

WSR 08-19-011
EXPEDITED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed September 4, 2008, 4:34 p.m.]

Title of Rule and Other Identifying Information: Repealing sections from chapters 181-79A and 181-82 WAC.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Nasue Nishida, Professional Educator Standards Board (PESB), P.O. Box 47236, Olympia, WA 98504, AND RECEIVED BY November 23, 2008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The PESB is proposing these changes to clean up and consolidate its chapters of WAC. There are many old and outdated sections under these chapters that are no longer current.

Statutory Authority for Adoption: RCW 28A.410.210 and 28A.410.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Professional educator standards board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nasue Nishida, P.O. Box 47236, Olympia, 98504, (360) 725-6238.

September 3, 2008
 Nasue Nishida
 Legislative and
 Policy Coordinator

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 181-79A-299 Transition policies.
- WAC 181-79A-300 Certificate endorsement.
- WAC 181-79A-302 Authorized endorsement for teachers.
- WAC 181-79A-304 Minimum preparation for endorsements for teachers.
- WAC 181-79A-306 Subject area endorsement recommendations by colleges and universities.
- WAC 181-79A-308 Endorsement by examination.

- WAC 181-79A-310 Subject area endorsements through SPI.
- WAC 181-79A-312 Award of college or university credit hours for experience.
- WAC 181-79A-315 In-service in lieu of college and university credit hours.
- WAC 181-79A-317 Evaluation of in-service in lieu of college and university credit hours by PEAC.
- WAC 181-79A-320 Agriculture education—Subject area endorsements.
- WAC 181-79A-322 Anthropology—Subject area endorsement.
- WAC 181-79A-324 Art—Subject area endorsement.
- WAC 181-79A-326 Bilingual education—Subject area endorsement.
- WAC 181-79A-328 Biology—Subject area endorsement.
- WAC 181-79A-330 Business education—Subject area endorsement.
- WAC 181-79A-332 Chemistry—Subject area endorsement.
- WAC 181-79A-333 Comparative religion—Subject area endorsement.
- WAC 181-79A-334 Instructional technology (formerly computer science)—Subject area endorsement.
- WAC 181-79A-336 Designated foreign language—Subject area endorsement.
- WAC 181-79A-338 Drama—Subject area endorsement.
- WAC 181-79A-340 Early childhood education, regular—Subject area endorsement.
- WAC 181-79A-342 Early childhood education, special education—Subject area endorsement.
- WAC 181-79A-344 Earth science—Subject area endorsement.
- WAC 181-79A-346 Economics—Subject area endorsement.
- WAC 181-79A-348 Elementary education—Subject area endorsement.
- WAC 181-79A-350 English—Subject area endorsement.

