously in Washington as an investment adviser salesperson with more than one investment adviser or may be registered simultaneously in Washington as a securities salesperson and an investment adviser salesperson if an undertaking in a form acceptable to the administrator is entered into in writing between all employers.

(2) The undertaking for subsection (1) of this section shall contain the following provisions:

(a) The effective date of the dual employment with the respective employers;

(b) Consent by each employer to the employment of the salesperson by all other employers; and

(c) An agreement by each employer to assume joint and several liability with all other employers for any act or omission of the salesperson in violation of the Washington securities law during his period of employment and continuing until written notice is given to the administrator of the termination of the employment relationship.

(d) An agreement that each employer will register the salesperson with the securities division and pay the applicable registration fee.

(3) A separate application for registration or renewal shall be made by each employer desiring to employ the salesperson. An executed copy of the undertaking required by subsection (1) of this section shall accompany the application. The application shall be filed with the

administrator and shall contain such exhibits and information as may be required by the administrator, together with the fees required by RCW 21.20.340. [Statutory Authority: RCW 21.20.450, 85-23-063 (Order SDO-220-85), § 460-20A-400, filed 11/19/85; 85-16-068 (Order SDO-128-85), § 460-20A-400, filed 8/1/85; Order 342, § 460-20A-400, filed 9/29/75; Order 304, § 460-20A-400, filed 2/28/75, effective 4/1/75. Formerly chapter 460-20 WAC.]

WAC 460-20A-405 Receipt of both securities sales commission and investment adviser fees. (1) It shall constitute a violation of RCW 21.20.010 and 21.20.020 for any person to receive both a sales commission for the purchase or sale of any security and compensation for rendering investment advice concerning said security; provided, however, receipt of both a sales commission and advisory compensation shall not constitute such violation if either:

(a) Such person provides to each customer receiving advice a disclosure of conflict of interest on a form promulgated by the administrator to be given to the customers at least 48 hours before the customer agrees to have the person render the advice; or

(b) The administrator by rule or order waives the necessity of such disclosure on said form as not being necessary in the public interest for the protection of investors.

(2) The purposes of this provision, the term "person" shall include all "affiliates" of such person as defined in WAC 460-10A-060.

(3) In lieu of giving disclosure 48 hours before the agreement, the customer may be given the disclosure document simultaneous to the signing of the agreement so long as the customer is also given five days to cancel the agreement. [Statutory Authority: RCW 21.20.450, 85-03-042 (Order SDO-1-85), § 460-20A-405, filed 1/11/85.]

WAC 460-20A-420 Dishonest or unethical business practices--Broker-dealers. The phrase "dishonest or unethical practices" as used in RCW 21.20.110(7) as applied to broker-dealers is hereby defined to include any of the following:

(1) Engaging in a pattern of unreasonable and unjustifiable delays in the delivery of securities purchased by any of its customers and/or in the payment upon request of free credit balances reflecting completed transactions of any of its customers;

(2) Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account;

(3) Recommending to a customer to purchase, sale or exchange of any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer;

(4) Executing a transaction on behalf of a customer without authorization to do so;

(5) Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the execution of orders;

(6) Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement promptly after the initial transaction in the account;

(7) Failing to segregate customers' free securities or securities held in safekeeping;

(8) Hypothecating a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent promptly after the initial transaction, except as permitted by rules of the securities and exchange commission;

(9) Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit;

(10) Failing to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, a final or preliminary prospectus, and if the latter, failing to furnish a final prospectus within a reasonable period after the effective date of the offering.

(11) Charging unreasonable and inequitable fees for services performed, including miscellaneous services such as collection of monies due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, or custody of securities and other services related to its securities business;

(12) Offering to buy from or sell to any person any security at a stated price unless such broker-dealer is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell;

(13) Representing that a security is being offered to a customer "at the market" or a price relevant to the market price unless such broker-dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created or controlled by such broker-dealer, or by any person for whom he is acting or with whom he is associated in such distribution, or any person controlled by, controlling or under common control with such broker-dealer;

(14) Effecting any transaction in, or inducing the purchase of sale of, any security by means of any manipulative, deceptive or fraudulent device, practice, plan, program, design or contrivance, which may include but not be limited to:

(a) Effecting any transaction in a security which involves no change in the beneficial ownership thereof;

(b) Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security;

provided, however, nothing in this subsection shall prohibit a broker-dealer from entering bona fide agency cross transactions for its customer;

(c) Effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others;

(15) Guaranteeing a customer against loss in any securities account of such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer with or for such customer;

(16) Publishing or circulating, or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation represents a bona fide bid for, or offer of, such security;

(17) Using any advertising or sales presentation in such a fashion as to be deceptive or misleading. An example of such practice would be a distribution of any nonfactual data, material or presentation based on conjecture, unfounded or unrealistic claims or assertions in any brochure, flyer, or display by words, pictures, graphs or otherwise designed to supplement, detract from, supersede or defeat the purpose or effect of any prospectus or disclosure; or

(18) Failing to disclose that the broker-dealer is controlled by, controlling, affiliated with or under common control with the issuer of any security before entering into any contract with or for a customer for the purchase or sale of security, the existence of such control to such customer, and if such disclosure is not made in writing, it shall be supplemented by the giving or sending of written disclosure at or before the completion of the transaction;

(19) Failing to make bona fide public offering of all of the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter, a selling group member or from a member participating in the distribution as an underwriter or selling group member; or

(20) Failure or refusal to furnish a customer, upon reasonable request, information to which he is entitled, or to respond to a formal written request or complaint.

The conduct set forth above is not inclusive. Engaging in other conduct such as forgery, embezzlement, nondisclosure, incomplete disclosure or misstatement of material facts, or manipulative or deceptive practices shall also be grounds for denial, suspension or revocation of registration. [Statutory Authority: RCW 21.20.450. 85-02-023 (Order SDO-202-84), § 460-20A-420, filed 12/27/84.]

WAC 460-20A-425 Dishonest or unethical business practices--Salespersons. The phrase "dishonest or unethical practices" as used in RCW 21.20.110(7) as applied to salespersons, is hereby defined to include any of the following:

(1) Engaging in the practice of lending or borrowing money or securities from a customer, or acting as a custodian for money, securities or an executed stock power of a customer;

(2) Effecting securities transactions not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction;

(3) Establishing or maintaining an account containing fictitious information in order to execute transactions which would otherwise be prohibited;

(4) Sharing directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer which the agent represents;

(5) Dividing or otherwise splitting the agent's commissions, profits or other compensation from the purchase or sale of securities with any person not also registered for the same broker-dealer, or for a broker-dealer under direct or indirect common control; or

(6) Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account;

(7) Recommending to a customer the purchase, sale or exchange of any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer;

(8) Executing a transaction on behalf of a customer without authorization to do so;

(9) Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the execution of orders;

(10) Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement promptly after the initial transaction in the account;

(11) Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit;

(12) Failing to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, a final or preliminary prospectus, and if the latter, failing to furnish a final prospectus within a reasonable period after the effective date of the offering.

(13) Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive or fraudulent device, practice, plan,

program, design or contrivance, which may include but not be limited to:

(a) Effecting any transaction in a security which involves no change in the beneficial ownership thereof;

(b) Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security; provided, however, nothing in this subsection shall prohibit a broker-dealer from entering bona fide agency cross transactions for its customer;

(c) Effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others;

(14) Guaranteeing a customer against loss in any securities account for such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer with or for such customer;

(15) Publishing or circulating, or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation presents a bona fide bid for, or offer of, such security;

(16) Using any advertising or sales presentation in such a fashion as to be deceptive or misleading. An example of such practice would be a distribution of any nonfactual data, material or presentation based on conjecture, unfounded or unrealistic claims or assertions of any brochure, flyer, or display by words, pictures, graphs or otherwise.

The conduct set forth above is not inclusive. Engaging in other conduct such a forgery, embezzlement, nondisclosure, incomplete disclosure or misstatement of material facts, or manipulative or deceptive practices shall also be grounds for denial, suspension or revocation of registration. [Statutory Authority: RCW 21.20.450. 85-02-023 (Order SDO-202-84), § 460-20A-425, filed 12/27/84.]

