

Chapter 308-420 WAC

CAMPING RESORTS—CONTRACTS—RESALE, ETC.

WAC

308-420-020	Definitions.
308-420-030	Reporting events that shall require that the operator keep written disclosures current.
308-420-040	Material events that are amendments requiring notice and a filing fee.
308-420-050	Exemptions from registration—Noncommercial resale contract offerings.
308-420-060	Statement of record—Filings and information required upon application for registration of start up camping resort projects and contract offerings.
308-420-070	The public offering statement—Form, content, and preparation.
308-420-090	The public offering statement—Delivery to prospective purchasers.
308-420-100	Purchaser cancellations of contracts—Prompt refund of funds and consideration.
308-420-110	Financial statements and information.
308-420-120	Written disclaimer of endorsement.
308-420-140	Receipt of written disclosures.
308-420-150	Depository.
308-420-160	Operation of impound condition.
308-420-170	Release of impounds.
308-420-180	Fee for impound.
308-420-190	Renewals.
308-420-200	Salesperson registrations.
308-420-210	Request for withdrawal of camping resort property.
308-420-220	Advertisements.
308-420-230	Rainchecks.
308-420-240	Fees and charges.
308-420-250	Application of brief adjudicative proceedings.
308-420-260	Preliminary record in brief adjudicative proceedings.
308-420-270	Conduct of brief adjudicative proceedings.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

308-420-010	Organization. [Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-010, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-005.] Repealed by WSR 03-03-054, filed 1/13/03, effective 2/13/03. Statutory Authority: RCW 19.105.530(1), 43.24.023.
308-420-080	Signing of application and the permit. [Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-080, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-030.] Repealed by WSR 03-03-054, filed 1/13/03, effective 2/13/03. Statutory Authority: RCW 19.105.530(1), 43.24.023.
308-420-130	Notice of termination of sales. [Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-130, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-060.] Repealed by WSR 03-03-054, filed 1/13/03, effective 2/13/03. Statutory Authority: RCW 19.105.530(1), 43.24.023.

WAC 308-420-020 Definitions. (1) Words and terms used in these rules shall have the same meaning as each has in the Camping Resorts Act, (chapter 19.105 RCW).

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

(3) "Camping resort" shall be synonymous with "camping club," or "camp resort" whether or not structured as or involved with a common-interest entity, provided the method of structuring the project meets the definition of "camping resort" in RCW 19.105.300(1).

(4) "Camping resort program" means the rights and obligations of a purchaser and the methods and procedures for occupying or using camping resort facilities and properties,

(1/13/03)

as established by the purchase contract and other written instruments, such as covenants, declarations, bylaws or rules.

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

(9) "Prospective purchaser" shall mean any person attending a sales presentation or touring a camping resort when such attendance results from an operator's solicitation or advertising.

(10) "Right to use or multiple use camping resort" shall mean a camping resort where the fee title or leasehold interest to the land remains with the operator and memberships are sold in excess of one membership to each camping site and usage is subject to operator established rules.

(11) "Common-interest camping resort" shall mean a member-owned entity which has the fee title or leasehold interest to the land in its own name and the memberships of the common interest entity are sold one membership to a specific camping site and the site usage is exclusive to the member.

(12) "Undivided interest camping resort" shall mean a camping resort entity which conveys the fee title or leasehold interest to the land to the member, and the memberships are sold in excess of one membership to each camping site and their usage is subject to the operator's established rules.

[Statutory Authority: RCW 19.105.530(1), 43.24.023. WSR 03-03-054, § 308-420-020, filed 1/13/03, effective 2/13/03. Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-020, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-015.]

WAC 308-420-030 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 in the public offering statement to be outdated, incorrect, incomplete or deceptive.

(b) Any damage to the property or facilities of a camping 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 of injury to the contract purchasers or limits 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 camping resort properties or facilities which limits the use of the camping 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 camping resort program or a common-interest entity involved in the camping 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 entity and concern the provisions of the Camping Resorts Act (chapter 19.105 RCW) and rules or the financial condition of the operator or its affiliates, the project, or a common-interest entity.

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

(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 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 identifying the proposed corrections, deletions, or additions to the existing information.

[Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-030, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-017.]

WAC 308-420-040 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 camping resort and require both notice to the agency and the submission of a 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 camping resort program.

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

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

(e) Any new encumbrances, liens or loans that affect the camping 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 camping resort properties, the registrant, a common-interest entity 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 entity, if such change could result in an inability to provide promised sites, facilities, or services.