WAC 181-79A-352	English as a second language—Subject area endorsement.	WAC 181-79A-392	Sociology—Subject area endorsement.
WAC 181-79A-354	English/language arts—Broad subject area endorsement.	WAC 181-79A-394	Social studies—Broad subject area endorsement.
WAC 181-79A-356	Geography—Subject area endorsement.	WAC 181-79A-396	Special education—Subject area endorsement.
WAC 181-79A-358	Health—Subject area endorsement.	WAC 181-79A-398	Speech—Subject area endorsement.
WAC 181-79A-360	History—Subject area endorsement.	<u>REPEALER</u>	
WAC 181-79A-362	Family and consumer sciences education (formerly home and family life education)—Subject area endorsement.	The following sections of the Washington Administrative Code are repealed:	
WAC 181-79A-364	Technology education (formerly industrial arts)—Subject area endorsement.	WAC 181-82-202	Certificate endorsements.
WAC 181-79A-366	Marketing education—Subject area endorsement.	WAC 181-82-204	Endorsement requirements.
WAC 181-79A-368	Journalism—Subject area endorsement.	WAC 181-82-210	Primary and supporting endorsements.
WAC 181-79A-370	Learning resources—Subject area endorsement.	WAC 181-82-215	Implementation policies.
WAC 181-79A-372	Mathematics—Subject area endorsement.	WAC 181-82-300	Bilingual education—All levels, (supporting).
WAC 181-79A-374	Music—Broad subject area endorsement.	WAC 181-82-303	Designated arts: Dance—All levels, primary.
WAC 181-79A-376	Choral music—Subject area endorsement.	WAC 181-82-304	Designated arts: Dance—All levels (supporting).
WAC 181-79A-378	Instrumental music—Subject area endorsement.	WAC 181-82-307	Designated arts: Drama—All levels, primary.
WAC 181-79A-379	Philosophy—Subject area endorsement.	WAC 181-82-308	Designated arts: Drama—All levels, supporting.
WAC 181-79A-380	Physical education—Subject area endorsement.	WAC 181-82-310	Designated arts: Choral, instrumental, or general music—All levels, primary.
WAC 181-79A-382	Physics—Subject area endorsement.	WAC 181-82-311	Designated arts: Choral, instrumental, or general music—All levels, supporting.
WAC 181-79A-384	Political science—Subject area endorsement.	WAC 181-82-312	Designated arts: Visual arts—All levels, primary.
WAC 181-79A-386	Psychology—Subject area endorsement.	WAC 181-82-313	Designated arts: Visual arts—All levels, supporting.
WAC 181-79A-388	Reading—Subject area endorsement.	WAC 181-82-314	Designated science: Biology—Secondary, primary.
WAC 181-79A-390	Science—Broad subject area endorsement.	WAC 181-82-315	Designated science: Biology—Secondary, supporting.
		WAC 181-82-316	Designated science: Chemistry—Secondary, primary.
		WAC 181-82-317	Designated science: Chemistry—Secondary, supporting.

WAC 181-82-318 Designated science: Earth science—Secondary, primary.

WAC 181-82-319 Designated science: Earth science—Secondary, supporting.

WAC 181-82-320 Designated science: Physics—Secondary, primary.

WAC 181-82-321 Designated science: Physics—Secondary, supporting.

WAC 181-82-322 Designated career and technical education—Secondary, primary.

WAC 181-82-324 Designated world languages—All levels, primary.

WAC 181-82-326 Designated world languages—All levels, supporting.

WAC 181-82-328 Early childhood education—Primary.

WAC 181-82-330 Early childhood education—Supporting.

WAC 181-82-331 Early childhood special education—Primary.

WAC 181-82-332 Elementary education—Primary.

WAC 181-82-334 English—Secondary, primary.

WAC 181-82-335 English—Secondary, supporting.

WAC 181-82-336 English/language arts—Secondary, primary.

WAC 181-82-338 English as a second language—All levels, primary.

WAC 181-82-339 English as a second language—All levels, supporting.

WAC 181-82-340 Health/fitness—All levels, primary.

WAC 181-82-341 Health/fitness—All levels, supporting.

WAC 181-82-342 History—Secondary, primary.

WAC 181-82-343 History—Secondary, supporting.

WAC 181-82-344 Library media—All levels, primary.

WAC 181-82-346 Library media—All levels, supporting.

WAC 181-82-348 Mathematics—Secondary, primary.

WAC 181-82-349 Mathematics—Secondary, supporting.

WAC 181-82-350 Middle level, primary.

WAC 181-82-352 Reading—All levels, primary.

WAC 181-82-354 Reading—All levels, supporting.

WAC 181-82-355 Science—Secondary, primary.

WAC 181-82-356 Social studies—Secondary, primary.

WAC 181-82-360 Special education—All levels, primary.

WSR 08-19-024
EXPEDITED RULES
DEPARTMENT OF HEALTH
 (Board of Pharmacy)
 [Filed September 8, 2008, 1:05 p.m.]

Title of Rule and Other Identifying Information: WAC 246-869-180 Physical standards for pharmacies—Adequate equipment.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Doreen E. Beebe, Department of Health, Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504-7863, AND RECEIVED BY November 17, 2008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendment is necessary to clarify the rule, which is to ensure that pharmacies have access to up-to-date copies of Washington statutes and rules governing the practice of pharmacy.