Chapter 460-24A WAC INVESTMENT ADVISERS

WAC

460-24A-050	Investment adviser and investment adviser salesperson (representative) registration and examinations.
460-24A-060	Financial statements required on investment advisers.
460-24A-205	Notice of changes by investment adviser.
460-24A-220	Dishonest or unethical business practices—Investment advisers and investment adviser salespersons.

WAC 460-24A-050 Investment adviser and investment adviser salesperson (representative) registration and examinations. (1) In order to be licensed in this state as an investment adviser the individual applicant, the officer if the applicant is a corporation or a general partner if the applicant is a partnership shall complete the uniform securities agent state law examination with a score of seventy percent or better and complete one of the following with a score of seventy percent or better:

(a) NASD general securities principal examination (Series 24) or

(b) NASD investment company products/variable contracts principal examination (Series 26).

The applicant must also complete a Form ADV for the state of Washington.

(2) An individual applicant, an officer if the applicant is a corporation or a general partner if the applicant is a partnership any one of which has completed the uniform securities agent state law examination with a score of seventy percent or better and which holds one of the following designations, shall not be required to complete the exams designated in subsection (1)(a) and (b) of this section in order to apply for an investment advisers license:

(a) Chartered investment counselor, or

(b) Chartered financial analyst, or

(c) Certified financial planner which designation is completed on or after the effective date of these rules.

The applicant must also complete a Form ADV for the state of Washington.

(3) If the individual officer who takes the examination on behalf of a corporate applicant or the individual general partner who takes the examination on behalf of a partnership ceases to be an officer or general partner, then the investment adviser must notify the securities division of a substitute officer or general partner who has passed the examinations required in subsection (1) of this section within two months in order to maintain the investment adviser license.

(4) In order to be licensed in this state as an investment adviser salesperson (representative) the individual applicant shall complete the uniform securities agent state law examination with a score of seventy percent or better and complete one of the following with a score of seventy percent or better unless subsection (6) of this section applies:

(a) NASD general securities representative examination (Series 7), or

(b) NASD investment company products/variable contracts limited representative qualifications examination (Series 6).

The applicant must also complete the Form U-4 for the state of Washington.

(5) An individual who has completed the uniform securities agent state law examination with a score of seventy percent or better and who holds one of the following designations shall not be required to complete the exams designated in subsection (4) of this section in order to apply for an investment adviser salesperson (representative) license.

(a) Chartered investment counselor

(b) Chartered financial analyst

(c) Certified financial planner whose designation is completed on or after the effective date of these rules.

The applicant must also complete the Form U-4 for the state of Washington.

(6) The administrator may waive the testing requirements in subsection (5) of this section for an investment adviser representative whose activities will be limited to supervising the firm's investment advisory activities in Washington, provided that the applicant has been employed for five years preceding the filing of the application in a supervisory capacity, or as a portfolio manager, by an investment adviser registered under the Investment Advisers Act of 1940 for at least five years and the investment adviser has been engaged in rendering "investment supervisory services" as defined in section 202(a)(13) of the Investment Advisers Act of 1940.

(7) Any individual who has been retained or employed by an investment adviser to solicit clients or offer the services of the investment adviser or manage the accounts of said clients any time during the two years prior to application and who has previously passed the required examination in subsection (1) or (4) of this section or the Washington state investment advisers examination shall not be required to retake the examination(s) to be eligible to be relicensed as an investment adviser salesperson (representative) upon application.

(8) Any investment adviser or investment adviser salesperson registered prior to August 15, 1981, and who was registered with the Washington state securities division as of the date of the adoption of these regulations and remained registered thereafter shall be subject to the regulations in effect at the time of the original application. [Statutory Authority: RCW 21.20.450. 85-23-063 (Order SDO-220-85), § 460-24A-050, filed 11/19/85; 85-16-068 (Order SDO-128-85), § 460-24A-050, filed 8/1/85. Statutory Authority: RCW 21.20.450 and 21.20.040. 83-03-024 (Order SDO-6-83), § 460-24A-050, filed 1/13/83. Statutory Authority: RCW 21.20.450. 82-02-033 (Order SDO-149-81), § 460-24A-050, filed 12/31/81; Order SD-131-77, § 460-24A-050, filed 11/23/77; Order 304, § 460-24A-050, filed 2/28/75, effective 4/1/75. Formerly chapter 460-24 WAC.]

WAC 460-24A-060 Financial statements required on investment advisers. Every investment adviser shall file with the director a statement of financial condition in such detail as will disclose generally the nature and amount of assets and liabilities and the net worth of such investment adviser as of a date within ninety days prior to the date on which it is filed. Such reports shall be filed annually with the director not more than ninety days after the end of the investment adviser's fiscal year-end (unless extension of time is granted by the director). [Statutory Authority: RCW 21.20.450. 85-16-068 (Order SDO-128-85), § 460-24A-060, filed 8/1/85; Order 304, § 460-24A-060, filed 2/28/75, effective 4/1/75. Formerly chapter 460-24 WAC.]

WAC 460-24A-205 Notice of changes by investment adviser. (1) Each licensed investment adviser shall, upon any change in the information contained in its application for a certificate (other than financial information contained therein) promptly file an amendment to such application setting forth the changed information (and in any event within 30 days after the change occurs).

(2) With respect to any investment adviser registered under the Investment Advisers Act of 1940, it shall be a sufficient compliance with subsection (1) of this section if a copy of an amendment to Form ADV, of the Securities and Exchange Commission containing the required information, or transmitted for filing to, the administrator not later than the date on which such amendment is required to be filed with the Securities and Exchange Commission.

(3) Each licensed investment adviser shall notify the administrator of the employment of any new representative in Washington by submitting a completed NASD Form U-4 with a photograph to the administrator or the administrator's designee, within 10 days after the event occurs.

(4) Each licensed investment adviser shall notify the administrator of the termination of employment of any representative in Washington, by submitting a complete NASD Form U-5 to the administrator or the administrator's designee, within 30 days after the event occurs. [Statutory Authority: RCW 21.20.450. 85-23-063 (Order SDO-220-85), § 460-24A-205, filed 11/19/85; 85-16-068 (Order SDO-128-85), § 460-24A-205, filed 8/1/85; Order 304, § 460-24A-205, filed 2/28/75, effective 4/1/75. Formerly chapter 460-24 WAC.]

WAC 460-24A-220 Dishonest or unethical business practices—Investment advisers and investment adviser salespersons. The phrase "dishonest or unethical practices" as used in RCW 21.20.110(7) as applied to investment advisers and investment adviser salespersons is hereby defined to include any of the following:

(1) Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser.

(2) Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within ten business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.

(3) Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account.

(4) Placing an order to purchase or sell a security for the account of a client without authority to do so.

(5) Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party trading authorization from the client.

(6) Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment adviser, or a financial institution engaged in the business of loaning funds.

(7) Loaning money to a client unless the investment adviser is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment adviser.

(8) To misrepresent to any advisory client, or prospective advisory client, the qualifications of the investment adviser or any employee of the investment adviser, or to misrepresent the nature of the advisory services being offered or fees to be charged for such service, or to omit to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they are made, not misleading.

(9) Providing a report or recommendation to any advisory client prepared by someone other than the adviser without disclosing that fact. (This prohibition does not apply to a situation where the adviser uses published research reports or statistical analyses to render advice or where an adviser orders such a report in the normal course of providing service.)

(10) Charging a client an unreasonable advisory fee in relation to fees charged by other investment advisers or investment adviser salespersons for similar services.

(11) Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the adviser or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice including but not limited to:

(a) Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services;

(b) Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the adviser or its employees; and

(c) An ownership or interest in any entity in which the investment adviser or investment adviser salesperson is recommending that the client purchase (excluding mutual funds).

(12) Guaranteeing a client that a specific result will be achieved (gain or no loss) with advice which will be rendered.

(13) Publishing, circulating or distributing any advertisement which does not comply with Rule 206(4)-1 under the Investment Advisers Act of 1940.