(2) Filing an amendment and reporting events that might have a material effect shall be accomplished by providing the agency with the following:

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

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

(c) A redraft of the public offering statement identifying the proposed corrections, deletions, or additions to the existing information.

[Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-040, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-018.]

WAC 308-420-050 Exemptions from registration—Noncommercial resale contract offerings. As provided in RCW 19.105.325(2), the director exempts from the registration requirements of chapter 19.105 RCW the offering and selling of resale camping resort contracts by a common interest entity, entirely owned and operated by the purchasers of the camping resort contracts, which markets no more than ten resale camping resort contracts during any one calendar year period, 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 common-interest entity is not primarily in the business of offering or selling camping resort contracts.

[Statutory Authority: RCW 19.105.530(1), 43.24.023. WSR 03-03-054, § 308-420-050, filed 1/13/03, effective 2/13/03. Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-050, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-022.]

WAC 308-420-060 Statement of record—Filings and information required upon application for registration of start up camping 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.

(i) A copy of any criminal conviction, including a guilty plea, within the last ten years, or any conviction that resulted in the applicant having to register as a sex offender regardless of whether the conviction is over ten years old.

(ii) A copy of any civil or administrative judgment or order involving dishonesty, fraud, or violation of any act designed to protect consumers that names the applicant or any of the applicant's affiliates as a party.

(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 camping resort projects.

(f) A preliminary title report, dated within thirty 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 308-420-110.

(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 camping resort contracts or are to be offered to contract owners as part of the camping resort programs.

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

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

(iv) Trust or escrow arrangements affecting the project.

(v) Covenants or declarations affecting camping resort properties.

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

(l) If the project involves a common-interest entity 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.

[Statutory Authority: RCW 19.105.530(1), 43.24.023. WSR 03-03-054, § 308-420-060, filed 1/13/03, effective 2/13/03. Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-060, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-025.]

WAC 308-420-070 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) 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.

(4) 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.

[Statutory Authority: RCW 19.105.530(1), 43.24.023. WSR 03-03-054, § 308-420-070, filed 1/13/03, effective 2/13/03. Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-070, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-027.]

WAC 308-420-090 The public offering statement—Delivery to prospective purchasers. (1) The operator or its agents shall provide all prospective purchasers with the agency-registered public offering statement prior to the completion of a sales presentation or a camping resort tour whether or not such persons purchase a camping resort contract.

(2) Any person who requests of an operator or its agents, a public offering statement, shall be provided the public offering statement, whether or not such person has received a solicitation.

(3) Any prospective purchaser who attends a sales presentation or tour of a camping resort, upon request of the prospective purchaser, shall be given a copy or prototype of the operator's camping 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.

(4) No fee may be charged for the initial copy 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(1), 43.24.023. WSR 03-03-054, § 308-420-090, filed 1/13/03, effective 2/13/03. Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-090, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-032.]

WAC 308-420-100 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 days 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 its agents shall give the purchaser evidence that the purchase commitment has been voided.

(2) No purchaser camping 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 camping 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 including the public offering statement.

[Statutory Authority: RCW 19.105.530(1), 43.24.023. WSR 03-03-054, § 308-420-100, filed 1/13/03, effective 2/13/03. Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-100, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-035.]

WAC 308-420-110 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 to 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 camping 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 camping resort properties and facilities in the camping 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 19.105.130. WSR 91-01-082, § 308-420-110, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-045.]

WAC 308-420-120 Written disclaimer of endorsement. 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:

THIS DOCUMENT HAS BEEN FILED WITH THE DEPARTMENT OF LICENSING, STATE OF WASHINGTON, AS REQUIRED BY WASHINGTON LAW. VALUE, QUALITY, OR CONDITIONS STATED, AND PERFORMANCE ON PROMISES ARE THE RESPONSIBILITY OF THE OPERATOR, NOT THE DEPARTMENT. THE FILING DOES NOT MEAN THAT THE DEPARTMENT HAS APPROVED THE MERITS OR QUALIFICATIONS OF ANY REGISTRATION, ADVERTISING, OR ANY GIFT, PRIZE, OR ITEM OF VALUE AS PART OF ANY PROMOTIONAL PLAN.

[Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-120, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-055.]

WAC 308-420-140 Receipt of written disclosures.