RCW 34.05.353 (1)(c) allows the use of expedited rule making to clarify language of a rule without changing its effect.

Reasons Supporting Proposal: Access to current Washington state statutes and rules are readily available through multiple sources. The board has not produced printed copies of laws and rules applicable to pharmacy practice since the 2003 edition. The board provides the law book in compact disc and on-line links to the RCWs and WACs. These sources provide the most current versions of the statutes and

rules and give pharmacies and pharmacists the option to print hardcopies of up-to-date references.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.64.005.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of health, board of pharmacy, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Doreen Beebe, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4834.

August 1, 2008

Doreen E. Beebe

Program Manager

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91, effective 9/30/91)

WAC 246-869-180 Physical standards for pharmacies—Adequate equipment. (1) All pharmacies shall have in their possession the equipment and supplies necessary to compound, dispense, label, administer and distribute drugs and devices. The equipment shall be in good repair and shall be available in sufficient quantity to meet the needs of the practice of pharmacy conducted therein.

(2) All pharmacies will have in their possession(= ~~(a)~~) one up-to-date copy of the state of Washington statutes(=) and rules (~~and regulations~~) governing the practice of pharmacy, the sale and dispensing of drugs, poisons, controlled substances, and medicines (~~maintained in a binder~~). Electronic or on-line versions are acceptable.

(3) All pharmacies shall have up-to-date references in order for the pharmacist(s) to furnish patients and practitioners with information concerning drugs.

**WSR 08-19-045
EXPEDITED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD**

[Filed September 11, 2008, 11:30 a.m.]

Title of Rule and Other Identifying Information: WAC 181-86-155 Appeal procedure to SBE.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Nasue Nishida, Professional Educator Standards Board, P.O. Box 47236, Olympia, WA 98504, AND RECEIVED BY November 23, 2008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: When the PESB took over rule authority for chapter 181-86 WAC, the title of this section did not get updated. Therefore a technical change is needed to replace SBE with PESB.

Statutory Authority for Adoption: RCW 28A.410.210 and 28A.410.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Professional educator standards board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nasue Nishida, P.O. Box 47236, Olympia, 98504, (360) 725-6238.

September 3, 2008

Nasue Nishida

Legislative and

Policy Coordinator

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-86-155 Appeal procedure to ((SBE)) PESB. Any person whose certificate has been suspended or revoked by the superintendent of public instruction in accordance with the procedures of this chapter may appeal that decision to the professional educator standards board by filing a notice of appeal with the superintendent of public instruction or the secretary of the professional educator standards board within thirty calendar days of the date of mailing the decision of the superintendent of public instruction. Review by the professional educator standards board shall be conducted as follows:

(1) Review shall be conducted by the professional educator standards board at its next scheduled meeting following notice of appeal unless either the appellant or the superintendent of public instruction requests an extension of the review to the following next scheduled meeting.

(2) Review conducted by the professional educator standards board shall be confined to the record, except that in cases of alleged irregularities in procedures before the superintendent of public instruction, not shown in the record, testimony thereon shall be taken before the professional educator standards board.

(3) The record shall include written briefs submitted.

(4) Oral argument will be permitted if fifteen days advance notice is given to the secretary of the professional educator standards board.

(5) The professional educator standards board will be assisted in its deliberations and its final order by an assistant attorney general who has not been involved in any prior proceeding related to the previous administrative order by the superintendent of public instruction.

(6) The professional educator standards board may affirm the decision of the superintendent of public instruction, remand the matter for further proceedings, modify the decision, or reverse the decision.

(7) If the decision of the professional educator standards board is to modify or reverse the decision of the superintendent of public instruction or to remand the matter for further

proceedings, the professional educator standards board shall state its reasons in a written order.

(8) The final order of the professional educator standards board shall be by written order, attested by the secretary of the professional educator standards board, and sent to the appellant by certified mail within ten calendar days of the final decision by the professional educator standards board. In addition, persons aggrieved by a final order shall be advised of their right to judicial review pursuant to RCW 34.05.570.