(14) Disclosing the identity, affairs, or investments of any client unless required by law to do so, or unless consented to by the client.

(15) Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment adviser has custody or possession of such securities or funds when the adviser's action is subject to and does not comply with the requirements of Reg. 206(4)-2 under the Investment Advisers Act of 1940.

(16) Entering into, extending or renewing any investment advisory contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, whether the contract grants discretionary power to the adviser and that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract.

The conduct set forth above is not inclusive engaging in other conduct such as forgery, embezzlement, nondisclosure, incomplete disclosure or misstatement of material facts, or manipulative or deceptive practices shall also be grounds for denial, suspension or revocation of registration. [Statutory Authority: RCW 21.20.450, 85-23-063 (Order SDO-220-85), § 460-24A-220, filed 11/19/85.]

Chapter 460-44A WAC EXEMPT TRANSACTIONS

WAC

460-44A-506 Exemption for nonpublic offers and sales without regard to dollar amount of offering.

WAC 460-44A-506 Exemption for nonpublic offers and sales without regard to dollar amount of offering. (1) Exemption. Offers and sales of securities by an issuer that satisfy the conditions in subsection (2) of this section shall be deemed to be exempt transactions within the meaning of RCW 21.20.320(1).

(2) Conditions to be met.

(a) General conditions. To qualify for exemption under this section, offers and sales must satisfy all the terms and conditions of WAC 460-44A-501 through 460-44A-503.

(b) Specific conditions.

(i) Limitation on number of purchasers. The issuer shall reasonably believe that there are no more than 35 purchasers (including those located outside the state of Washington) of securities from the issuer in any offering under this section.

NOTE: See WAC 460-44A-501(5) for the calculation of the number of purchasers and WAC 460-44A-502(1) for what may or may not constitute an offering under this section.

(ii) Nature of purchasers. The issuer shall reasonably believe immediately prior to making any sale that each purchaser who is not an accredited investor either alone

or with his purchaser representative(s) has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment. The issuer shall prepare and retain for three years following termination of an offering in reliance of this section, written documentation supporting the qualification of each nonaccredited investor, whether separately or together with his purchaser representative or representatives, as having such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment.

(iii) Limitation on selling expenses.

(A) Selling expenses in any offering under this section shall not exceed fifteen percent of the aggregate offering price. For the purposes of this section, "selling expenses" means the total underwriting and brokerage discounts and commissions (including fees of the underwriters' attorneys paid by the issuer) paid in connection with the offering plus all other expenses actually incurred by the issuer relating to printing, engraving, mailing, salaries of employees while engaged in sales activity, charges of transfer agents, registrars, trustees, escrow holders, depositaries, and engineers and other experts, expenses of qualification of the sale of the securities under federal and state laws, including taxes and fees, and any other expenses actually incurred by the issuer and directly related to the offering and sale of the securities, but excluding accountants' and the issuer's attorneys' fees and options to underwriters.

(B) The number of shares or units called for by options issuable to underwriters or other persons as compensation, in whole or in part, for the offer or sale of securities in reliance on this section shall not exceed ten percent of the number of shares or units actually sold in the offering.

(3) Offers or sales which are exempted under this section may not be combined in the same offering with offers or sales exempted under any other rule or section of chapter 21.20 RCW; however, nothing in this limitation shall act as an election. Should for any reason an offering fail to comply with all of the conditions for this section, the issuer may claim the availability of any other applicable exemption. [Statutory Authority: RCW 21.20.320(1) and 21.20.450. 85-01-062 (Order SDO-196-84), § 460-44A-506, filed 12/17/84; 82-21-031 (Order SDO-98-82), § 460-44A-506, filed 10/15/82.]

Chapter 460-90A WAC

CAMPING CLUBS—CONTRACTS—RESALE, ETC.

WAC

460-90A-005	Organization.
460-90A-010	Repealed.
460-90A-015	Definitions.
460-90A-017	Reporting events that shall require that the operator keep written disclosures current.
460-90A-018	Material events that are amendments requiring notice and a filing fee.
460-90A-020	Repealed.
460-90A-022	Exemptions from registration—Noncommercial resale contract offerings.

460-90A-025	Statement of record—Filings and information required upon application for registration of start-up camp resort projects and contract offerings.
460-90A-027	The public offering statement—Form, content, and preparation.
460-90A-030	Signing of application and the permit.
460-90A-032	The public offering statement—Delivery to prospective purchasers.
460-90A-035	Purchaser cancellations of contracts—Prompt refund of funds and consideration.
460-90A-040	Repealed.
460-90A-045	Financial statements and information.
460-90A-050	Repealed.
460-90A-055	Written disclaimer of endorsement.
460-90A-070	Receipt of written disclosures.
460-90A-090	Operation of impound condition.
460-90A-100	Release of impounds.
460-90A-110	Repealed.
460-90A-115	Renewals.
460-90A-120	Repealed.
460-90A-122	Salesperson registrations.
460-90A-125	Salesperson registration—For persons in the business of offering resale contracts
460-90A-140	Advertisements.
460-90A-150	Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

460-90A-010	Camping club contract registration application. [Statutory Authority: RCW 19.105.320(1). 83-06-076 (Order SDO-40-83), § 460-90A-010, filed 3/2/83. Formerly WAC 460-90-100.] Repealed by 85-12-021 (Order RE 131), filed 5/29/85. Statutory Authority: RCW 19.105.530.
460-90A-020	Camping club contract registration exhibits. [Statutory Authority: RCW 19.105.320(1). 83-06-076 (Order SDO-40-83), § 460-90A-020, filed 3/2/83. Formerly WAC 460-90-110.] Repealed by 85-12-021 (Order RE 131), filed 5/29/85. Statutory Authority: RCW 19.105.530.
460-90A-040	Financial statements. [Statutory Authority: RCW 19.105.320(1). 83-06-076 (Order SDO-40-83), § 460-90A-040, filed 3/2/83. Formerly WAC 460-90-140.] Repealed by 85-12-021 (Order RE 131), filed 5/29/85. Statutory Authority: RCW 19.105.530.
460-90A-050	Registration not endorsement. [Statutory Authority: RCW 19.105.320(1). 83-06-076 (Order SDO-40-83), § 460-90A-050, filed 3/2/83. Formerly WAC 460-90-190.] Repealed by 85-19-093 (Order 133 R), filed 9/18/85.
460-90A-110	Renewals. [Statutory Authority: RCW 19.105.320(1). 83-06-076 (Order SDO-40-83), § 460-90A-110, filed 3/2/83. Formerly WAC 460-90-510.] Repealed by 85-12-021 (Order RE 131), filed 5/29/85. Statutory Authority: RCW 19.105.530.
460-90A-120	Salesperson registration. [Statutory Authority: RCW 19.105.440(3). 83-06-076 (Order SDO-40-83), § 460-90A-120, filed 3/2/83.] Repealed by 85-12-021 (Order RE 131), filed 5/29/85. Statutory Authority: RCW 19.105.530.
460-90A-150	Resale by salesperson for commission of camping club contracts exempt from registration. [Statutory Authority: RCW 19.105.440(3). 83-06-076 (Order SDO-40-83), § 460-90A-150, filed 3/2/83.] Repealed by 85-12-021 (Order RE 131), filed 5/29/85. Statutory Authority: RCW 19.105.530.

WAC 460-90A-005 Organization. The administrator, real estate division, business and professions administration, department of licensing, administers the Camping Club Act for the director of licensing. Information regarding the regulation of camp resort offerings and salespersons may be obtained by writing to: Administrator, Real Estate Division, Department of Licensing,

P.O. Box 247, Olympia, Washington 98504. Persons desiring to visit the real estate division on matters relating to camp resort offerings or camp resort salespersons may do so at the real estate division offices located on the Third Floor, Eastside Plaza Building, 1300 Quince Street, Olympia, Washington. [Statutory Authority: RCW 19.105.530. 85-12-021 (Order RE 131), § 460-90A-005, filed 5/29/85.]

WAC 460-90A-010 Repealed. See Disposition Table at beginning of this chapter.

WAC 460-90A-015 Definitions. (1) Words and terms used in these rules shall have the same meaning as each has in the Camping Club Act, (chapter 19.105 RCW).