The camping resort operator or salesperson shall obtain from each person that tours a camping resort or attends a sales presentation, a signed statement evidencing receipt 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(1), 43.24.023. WSR 03-03-054, § 308-420-140, filed 1/13/03, effective 2/13/03. Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-140, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-070.]

WAC 308-420-150 Depository.

Funds subject to an impound condition shall be placed in a separate trust account with a bank or depository institution approved by the director. A written consent of the depository to act in such capacity shall be filed with the director.

[Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-150, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-080.]

WAC 308-420-160 Operation of impound condition.

When an impound condition is imposed in connection with the registration of camping resort contracts, up to 100% of the proceeds and other funds as specified by the impound conditions shall, be placed with the depository within 48 hours after the cancellation periods prescribed in WAC 308-420-100 or the next banking day after the cancellation periods whichever is later, until the director takes further action pursuant to WAC 308-420-170.

[Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-160, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-090.]

WAC 308-420-170 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, the amount of the impounded funds applicable to a specified purpose, upon a showing that the operator can satisfy his obligations under the camping 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 resort contracts have been placed with the depository in accordance with the terms and conditions 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 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.

[Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-170, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-100.]

WAC 308-420-180 Fee for impound.

The director shall impose a fee for each impound or reserve required to be set up pursuant to RCW 19.105.340 and 19.105.350.

(1/13/03)

[Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-180, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-105.]

WAC 308-420-190 Renewals. (1) Pursuant to RCW 19.105.420 an application for renewal shall be made 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; the changes shall be underlined or referred to by footnotes.

(c) A draft of a proposed amended public offering statement evidencing changes; the changes shall be 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.

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

(e) Financial statements and information as provided for in WAC 308-420-110 will be required to be submitted once every four years beginning from the original registration approval date or at any other time the department deems necessary to determine the financial stability of the company.

(f) Payment of fees as provided for in RCW 19.105.411.

(4) Failure of the renewal applicant to renew in a timely manner on or before the date of expiration, shall mean that the registration has expired. Upon expiration of registration the camping resort 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 308-420-060 and 308-420-070.

[Statutory Authority: RCW 19.105.530(1), 43.24.023. WSR 03-03-054, § 308-420-190, filed 1/13/03, effective 2/13/03. Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-190, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-115.]

WAC 308-420-200 Salesperson registrations.

(1) Each applicant for registration as a camping resort salesperson shall register on a form prescribed by the agency and pay a filing fee as provided by the director.

(2) Registration as a camping resort salesperson shall be renewed annually or at the time the salesperson obtains employment by a camping resort operator subsequent to a termination of a employment by a camping resort operator, by the filing of a form prescribed by the agency and payment of the proscribed fee.

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

(a) A copy of any criminal conviction, including a guilty plea, within the last ten years, or any conviction that resulted in the applicant having to register as a sex offender regardless of whether the conviction is over ten years old.

(b) A copy of any civil or administrative judgment or order involving dishonesty, fraud, or violation of any act designed to protect consumers that names the applicant as a party.

[Ch. 308-420 WAC p. 5]

(4) 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:

No later than twenty business days, upon being named a defendant or a party in any administrative, civil or criminal proceeding, the salesperson applicant shall promptly provide to the agency a notice of the proceeding and a copy of the complaint.

(5) Each operator of a camping resort whose camping resort contracts are registered with the agency, shall upon the termination of employment of a camping resort salesperson provide the department with a notice of termination and to return to the department the salesperson registration within ten days of the termination.

(6) The operator is responsible for posting the salesperson registration visible to the public on the premises where the salesperson is employed.

(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 camping resort contracts, and the salesperson shall be offering contracts on behalf of or in the employment of such operator-registrant. Upon termination of employment with a registered camping resort operator, the salesperson registration is deemed to have expired.

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

(c) It shall not be represented to any prospective purchaser that there is any form of a membership resale program for membership contracts being offered by the operator of the camping resort unless the same be true.

(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 camping resort activities. It is the salesperson's responsibility to secure the necessary forms and renew a registration in a timely manner. 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(1), 43.24.023. WSR 03-03-054, § 308-420-200, filed 1/13/03, effective 2/13/03. Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-200, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-122.]