WSR 08-19-051

EXPEDITED RULES

DEPARTMENT OF HEALTH

(Chiropractic Quality Assurance Commission)

[Filed September 11, 2008, 12:41 p.m.]

Title of Rule and Other Identifying Information: Repealing WAC 246-808-640 Scope of practice—Revocation or suspension of license authorized for practice outside scope, chiropractic quality assurance commission.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Leann Yount, Department of Health, Chiropractic Quality Assurance Commission, P.O. Box 47869, Olympia, WA 98504-7869, AND RECEIVED BY November 17, 2008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 246-808-640 is inaccurate and unnecessary because RCW 18.25.005 and WAC 246-808-505 accurately cover the chiropractic scope of practice. Therefore WAC 246-808-640 needs to be repealed.

Reasons Supporting Proposal: RCW 18.25.005 defines the scope of practice for chiropractic. In 2002, the law was amended to include dietary advice and recommendation of nutritional supplementation. However, WAC 246-808-640 was never updated. This rule conflicts with the law because the rule prohibits the use of herbs. In addition, it also prohibits sputum, hair, and urine analysis as well as blood samples. All these procedures can be ordered as part of a chiropractic physical exam.

In 1991, the chiropractic disciplinary board began maintaining the classification of chiropractic procedures and instrumentation list (list) of approved and nonapproved instruments and procedures as directed by the law and defined in WAC 246-807-410.

In 1995, the chiropractic disciplinary board and licensing board merged creating the commission, as chapter 246-808 WAC.

With the creation of the commission in 1995, the list became WAC 246-808-505. The list primarily focused on procedures and instruments that are within the scope of practice.

The commission also adopted WAC 246-808-640 Scope of practice. This rule focused on instruments and procedures that are not within the scope of practice.

WAC 246-808-640 is inaccurate and unnecessary because RCW 18.25.005 and WAC 246-808-505 accurately cover the chiropractic scope of practice. Therefore, WAC 246-808-640 needs to be repealed.

Statutory Authority for Adoption: RCW 18.25.0171.

Statute Being Implemented: RCW 18.25.0171.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Chiropractic quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Leann Yount, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4856.

September 8, 2008

Mark Sutton, DC, Chair

Chiropractic Quality

Assurance Commission

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-808-640	Scope of practice—Revocation or suspension of license authorized for practice outside scope.
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WSR 08-19-072

EXPEDITED RULES

**DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed September 16, 2008, 9:50 a.m.]

Title of Rule and Other Identifying Information: House-keeping changes, WAC 296-20-01002, 296-20-025, 296-20-03001, and 296-20-09701.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING

AND THEY MUST BE SENT TO Josh Swanson, Rules Coordinator, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY November 17, 2008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 296-20-01002 and 296-20-03001 incorrectly refer to the attendant care WAC as WAC 296-20-303. These references will be amended to the correct citation, WAC 296-23-246.

WAC 296-20-025 incorrectly refers to a WAC that no longer exists. The reference will be changed to RCW 51.48.060.

WAC 296-20-09701 refers to the reopening application with an incorrect form number. The correct form number is F242-079-000.

Statutory Authority for Adoption: RCW 51.04.020 and 51.04.030.

Statute Being Implemented: RCW 51.04.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Jami Lifka, 7273 Linderson Way S.W., Tumwater, WA, (360) 902-4941; Implementation: Gary Franklin, MD, MPH, Office of the Medical Director, (360) 902-5020; and Enforcement: Robert Malooly, Assistant Director for Insurance Services, (360) 902-4209.

September 16, 2008

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 08-04-095, filed 2/5/08, effective 2/22/08)

WAC 296-20-01002 Definitions. Acceptance, accepted condition: Determination by a qualified representative of the department or self-insurer that reimbursement for the diagnosis and curative or rehabilitative treatment of a claimant's medical condition is the responsibility of the department or self-insurer. The condition being accepted must be specified by one or more diagnosis codes from the current edition of the International Classification of Diseases, Clinically Modified (ICD-CM).