(2) "Agency" means the department of licensing in the state of Washington.

(3) "Camp resort" shall be synonymous with "camping club," whether or not structured as or involved with a common-interest entity, provided the method of structuring the project meets the definition of a "camping club" in RCW 19.105.300(1), having as its primary purpose camping or outdoor recreation and includes or will include camping sites.

(4) "Camp resort program" means the rights and obligations of a purchaser and the methods and procedures for occupying or using camp resort facilities and properties, as established by the purchase contract and other written instruments, such as covenants, declarations, by-laws or rules.

(5) "Camp resort project" shall mean a camp resort and all of its parks, sites, properties and facilities, that are part of the program in which a purchaser receives use, occupancy, membership, or ownership rights.

(6) "Public offering statement" shall mean the written disclosures referred to in RCW 19.105.320 (1)(b) and 19.105.370.

(7) "Statement of record" shall mean all materials, not exclusive of others, including application forms, documents, exhibits, statements, the public offering statement, correspondence, and affidavits, filed with the agency, for registration purposes.

(8) "Resale camp resort contract" shall mean a camp resort contract offered or sold which is not the original offer, transfer or sale of such contract, and not a forfeited contract being reoffered by an operator.

(9) "Start-up camp resort contract" means a camp resort contract that is being offered or sold for the first time or a forfeited contract being resold by a camp resort operator.

(10) "Advance fees" shall mean fees, funds, or consideration of any description, collected for any purpose from buyers or sellers of resale camp resort contracts, prior to the time of settlement of a purchase transaction.

(11) "Prospective purchaser" shall mean any person attending a sales presentation or touring a camp resort[, when such attendance results from an operator's solicitation or advertising][.] [Statutory Authority: RCW 19.105.530. 85-19-093 (Order 133 R), § 460-90A-015,

filed 9/18/85; 85-12-021 (Order RE 131), § 460-90A-015, filed 5/29/85.]

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 460-90A-017 Reporting events that shall require that the operator keep written disclosures current.

(1) Not exclusive of others, the following are events that shall require that the operator provide the agency with notice and amendment to the public offering statement, pursuant to the provisions of RCW 19.105.420 for the purpose of keeping the public offering statement current:

(a) Any change or event causing information then in the public offering statement to be out-dated, incorrect, incomplete or deceptive.

(b) Any damage to the property or facilities of a camp resort which limits the use of the properties or facilities by the contract purchasers.

(c) Any hazard threatening the properties or facilities which presents a danger to the contract purchasers of injury or limitation on their use of properties or facilities.

(d) Any order or action by a local, state or federal regulatory agency in the granting, denial, revocation, or suspension of a permit or authorization affecting the camp resort properties or facilities which limits the use of the camp resort properties or facilities by the contract purchasers.

(e) The completion of promised facilities or the failure to complete promised facilities on a date or at the occurrence of an event, as promised.

(f) A bulk sale of the project or a significant portion of the project to another person.

(g) Changes in the provisions of instruments or documentation utilized to establish the camp resort program or a common-interest association involved in the camp resort operations.

(h) Any change in the provisions or content of a purchase contract, deed, membership certificate or members handbook.

(i) Lawsuits filed or served, which name the operator, its affiliates or the project's common-interest association and which are concerned with the provisions of the Camping Club Act (chapter 19.105 RCW) and rules or the financial condition of the operator or its affiliates, the project or a common-interest association.

(j) Changes in management, if the project or its amenities are managed by a common-interest association.

(k) Any new contract, change in a contract or termination of a contract with an outside reciprocal-use or exchange entity.

(l) Any proposed change in the ratio of contracts to be sold relative to the number of camp sites available.

(2) It shall be a violation of chapter 19.105 RCW and these rules for a registrant to have knowledge or cause the occurrence of an event specified in subsection (1) of this section, without providing timely notice of the event to the agency as required in RCW 19.105.420 and 14.105.360(3) [19.105.360(3)].

(3) Notice for the purpose of keeping the public offering statement current shall be accomplished by providing the agency with:

(a) Copies or prototypes of documents or other materials pertinent to the event.

(b) A cover letter explaining the event.

(c) A redraft of the public offering statement by submitting the amended pages which show the proposed corrections, deletions, or additions to the existing information. [Statutory Authority: RCW 19.105.530, 85-19-093 (Order 133 R), § 460-90A-017, filed 9/18/85.]

WAC 460-90A-018 Material events that are amendments requiring notice and a filing fee. (1) Not exclusive of others, the following shall be events that will have a material effect on the conduct of the operation of a camp resort, pursuant to RCW 19.105.420 and require both notice to the agency and the submission of a \$100.00 filing fee.

(a) Any proposed sale or transfer, of an interest in the project or shares of stock of the registrant which results in a change of voting, management or ownership control.

(b) Any removing, substituting, leasing, optioning, selling or withdrawing of existing properties, resorts, or facilities from the camp resort program.

(c) Any adding, deleting, or rearranging of camping sites or facilities within an existing camp resort in a manner that would reduce the size or change the number or quality of sites.

(d) Any adding of camp resorts, facilities or properties to any existing camp resort program and any purchase or acquisition of other camp resorts, facilities or properties by an operator or its affiliates.

(e) Any new encumbrances, liens[,] or loans that affect the camp resort properties.

(f) A change in the status, provisions, or conditions of an escrow, trust, impound, reserve account or other security device being utilized to protect the interests of purchasers, whether or not impound or reserve accounts are required as a condition to registration under chapter 19.105 RCW.

(g) The filing by any person of any bankruptcy, receivership, or trustee action that involves any of the camp resort properties, the registrant, a common-interest association or an affiliate, as a party to the action.

(h) The operator makes an initial offering of stock to the public.

(i) The refinancing of all or any part of the operator's debts affecting the project.

(j) Any change in the financial condition of the registrant, an affiliate, or a common-interest association, if such change could result in an inability to provide promised sites, facilities, or services.

(2) Amendment and reporting events that might have a material affect shall be accomplished by providing the agency with:

(a) The one hundred dollar amendment filing fee as required by RCW 19.105.410.

(b) Copies or prototypes of documents or other materials pertinent to the event.

(c) A cover letter explaining the event and any proposed amendment.

(d) A redraft of the public offering statement by submitting the amended pages which show the proposed corrections, deletions, or additions to the existing information. [Statutory Authority: RCW 19.105.530, 85-19-093 (Order 133 R), § 460-90A-018, filed 9/18/85; 85-12-021 (Order RE 131), § 460-90A-018, filed 5/29/85.]

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 460-90A-020 Repealed. See Disposition Table at beginning of this chapter.

WAC 460-90A-022 Exemptions from registration--Noncommercial resale contract offerings. As provided in RCW 19.105.320(3), the director exempts from the registration requirements of chapter 19.105 RCW the offering and selling of resale camp resort contracts by an owner for that owner's own account, provided that any such offering or selling is noncommercial in nature and that registration is not necessary for the protection of purchasers. Noncommercial shall mean that the owner of the resale contracts is not in the business of offering or selling camp resort contracts and such offering or selling is only incidental to any profession, occupation, or business of the owner. [Statutory Authority: RCW 19.105.530, 85-12-021 (Order RE 131), § 460-90A-022, filed 5/29/85.]

WAC 460-90A-025 Statement of record--Filings and information required upon application for registration of start-up camp resort projects and contract offerings. (1) An application for registration of a start-up contract offering shall be made by completing forms prepared for such purpose by the agency.

(2) The application, documents and information filed for registration purposes shall be referred to as the statement of record.

(3) The statement of record for a registration of a start-up contract offering shall include the following:

(a) The prescribed filing fee.

(b) The completed application forms.

(c) The draft of the proposed public offering statement.

(d) A sample or prototype of any documents to be signed or initialed by and that commits purchasers. Such documents shall contain the cancellation notice required in RCW 19.105.390.

(e) Copies of all recorded or unrecorded encumbrances, mortgages, liens, deeds, leases, contracts, and any amendments thereto, that affect camp resort projects.