WAC 308-420-210 Request for withdrawal of camping resort property. A camping resort operator may request written approval from the director for authority to withdraw

any substantial camping or recreation portion of any camping resort property devoted to camping or recreational activities pursuant to RCW 19.105.380 (1)(q)(iv) by filing with the director a request ninety days before the intended withdrawal date or such lesser time as the director may allow identifying the portion of the property to be withdrawn and stating the reasons for such withdrawal accompanied by copies of any materials or data supporting such reasons or the necessity for such withdrawal.

[Statutory Authority: RCW 19.105.530(1), 43.24.023. WSR 03-03-054, § 308-420-210, filed 1/13/03, effective 2/13/03. Statutory Authority: RCW 19.105.130. WSR 91-01-082, § 308-420-210, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-130.]

WAC 308-420-220 Advertisements. (1) No camping resort operator or salesperson shall use advertisements or sales promotion literature that are deceptive, false, or misleading.

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

(a) The name of the operator providing the services which are the subject of the advertisement or sales promotion shall appear on the front or first page of the offer. If the offer is made by an agent or independent contractor employed or authorized by the operator, or is made under a name other than the registered name of the operator, the name of the operator shall be more prominently and conspicuously displayed than the name of the agent, independent contractor, or other name.

(b) No item or promotion may be labeled gift, prize, award, sweepstakes, premium, free, or the like if the intended recipient is required to purchase a camping resort contract or expend any sum of money other than travel costs to attend a sales presentation or pay any shipping and handling charges to receive or redeem the item.

(c) The use of any printing styles, graphics, lay-outs, text, colors, or formats on envelopes or on the offer which implies, creates an appearance, or would lead a reasonable person to believe, that the offer originates from or is issued by or on behalf of a government or public agency, public utility, public organization, insurance company, credit reporting agency, bill collecting company or law firm, unless the same is true, is prohibited.

(d) All references to the size, quantity, identity, value, or quality of any incentive must be accurate and correct.

(e) All references to the odds of receiving any particular incentive must be accurate and correct.

(f) References that represent directly or by implication that the number of participants has been significantly limited or that any person has been selected to receive a particular incentive unless fact are prohibited.

(g) No offer shall be labeled a notice of termination or notice of cancellation.

(h) The offer, plan, program or the affiliation, connection, association, or contractual relationship between the per-

son making the offer and the operator may not be represented if they are not the same.

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

(ii) 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 adjusted to local retail fair market value;

(iv) Only if local retail fair market value cannot be determined by the methods set forth above then it may be established by multiplying by three the operator's actual cost of the item.

(j) 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. The odds shall be stated in Arabic numerals in ratio form and if the odds are not printed on the front or first page of the offer, then the location of the odds must be disclosed on the front or first page in a type size that is equal to or larger than standard text type used on the front or first page of the offer.

(k) 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 camping resort membership, visit a camping resort property, complete a tour of a camping 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.

(l) No camping 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;

(m) 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.

(n) Provisions explaining any conditions to qualify for a gift, prize, award, sweepstakes, premium, free item, or any

item of value must be in type at least equal to or larger than the average type size on the face page of the advertisement or sales promotion literature.

(3) Whenever one or more items are offered to a recipient as an inducement to buy a camping resort membership, visit a camping resort property, receive a sales presentation, or contact a salesperson such items shall be identified specifically and discussed as a group whenever mentioned.

(4) Nothing in this section shall affect the remedies of the director, attorney general, or any other 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 19.105.130, WSR 91-01-082, § 308-420-220, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-140.]

WAC 308-420-230 Rainchecks. (1) In the event rainchecks, in lieu of an offered item are provided to recipients, a report will be due to the agency by the 10th of each month, listing all rainchecks outstanding as of the last day of the preceding month and indicating deliveries of any previously reported rainchecked items.

(2) All gifts, prizes, awards, sweepstakes, premiums, free items or other items, with the exception of the major incentives with odds of 1:1,000 or greater must be available for display to the recipient prior to the sales presentation. In the event rainchecks are to be presented, this fact must be announced prior to the tour or sales presentation.

[Statutory Authority: RCW 19.105.530(1), 43.24.023, WSR 03-03-054, § 308-420-230, filed 1/13/03, effective 2/13/03. Statutory Authority: RCW 19.105.130, WSR 91-01-082, § 308-420-230, filed 12/17/90, effective 1/17/91.]