Appointing authority: For the evidence-based prescription drug program of the participating agencies in the state purchased health care programs, appointing authority shall mean the following persons acting jointly: The administrator of the health care authority, the secretary of the department of social and health services, and the director of the department of labor and industries.

Attendant care: Those proper and necessary personal care services provided to maintain the worker in his or her residence. Refer to WAC (~~(296-20-303)~~) 296-23-246 for more information.

Attending provider report: This type of report may also be referred to as a "60 day" or "special" report. The following information must be included in this type of report. Also, additional information may be requested by the department as needed.

(1) The condition(s) diagnosed including ICD-9-CM codes and the objective and subjective findings.

(2) Their relationship, if any, to the industrial injury or exposure.

(3) Outline of proposed treatment program, its length, components, and expected prognosis including an estimate of when treatment should be concluded and condition(s) stable. An estimated return to work date should be included. The probability, if any, of permanent partial disability resulting from industrial conditions should be noted.

(4) If the worker has not returned to work, the attending doctor should indicate whether a vocational assessment will be necessary to evaluate the worker's ability to return to work and why.

(5) If the worker has not returned to work, a doctor's estimate of physical capacities should be included with the report. If further information regarding physical capacities is needed or required, a performance-based physical capacities evaluation can be requested. Performance-based physical capacities evaluations should be conducted by a licensed occupational therapist or a licensed physical therapist. Performance-based physical capacities evaluations may also be conducted by other qualified professionals who provided performance-based physical capacities evaluations to the department prior to May 20, 1987, and who have received written approval to continue supplying this service based on formal department review of their qualifications.

Attending provider: For these rules, means a person licensed to independently practice one or more of the following professions: Medicine and surgery; osteopathic medicine and surgery; chiropractic; naturopathic physician; podiatry; dentistry; optometry; and advanced registered nurse practitioner. An attending provider actively treats an injured or ill worker.

Authorization: Notification by a qualified representative of the department or self-insurer that specific proper and necessary treatment, services, or equipment provided for the diagnosis and curative or rehabilitative treatment of an accepted condition will be reimbursed by the department or self-insurer.

Average wholesale price (AWP): A pharmacy reimbursement formula by which the pharmacist is reimbursed for the cost of the product plus a mark-up. The AWP is an industry benchmark which is developed independently by companies that specifically monitor drug pricing.

Baseline price (BLP): Is derived by calculating the mean average for all NDC's (National Drug Code) in a specific product group, determining the standard deviation, and calculating a new mean average using all prices within one standard deviation of the original mean average. "Baseline price" is a drug pricing mechanism developed and updated by First Data Bank.

Bundled codes: When a bundled code is covered, payment for them is subsumed by the payment for the codes or services to which they are incident. (An example is a telephone call from a hospital nurse regarding care of a patient. This service is not separately payable because it is included in the payment for other services such as hospital visits.) Bundled codes and services are identified in the fee schedules.

By report: BR (by report) in the value column of the fee schedules indicates that the value of this service is to be determined by report (BR) because the service is too unusual, variable or new to be assigned a unit value. The report shall provide an adequate definition or description of the services or procedures that explain why the services or procedures (e.g., operative, medical, radiological, laboratory, pathology, or other similar service report) are too unusual, variable, or complex to be assigned a relative value unit, using any of the following as indicated:

- (1) Diagnosis;
- (2) Size, location and number of lesion(s) or procedure(s) where appropriate;
- (3) Surgical procedure(s) and supplementary procedure(s);
- (4) Whenever possible, list the nearest similar procedure by number according to the fee schedules;
- (5) Estimated follow-up;
- (6) Operative time;
- (7) Describe in detail any service rendered and billed using an "unlisted" procedure code.

The department or self-insurer may adjust BR procedures when such action is indicated.