(f) A preliminary title report, dated within ten days of application, covering all of the acreages, park sites, and areas on which facilities are located.

(g) Financial statements and information as required by WAC 460-90A-045.

(h) If the registrant is other than a natural person, copies of relevant articles of incorporation, bylaws, partnership, or joint venture documentation.

(i) Promotional materials, including advertising and contract forms covering travel programs, discount programs, programs for the use or occupancy of in-park trailers or mobiles and those providing memberships in other recreational programs, if such materials or programs are to be utilized to promote sales of camp resort contracts or are to be offered to contract owners as part of the camp resort programs.

(j) Rules and regulations governing the use and occupancy of project parks and facilities.

(k) A statement as required pursuant to RCW 19.105.320 (1)(d).

(l) Applications for and contracts of affiliation with any outside exchange or reciprocal-use entity.

(m) Information covering purchaser costs, rules, contract forms, and any fees required for purchaser use of operator-owned trailers, mobiles, tents, or other overnight accommodations, available for purchasers as an alternative to using the purchaser's own mobile units.

(n) A statement describing the operator's, or an affiliate's or successor's right to substitute, change, or withdraw from use all or a portion of the camp resort properties and the extent to which the camping club operator, affiliates, or successors are obligated to replace the camp resort properties substituted or withdrawn within a reasonable period of time after such action, with substituted properties in the same general area, that are at least as desirable for the purpose of camping and outdoor recreation.

(i) If a nonaffiliate or any other person has the ability through existing agreements to exercise a right of withdrawal of camp resort properties in the program from use by the camp resort members, provide copies of any and all documentation evidencing the ability to exercise such right of withdrawal.

(ii) If a withdrawal becomes effective on a specific date, provide a description of the means and method of withdrawal and state the date.

(o) Whenever applicable to the structuring of the project, provide a copy or prototype of the following:

(i) Plats, maps, site plans, or surveys.

(ii) Water, sewerage, or land use authorizations or permits, or denial of permits of local jurisdictions.

(iii) A copy of any administrative, civil, or criminal proceeding involving theft, fraud, or dishonesty, or violations of any act designed to protect consumers or involving dishonest practices in any industry involving sales to consumers in which the applicant is or has within the past five years been a party.

(iv) Performance bonds, letters of credit, surety or guaranty agreements affecting the project or the program.

(v) Trust or escrow arrangements affecting the project.

(vi) Market surveys or feasibility studies, if presently available.

(vii) Appraisals of market value of the project, if presently available.

(viii) Engineering studies or surveys of physical hazards such as earthquakes, floods, beach erosions, landslides, or volcanoes, if presently available.

(ix) Covenants or declarations affecting camp resort properties.

(x) Agreements for the usage of amenities or facilities owned by persons other than operator.

(p) If the project involves a common-interest owners' association or entity of similar purposes, copies or prototypes of the following:

(i) Declaration and bylaws.

(ii) Rules and regulations.

(iii) Membership certificate and proxy forms.

(iv) Evidences of title to any personal property owned or to be owned by the association or purchasers collectively.

(v) Agreements for managing the properties.

(vi) Agreements for payment or subsidizing the payment of project operational expenses during the term of registrant marketing.

(4) The agency may waive the submission of documents or information provided by subsection (3) of this section, which it deems inappropriate for a specific project or not necessary for registration purposes, unless information or documents are required by RCW 19.105.320.

(5) The agency may require additional information if relevant to the structuring of the project and deemed necessary for protection of purchasers. [Statutory Authority: RCW 19.105.530, 19.105.320 and 19.105.380. 85-12-021 (Order RE 131), § 460-90A-025, filed 5/29/85.]

WAC 460-90A-027 The public offering statement--Form, content, and preparation. (1) The written disclosures provided for in RCW 19.105.320 (1)(b) and 19.105.370 shall be in a document to be known as the public offering statement.

(2) The public offering statement shall be prepared and promulgated in a form prescribed by the agency.

(3) The public offering statement shall consist of two parts:

(a) Part I, written disclosures, to be prepared by the applicant.

(b) Part II, attachments of exhibits provided by applicant in the statement of record, when required by the agency for the protection of purchasers, and a copy or prototype of the purchaser contract form(s) as required in RCW 19.105.320 (1)(b)(xiii).

(4) The applicant's disclosures for Part I of the public offering statement for a start-up camp resort contract offering shall be prepared in sections, captioned in bold print as follows:

(a) **THE CAMP RESORT OPERATOR:** Information in this section is to include the name, address, and business telephone number of the operator, the common-interest association and affiliates and a brief summary of the operator's experience in camp resort business.

(b) **THE PROJECT. GENERAL INFORMATION:** Information in this section shall specify the location and provide

a brief description of the park sites and significant facilities and recreation services already available for use by purchasers in each park site and the program.

(c) **FACILITIES, AMENITIES, PARK SITES, AND PROGRAMS THAT ARE PLANNED OR PROMISED:** Information in this section is to cover that required in RCW 19.105.320 (1)(b)(iv) and (vi).

(d) **NATURE OF THE INTEREST WHICH YOU ARE PURCHASING:** Information in this section is to cover that required in RCW 19.105.320 (1)(b)(iii). If the purchase contract, membership certificate, or project rules and regulations, refer to or make use of the term(s) "club," "member," or "membership," describe whether or not any of the following are available to the purchasers:

(i) A membership in any common-interest association, nonprofit corporation or other form of common-interest community.

(ii) Shares of stock that allow participation in any profits earned by the operator or its affiliates.

(iii) The right to vote for officers and directors.

(iv) The right to make decisions on how the project or program is managed.

(v) The right to vote for or against any proposed rule changes.

(vi) Attendance at membership meetings.

(e) **OWNERSHIP OF PROJECT PROPERTIES AND ENCUMBRANCES, LIENS, AND OTHER CONDITIONS AFFECTING OWNERSHIP:** Information provided in this section is to cover that required in RCW 19.105.320 (1)(b)(v).

(f) **PURCHASER PROTECTIONS—ASSURANCES OF FUTURE AVAILABILITY OF THE PROMISED CAMP RESORT SITES, FACILITIES, AND PROGRAM.** The information in this section is to be provided in bold print and include that information required by RCW 19.105.320 (1)(b)(xi) and a statement describing the operator's, or an affiliate's or successor's right to substitute, change, or withdraw from use all or a portion of the camp resort properties and the extent to which the camping club operator, affiliates, or successors are obligated to replace the camp resort properties substituted or withdrawn within a reasonable period of time after such action, with substituted properties in the same general area, that are at least as desirable for the purpose of camping and outdoor recreation.

(g) **SUMMARY OF PURCHASERS RIGHTS TO AND RESTRICTIONS FOR USE OF PROJECT SITES AND FACILITIES:** The information in this section is to include that information required pursuant to RCW 19.105.320 (1)(b)(v), (vii), and (x).

(h) **RESTRICTIONS ON SALE, TRANSFER, OR ASSIGNMENT OF CAMP RESORT CONTRACTS, MEMBERSHIPS, LICENSES, OR DEEDS:** The information in this section is to be provided in bold print, underlined, and to include in summary form, that information required pursuant to RCW 19.105.320 (1)(b)(ix) and (xii).

(i) **PURCHASER COSTS:** The information in this section is to include that required pursuant to RCW 19.105.320 (1)(b)(viii).

(5) For applicants whose projects are structured as common-interest associations, or that otherwise are involved with memberships in common-interest associations which are to be responsible for management or ownership of camp resort properties, additional information is to be included in the public offering statement, pursuant to the requirements of RCW 19.105.320(vii), in a section headed "GOVERNING DOCUMENTATION—THE ' _____ ' COMMON INTEREST ASSOCIATION."

(6) Prior to approval of a registration or promulgation of the proposed public offering statement by the applicant, the applicant's draft for the public offering statement shall be reviewed by the agency to determine its completeness and accuracy.

(7) If the agency deems that sections or areas of the proposed public offering statement are incomplete, inaccurate, deceptive, or not presented in the proper format, the agency shall reject the proposed public offering statement and return it to the applicant for correction of noted deficiencies.