WAC 308-420-240 Fees and charges. The following fees shall be paid under the provisions of chapter 19.105 RCW:

	TITLE OF FEE	FEE
(1)	Original registration:	
	One camping resort	\$3,200.00
	Each additional camping resort in this state	1,000.00
(2)	Contract fees:	
	One to five hundred contracts	500.00
	Each additional five hundred contracts, or fraction thereof	100.00
(3)	Renewal fees:	
	Annual renewal	2,000.00
	Each additional camping resort in this state	800.00
	Contract fees as described in subsection (2) of this section for each grouping of contracts:	
	One to five hundred contracts	500.00
	Each additional five hundred contracts, or fraction thereof	100.00
	Late renewal penalty	800.00

	TITLE OF FEE	FEE	01-082, § 308-420-240, filed 12/17/90, effective 1/17/91. Formerly WAC 460-90A-145.]
(4)	Fees for amending registration and public offering statements:		
	For each amendment of registration or the public offering statement, not requiring an examination of documentation for adding campground or additional contracts to registration	50.00	
	Amendment for the establishment of an additional campground into the registration for which an examination of documents is required exclusive of any other fees	1,500.00	
	Penalty fee for failure to file an amendment within thirty days of the occurrence of a material change as defined in WAC 308-420-030 or 308-420-040	100.00	
(5)	Fees for impounds, escrows, trust and depositories:		
	For each initial establishment of impound, escrow, trust or other arrangement requiring agency monitoring	250.00	
	Each required periodic report	20.00	
(6)	Advertising filings:		
	Each individual advertisement filed with the department	100.00	
	Advertisement involving no examination of campground instruments and which are for the purpose of marketing surveys or feasibility studies	75.00	
(7)	Salesperson fees:		
	Registration	150.00	
	Renewal	150.00	
	Transfer	150.00	
	Duplicate license	35.00	
(8)	Fees for exemptions and exemption applications:		
	Review of application for exemption under RCW 19.105.320(2)	150.00	
(9)	All fees are nonrefundable after the application has been received.		
(10)	All fees shall be paid to the order of the Washington state treasurer.		

[Statutory Authority: RCW 19.105.411, 43.24.086, and 2001 c 7. WSR 02-15-168, § 308-420-240, filed 7/23/02, effective 1/1/03. Statutory Authority: RCW 19.105.411 and 43.240.086. WSR 98-18-082, § 308-420-240, filed 9/1/98, effective 10/2/98. Statutory Authority: RCW 19.105.130. WSR 91-

WAC 308-420-250 Application of brief adjudicative proceedings. The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request, and/or at the discretion of the director pursuant to RCW 34.05.482, for the categories of matters set forth below. Brief adjudicative proceedings will be limited to a determination of one or more of the following issues:

(1) Whether an applicant for a registration meets the minimum criteria for a registration as a camping resort, camping resort operator or camping resort salesperson in this state and the department proposes to deny the application;

(2) Whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the department; and

(3) Whether a registration holder requesting renewal has submitted all required information and whether a registration holder meets minimum criteria for renewal.

[Statutory Authority: RCW 34.05.410 (1)(a) and 34.05.482 (1)(c). WSR 97-10-048, § 308-420-250, filed 5/1/97, effective 6/1/97.]

WAC 308-420-260 Preliminary record in brief adjudicative proceedings. (1) The preliminary record with respect to an application for an original or renewal registration shall consist of:

(a) The application for the registration or renewal and all associated documents;

(b) All documents relied upon by the agency in proposing to deny the registration or renewal; and

(c) All correspondence between the applicant for registration or renewal and the agency regarding the application.

(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:

(a) The previously issued final order or agreement;

(b) All reports or other documents submitted by, or at the direction of, the registration holder, in full or partial fulfillment of the terms of the final order or agreement;

(c) All correspondence between the registration holder and the agency regarding compliance with the final order or agreement; and

(d) All documents relied upon by the agency showing that the registration holder has failed to comply with the previously issued final order or agreement.

[Statutory Authority: RCW 34.05.410 (1)(a) and 34.05.482 (1)(c). WSR 97-10-048, § 308-420-260, filed 5/1/97, effective 6/1/97.]

WAC 308-420-270 Conduct of brief adjudicative proceedings. (1) Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the director. The presiding officer for brief adjudicative proceedings shall not have personally participated in the decision which resulted in the request for a brief adjudicative proceeding.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis for the decision.

(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order.

[Statutory Authority: RCW 34.05.410 (1)(a) and 34.05.482 (1)(c). WSR 97-10-048, § 308-420-270, filed 5/1/97, effective 6/1/97.]