(8) Guidelines, instructions, and preprinted materials for preparing the public offering statement may be obtained from the agency. [Statutory Authority: RCW 19.105.530 and 19.105.320 (1)(b). 85-12-021 (Order RE 131), § 460-90A-027, filed 5/29/85.]

WAC 460-90A-030 Signing of application and the permit. Both the application for registration of camp resort contracts and the agency permit shall be signed by the camp resort operator or the appropriate officer or general partner of the camp resort operator. However, these documents may be signed by another person holding a power of attorney for such purposes from the applicant and, if signed on behalf of the applicant pursuant to such power of attorney, shall include as an additional exhibit a copy of said power of attorney or a copy of the corporate resolution authorizing the person signing to act on behalf of the applicant. [Statutory Authority: RCW 19.105.530. 85-19-093 (Order 133 R), § 460-90A-030, filed 9/18/85; 85-12-021 (Order RE 131), § 460-90A-030, filed 5/29/85. Statutory Authority: RCW 19.105.320(1). 83-06-076 (Order SDO-40-83), § 460-90A-030, filed 3/2/83. Formerly WAC 460-90-120.]

WAC 460-90A-032 The public offering statement—Delivery to prospective purchasers. (1) The operator or its agents shall provide all prospective purchasers with the agency-registered Part I of the public offering statement prior to the completion of a sales presentation or a camp resort tour whether or not such persons purchase a camp resort contract.

(2) Part II of the public offering statement shall be provided actual purchasers.

(3) Any person who requests of [an] [any] operator or its agents, a public offering statement, shall be provided [with] Part I of the public offering statement, whether or not such person has received a solicitation.

(4) Any prospective purchaser who attends a sales presentation or tour of a camp resort, upon request of the prospective purchaser, shall be given permanently a

copy or prototype of the operator's camp resort contract, which the prospective purchaser may retain, whether or not there has been an actual purchase made. No fee shall be charged for this document.

(5) No fee may be charged for the initial copy of the Part I of the public offering statement provided persons. A fee covering the operator's actual costs for production of the document may be charged for additional copies. [Statutory Authority: RCW 19.105.530, 85-19-093 (Order 133 R), § 460-90A-032, filed 9/18/85. Statutory Authority: RCW 19.105.530 and 19.105.370, 85-12-021 (Order RE 131), § 460-90A-032, filed 5/29/85.]

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 460-90A-035 Purchaser cancellations of contracts—Prompt refund of funds and consideration. (1) "Promptly" with reference to the refund and return of a person's funds and consideration, referred to in RCW 19.105.390 shall be as follows:

(a) For cash, cashiers checks, money orders, credit card slips held and not processed and other similar consideration, the operator or its agents shall make refunds within ten business day[s] of a demand.

(b) For credit card purchases where the operator has processed the credit card slip(s) to the care of the credit card company, the operator shall notify the credit card company of a credit to the account of the purchaser within three business days of a demand.

(c) Promissory notes and similar evidences of debt shall be voided and returned within three business days of demand.

(d) Within ten business days after demand, the operator or it[s] agents shall give the purchaser evidence that the purchase commitment has been voided.

(2) No purchaser camp resort contract, promissory note or other evidences of debt may be sold, transferred, hypothecated or pledged by an operator until at least five business days after the termination of the statutory-prescribed cancellation term.

(3) No fees or charges may be made of a purchaser by an operator for use of written materials or camp resort facilities offered gratuitously prior to the cancellation request; however, nothing in this statement shall preclude an operator from requiring return of materials in the custody of a purchaser not constituting either Part I or Part II of the public offering statement. [Statutory Authority: RCW 19.105.530, 85-19-093 (Order 133 R), § 460-90A-035, filed 9/18/85.]

WAC 460-90A-040 Repealed. See Disposition Table at beginning of this chapter.

WAC 460-90A-045 Financial statements and information. (1) Financial statements provided by the applicant, reporting on the applicant as a business, shall be

audited and prepared in accordance with generally accepted accounting principles by a public accountant independent of the operator or affiliate.

(2) The financial statements shall include a balance sheet, statements of income and changes in financial position for each of the three fiscal years preceding the date of application. For the period between the end of the previous fiscal year and the date of application, interim financial statements, for all calendar quarters covering the period sixty or more days prior to the date of application shall be submitted but need not be audited.

(3) In order to be assured of continued payment of the project operating expenses and the funding of capital improvement accounts for future repairs, replacement or refurbishment of depreciable properties and facilities, and for contingencies, the following financial statements, documentation or information, reporting on the financial operations of the resorts and its facilities, as distinguished from that financial information reporting on the applicant as a business, required in subsections (1) and (2) of this section, are to be provided the agency:

(a) The location of and amounts in all capital improvement, reserve and contingency accounts.

(b) Financial statements including a balance sheet, statements of income and changes in financial position covering the camp resort operating income and expenses and funding of capital improvements, for each of the three fiscal years preceding the date of application, or for the preceding year for a renewal applicant.

(4) All applicants shall provide a statement concerning the liens and encumbrances affecting all camp resort properties and facilities in the camp resort program, and shall include the following information:

(a) The identity of the lien or encumbrance.

(b) The identity of the holder or owner of the lien or encumbrance.

(c) A description of the property encumbered or affected.

(d) The original amount of each loan or encumbrance.

(e) The balance due and whether or not any payments are then in arrears.

(f) A schedule of amounts and dates payable or conditions of any future payments.

(g) If deemed necessary for the protection of purchasers, the agency may require reporting and confirmation of payments made on liens and encumbrances.

(5) For purposes of purchaser protection, the agency may require additional financial information in the event such information appears necessary to determine the requirements of RCW 19.105.340, and 19.105.350 or if grounds exist for administrative action under RCW 19.105.380.

(6) The agency may waive any or all of the financial information requirements of this section in the event such information does not appear necessary for purposes of determining whether an applicant must comply with RCW 19.105.340, 19.105.350 or if grounds exist for administrative action under RCW 19.105.380.

(7) The agency may require that the financial statements and information required in this section be consolidated with that of affiliates or other business

endeavors if it appears necessary to do so for the protection of purchasers or to assist in the determination whether the applicant must comply with the requirements of RCW 19.105.340 and 19.105.350, or if grounds exist for administrative action under RCW 19.105.380. [Statutory Authority: RCW 19.105.530 and 19.105.320 (1)(a). 85-19-093 (Order 133 R), § 460-90A-045, filed 9/18/85.]

WAC 460-90A-050 Repealed. See Disposition Table at beginning of this chapter.

WAC 460-90A-055 Written disclaimer of endorsement. (1) The public offering statement and each advertisement or sales promotional literature required to be filed pursuant to RCW 19.105.360(1) or that is utilized by an operator, its agents or affiliates, shall contain, in a conspicuous location, the following statement in at least 10 point type:

"REGISTRATION OR THE FILING OF THIS DOCUMENT WITH THE DEPARTMENT OF LICENSING, STATE OF WASHINGTON, DOES NOT CONSTITUTE A FINDING BY THE REGULATORY AGENCY THAT THIS, OR ANY OTHER DOCUMENT FILED UNDER THE CAMPING CLUB ACT Chapter 19.105 RCW IS TRUE, COMPLETE AND NOT MISLEADING, NOR DOES THE FILING MEAN THAT THE AGENCY HAS PASSED IN ANY WAY UPON THE MERITS OR QUALIFICATIONS OF, OR RECOMMENDED OR GIVEN APPROVAL OF ANY CAMP RESORT OPERATOR, RESORT, REGISTRATION, ADVERTISING, OR ANY GIFT OR PRIZE OFFERED AS PART OF A PROMOTIONAL PLAN."

[Statutory Authority: RCW 19.105.530 and 19.105.320(1). 85-19-093 (Order 133 R), § 460-90A-055, filed 9/18/85.]

WAC 460-90A-070 Receipt of written disclosures. The camp resort operator or salesperson shall obtain from each person that tours a camp resort or attends a sales presentation, a signed statement [the written disclosures] evidencing receipt of the appropriate part(s) of the public offering statement. The operator shall retain each receipt for a period of at least three years from the date of signature thereon. [Statutory Authority: RCW 19.105.530. 85-19-093 (Order 133 R), § 460-90A-070, filed 9/18/85. Statutory Authority: RCW 19.105.320(1). 83-06-076 (Order SDO-40-83), § 460-90A-070, filed 3/2/83.]

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 460-90A-090 Operation of impound condition. When an impound condition is imposed in connection with the registration of camp resort contracts, 100% of the proceeds and all other funds paid by any purchaser after the impound condition is imposed shall, [within 48 hours or the next banking day, whichever is later,] be placed with the depository within 48 hours after the cancellation periods prescribed in WAC 460-90A-035 or the next banking day after the cancellation periods prescribed in WAC 460-90A-035, whichever is

later, until the director takes further action pursuant to WAC 460-90A-100. [Statutory Authority: RCW 19.105.530. 85-19-093 (Order 133 R), § 460-90A-090, filed 9/18/85. Statutory Authority: RCW 19.105.320(1). 83-06-076 (Order SDO-40-83), § 460-90A-090, filed 3/2/83. Formerly WAC 460-90-450.]

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 460-90A-100 Release of impounds. The director or administrator will authorize the depository to release to the operator or others as provided in the terms of the impound, such amount[s] of the impounded funds applicable to a specified purpose, upon a showing that the operator can satisfy his obligations under the camp resort contract and the impound arrangement or that for other reasons the impound is no longer required for the protection of the purchasers. An application for an order of the director or administrator authorizing the release of the impound to the operator or other persons shall be by affidavit and shall contain the following:

(1) A statement of the operator that all required proceeds and documents from the sale of [camping club] contracts have been placed with the depository in accordance with the terms and condition[s] of the impound agreement.

(2) A statement of the depository signed by an appropriate officer setting forth the amount of funds placed[,] already disbursed and presently in the custody of [with] the depository.

(3) The names of each contract purchaser and the amount held in the impound for each of the accounts.

(4) Such other information as the director may request in a particular case. [Statutory Authority: RCW 19.105.530. 85-19-093 (Order 133 R), § 460-90A-100, filed 9/18/85. Statutory Authority: RCW 19.105.320(1). 83-06-076 (Order SDO-40-83), § 460-90A-100, filed 3/2/83. Formerly WAC 460-90-480.]

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 460-90A-110 Repealed. See Disposition Table at beginning of this chapter.

WAC 460-90A-115 Renewals. (1) Pursuant to RCW 19.105.420 an application for renewal shall be made not less than sixty days prior to the expiration date of a registration, on a form to be provided by the agency.

(2) It shall be the applicant's responsibility to procure forms and file them with the agency.

(3) The renewal application shall include the following:

(a) Affidavits by the operator stating whether or not there have been any changes in the information and

documentation previously submitted for purposes of registration.

(b) Copies or prototypes of all amended, altered, or new documentation evidencing changes with the changes being underlined or referred to by footnotes.

(c) Affidavits by the operator stating whether or not there have been any changes in the information required in the public offering statement.

(d) A draft of a proposed amended public offering statement evidencing changes, with the changes being underlined or referred to by a cover letter calling the agency's attention to the proposed changes, additions to or deletions from the public offering statement previously accepted by the agency.

(e) A copy of all camp resort contract forms marked and underscored to reflect changes, additions or deletions.

(f) Financial statements and information as provided for in WAC 460-90A-045.

(g) Payment of fees provided for in RCW 19.105.410.

(4) Failure of the renewal applicant to renew in a timely manner on or before the date of permit expiration, shall mean that the registration and permit has expired. Upon expiration of registration the camping club contracts are deemed not registered and the operator must register as a new applicant pursuant to the provisions of RCW 19.105.320 and WAC 460-90A-025 and 460-90A-027.

(5) Registrants applying for renewals shall be required by the agency to submit any of the documents, information or exhibits required in WAC 460-90A-025 if deemed necessary for the protection of purchasers. [Statutory Authority: RCW 19.105.530. 85-19-093 (Order 133 R), § 460-90A-115, filed 9/18/85; 85-12-021 (Order RE 131), § 460-90A-115, filed 5/29/85.]

WAC 460-90A-120 Repealed. See Disposition Table at beginning of this chapter.

WAC 460-90A-122 Salesperson registrations. (1) Each applicant for registration as a camp resort salesperson shall register on a form prescribed by the agency and pay a filing fee of thirty dollars.

(2) Registration as a camp resort salesperson shall be renewed annually or at the time the salesperson obtains employment by a camp resort operator subsequent to a termination of a former employment by a camp resort operator, whichever event occurs first, by the filing of a form prescribed by the agency and payment of a fee of thirty dollars.

(3) The following information shall be provided on the original application or renewal of a camp resort salesperson's registration:

(a) The applicant's date and place of birth.

(b) Proof of identity.

(c) Information covering employment for the prior five years.

(d) Information concerning any administrative action taken against permits, licenses or registrations in other professions, businesses or occupations.

(e) An affidavit concerning knowledge of the Camping Club Act (chapter 19.105 RCW) and agency rules (chapter 460-90A WAC).

(f) Completion of an affidavit by applicants that they have read the public offering statement covering any registered project whose camp resort contracts they are offering or selling.

(4) Persons applying for a salesperson registration for the first time shall submit fingerprint identification on a form provided by the agency. Persons applying for a renewal of a salesperson registration shall submit fingerprint cards if there has been no prior submission.

(5) Upon the occurrence of any material change in the information contained in the registrant's file, each salesperson registrant shall promptly file with the agency an amendment to the salesperson registration file stating the change(s). The following shall be material changes requiring notice to the agency:

(a) Any termination of employment with a camp resort operator.

(b) Upon being named a defendant or a party in any administrative, civil or criminal proceeding involving theft, fraud or dishonesty or violation of any act designed to protect consumers, or involving unethical or dishonest practices in any industry involving sales to consumers or violations of chapter 19.105 RCW, the salesperson applicant shall promptly provide to the agency a notice of the proceeding and a copy of the complaint.

(c) A change of name.

(d) A change of residence or mailing address.

(6) Each operator of a camp resort whose camp resort contracts are registered with the agency, shall notify the agency on a form prepared by the agency, of the employment or termination of employment of any camp resort contract salesperson at the time of such employment or termination of employment.

(7) As a condition of continued registration the salesperson registrant shall comply with the following:

(a) During the entire term of the registration the registrant is to be employed or engaged by an operator that is registered with the agency as an offeror of camp resort contracts, and the salesperson shall be offering contracts on behalf of or in the employment of such operator-registrant.

(b) Upon termination of employment with a registered camp resort operator, the camp resort salesperson registration is deemed to have expired. At such time it shall be the salesperson's responsibility to provide the agency with notice of termination and to return to the agency the salesperson registration.

(c) It shall be the salesperson's responsibility to cause the posting of the salesperson registration form in a conspicuous location on the premises where employed and where contact with the public for purposes of making sales most often occurs.

(d) The salesperson shall clearly identify himself or herself by full name, by means of a business card, lapel pin or by other means, upon contact with any prospective purchaser.

(e) The salesperson shall cooperate fully with the agency in any investigation of alleged violations by the registrant, salesperson, or others, of the Camping Club Act or these rules.

(8) Applications for registration or renewal that are for any reason defective or that are not legible shall be returned and the application shall be deemed not filed until the form is received by the agency with the deficiencies corrected.

(9) An application for renewal of a salesperson registration not filed in a timely manner or not received or acted upon by the agency prior to the expiration date shall be deemed by the agency as having expired. The salesperson must thereafter register as a new applicant for registration. Salespersons who have failed to make timely renewal applications shall not engage in camp resort salesperson activities. It is the salesperson's responsibility to secure the necessary forms and renew a registration in a timely manner. Applications for renewal should be forwarded to the agency by registered mail at least thirty days prior to expiration of the current registration. The agency shall not be responsible for applications lost in the mail or not timely received for other reasons. [Statutory Authority: RCW 19.105.530 and 19.105.440(3). 85-12-021 (Order RE 131), § 460-90A-122, filed 5/29/85.]

WAC 460-90A-125 Salesperson registration--For persons in the business of offering resale contracts (1) In addition to those applying in WAC 460-90A-122, the following additional conditions or requirements for a camp resort salesperson registration shall apply to those persons offering resale camp resort contracts, unless exempted by WAC 460-90A-022.

(a) All funds collected whether as advance fees or as payments for purchase transactions, shall be placed in an escrow account segregated and separate from those of the registrant, in a recognized Washington state depository.

(i) Funds collected for purchase transactions shall remain in escrow until such time as the purchase transaction is completed in accordance with the escrow instructions.

(ii) Funds collected as advance fees or for other purposes shall be utilized only for the purposes for which they are collected.

(iii) Funds collected are to remain in the escrow until such time as they are utilized for their designated purpose.

(iv) Any advance fees collected shall be utilized solely for the purposes stated and the salesperson registrant shall upon request, provide evidence to the agency that fees collected are being utilized for such purposes. Applicants shall agree to and thereafter provide the agency with access to audit of such funds and the escrow records at any time during normal business hours.

(v) Funds may be placed in interest bearing accounts provided the agreements are in writing and the parties agree to whom interest earned shall be paid and funds are payable upon demand.

(b) Provide evidence of permits to do business, when required by any local, state, or federal jurisdiction.

(c) Maintain a business office or location where business records of the applicant will be kept and such records shall be available for audit purposes.

(d) Submit proposed advertising for agency review pursuant to RCW 19.105.360 and WAC 460-90A-140.

(e) Submit for agency review copies or prototypes of agreements to be used for offering or soliciting camp resort contracts.

(f) If available as an ordinary course of business, provide the agency with copies of lists or print-outs of the camp resort contracts available for sale. [Statutory Authority: RCW 19.105.530 and 19.105.440(3). 85-12-021 (Order RE 131), § 460-90A-125, filed 5/29/85.]

WAC 460-90A-140 Advertisements. (1) No camp resort operator or salesperson shall use [advertisements] [advertising] or sales promotion literature that are deceptive, false or misleading.

(2) Advertisements or sales promotion literature that offer any gift, prize or item of value as an inducement to the recipient to buy a camp resort membership, visit a camp resort property, complete a tour of a camp resort property, receive a sales presentation, or contact salespersons shall be subject to the following provisions:

(a) The name of the camp resort operator offering such item shall be clearly disclosed;

(b) No item may be labeled "free" or a "gift" if the recipient is required to purchase a camp resort contract or to give or promise to give in exchange for the item any sum of money or its equivalent;

(c) The advertisement or sales promotion literature shall identify each item and its retail fair market value. To determine the retail fair market value, the following methods may be used:

(i) The approximate retail sales price of the item in the trade area in which the offer is made; or

(ii) The approximate retail sales price in the trade area of similar items of comparable quality if the item is not available in the trade area in which the offer is made;

(iii) Appraisals;

(iv) The operator's actual cost of the item.

(d) If the item is one or more of a larger group, and if offered or given on a random basis, the advertisement or sales promotion literature must disclose the actual odds of receiving each item based upon the initial odds and must be revised to reflect actual current odds at the beginning of each month of use of the free promotion if the odds change; if not offered or given on a random basis, the method of selection used must be disclosed. No promotion shall be used which is in violation of Washington state or federal laws[;] [.]

(e) If receipt of the advertised item is contingent upon certain restrictions or qualifications which the recipient must meet, then a clear and complete disclosure of those restrictions and whether they apply to receipt of the gift or acceptability to buy into the program, must be made in the offer. Restrictions that must be disclosed include, but are not limited to the following:

(i) The deadline by which the recipient must buy a camp resort membership, visit a camp resort property, complete a tour of a camp resort property, receive a sales presentation, or contact a salesperson in order to receive an item, if any such deadline exists;

(ii) The days and hours during which visits may be made, tours may be taken, or sales presentations received and the approximate length in hours of such visits, tours or sales presentations if any visit, tour, or sales presentation is necessary in order for the recipient to receive the item; and

(iii) Any requirement such as age, marital status, financial qualifications, or that both husband and wife must be present.

(f) Any person who responds to an advertisement or sales promotion in the manner specified, who performs all stated requirements and who meets the qualifications disclosed shall be entitled to receive promptly the item offered. If the camp resort operator cannot provide the item because of supply or quality problems not reasonably foreseen or controllable by the operator, the operator shall provide, at the operator's option, a raincheck for the item offered or its cash equivalent, or shall provide a substitute item of greater retail value or a raincheck for such substitute item. In case a raincheck is provided, the camp resort operator shall, within a reasonable time, deliver the item or its cash equivalent to the recipient's address without additional cost or requirement to the recipient. No camp resort operator or salesperson shall make any offer of an item when the operator or salesperson knows or has reason to know that the item is not readily available;

(g) Any restriction or requirement that time, money or effort must be expended by the recipient of an item in order for the recipient to use the item must be disclosed in the advertisement or sales promotion literature. Examples of such restrictions or requirements include any items that require assembly by the recipient, travel or other entertainment gifts or prizes for which there are limitations on the dates or times when the recipient may use the item, or which require nonrefundable reservation deposits or additional travel costs in order for the recipient to use the travel or other entertainment gift or prize.

(h) Provisions explaining any conditions to qualify for a gift, prize, or award, must be in type at least as large and prominent as found in the original offer or notice of the award, gift, or prize.

(3) Nothing in this section shall affect the remedies of the administrator or any person responding to advertisements or sales promotions if such advertisements or promotions are deceptive, false or misleading or otherwise in violation of chapter 19.105 RCW. [Statutory Authority: RCW 19.105.530 and 19.105.360. 85-12-021 (Order RE 131), § 460-90A-140, filed 5/29/85. Statutory Authority: RCW 19.105.320(1). 83-06-076 (Order SDO-40-83), § 460-90A-140, filed 3/2/83. Formerly WAC 460-90-500.]

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems

ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 460-90A-150 Repealed. See Disposition Table at beginning of this chapter.

Title 463 WAC

ENERGY FACILITY SITE EVALUATION COUNCIL

(Formerly: Thermal Power Plant Evaluation Council)

Chapters

- 463-06** General--Organization--Public records.
463-46 Guidelines interpreting and implementing the State Environmental Policy Act.
463-47 SEPA rules.

Chapter 463-06 WAC

GENERAL--ORGANIZATION--PUBLIC RECORDS

WAC

- 463-06-040 Semimonthly meetings.

WAC 463-06-040 Semimonthly meetings. Regular meetings of the council are held on the second and fourth Mondays of each month. Regular meetings may be canceled or rescheduled by approved council motion either by oral notice given at the preceding meeting or by the noticing procedure provided for special meetings pursuant to WAC 463-18-050. [Statutory Authority: RCW 80.50.040(1). 84-07-042 (Order 84-1), § 463-06-040, filed 3/21/84; Order 103, § 463-06-040, filed 11/4/76.]

Chapter 463-46 WAC

GUIDELINES INTERPRETING AND IMPLEMENTING THE STATE ENVIRONMENTAL POLICY ACT

WAC

- 463-46-010 through 463-46-910 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 463-46-010 Authority. [Order 112, § 463-46-010, filed 12/15/76.] Repealed by 84-19-031 (Order 84-2), filed 9/14/84. Statutory Authority: RCW 80.50.040(1). Later promulgation, see chapter 463-47 WAC.
- 463-46-020 Purpose. [Order 112, § 463-46-020, filed 12/15/76.] Repealed by 84-19-031 (Order 84-2), filed 9/14/84. Statutory Authority: RCW 80.50.040(1).
- 463-46-025 Scope and coverage of this chapter. [Order 112, § 463-46-025, filed 12/15/76.] Repealed by 84-19-031 (Order 84-2), filed 9/14/84. Statutory Authority: RCW 80.50.040(1).
- 463-46-040 Definitions. [Order 112, § 463-46-040, filed 12/15/76.] Repealed by 84-19-031 (Order 84-2), filed 9/14/84. Statutory Authority: RCW 80.50.040(1).