Chart notes: This type of documentation may also be referred to as "office" or "progress" notes. Providers must maintain charts and records in order to support and justify the services provided. "Chart" means a compendium of medical records on an individual patient. "Record" means dated reports supporting bills submitted to the department or self-insurer for medical services provided in an office, nursing facility, hospital, outpatient, emergency room, or other place of service. Records of service shall be entered in a chronological order by the practitioner who rendered the service. For reimbursement purposes, such records shall be legible, and shall include, but are not limited to:

- (1) Date(s) of service;
- (2) Patient's name and date of birth;
- (3) Claim number;
- (4) Name and title of the person performing the service;
- (5) Chief complaint or reason for each visit;
- (6) Pertinent medical history;
- (7) Pertinent findings on examination;
- (8) Medications and/or equipment/supplies prescribed or provided;
- (9) Description of treatment (when applicable);
- (10) Recommendations for additional treatments, procedures, or consultations;
- (11) X rays, tests, and results; and
- (12) Plan of treatment/care/outcome.

Consultation examination report: The following information must be included in this type of report. Additional information may be requested by the department as needed.

- (1) A detailed history to establish:
 - (a) The type and severity of the industrial injury or occupational disease.
 - (b) The patient's previous physical and mental health.
 - (c) Any social and emotional factors which may effect recovery.

(2) A comparison history between history provided by attending doctor and injured worker, must be provided with exam.

(3) A detailed physical examination concerning all systems affected by the industrial accident.

(4) A general physical examination sufficient to demonstrate any preexisting impairments of function or concurrent condition.

(5) A complete diagnosis of all pathological conditions including ICD-9-CM codes found to be listed:

- (a) Due solely to injury.
- (b) Preexisting condition aggravated by the injury and the extent of aggravation.
- (c) Other medical conditions neither related to nor aggravated by the injury but which may retard recovery.
- (d) Coexisting disease (arthritis, congenital deformities, heart disease, etc.).

(6) Conclusions must include:

- (a) Type of treatment recommended for each pathological condition and the probable duration of treatment.
- (b) Expected degree of recovery from the industrial condition.
- (c) Probability, if any, of permanent disability resulting from the industrial condition.
- (d) Probability of returning to work.

(7) Reports of necessary, reasonable X-ray and laboratory studies to establish or confirm the diagnosis when indicated.

Doctor or attending doctor: For these rules, means a person licensed to independently practice one or more of the following professions: Medicine and surgery; osteopathic medicine and surgery; chiropractic; naturopathic physician; podiatry; dentistry; optometry. An attending doctor is a treating doctor.

Only those persons so licensed may sign report of accident forms, the provider's initial report, and certify time loss compensation; however, physician assistants (PAs) also may sign these forms pursuant to WAC 296-20-01501 (PAs may be "treating providers" pursuant to the definition contained in WAC 296-20-01002); and ARNPs may also sign these forms pursuant to WAC 296-23-241 (ARNPs may be "attending providers" consistent with the definition contained in WAC 296-20-01002).

Emergent hospital admission: Placement of the worker in an acute care hospital for treatment of a work related medical condition of an unforeseen or rapidly progressing nature which if not treated in an inpatient setting, is likely to jeopardize the workers health or treatment outcome.

Endorsing practitioner: A practitioner who has reviewed the preferred drug list and has notified the health care authority that he or she has agreed to allow therapeutic interchange of a preferred drug for any nonpreferred drug in a given therapeutic class.

Fatal: When the attending doctor has reason to believe a worker has died as a result of an industrial injury or exposure, the doctor should notify the nearest department service location or the self-insurer immediately. Often an autopsy is required by the department or self-insurer. If so, it will be authorized by the service location manager or the self-

insurer. Benefits payable include burial stipend and monthly payments to the surviving spouse and/or dependents.

Fee schedules or maximum fee schedule(s): The fee schedules consist of, but are not limited to, the following:

(a) Health Care Common Procedure Coding System Level I and II Codes, descriptions and modifiers that describe medical and other services, supplies and materials.

(b) Codes, descriptions and modifiers developed by the department.

(c) Relative value units (RVUs), calculated or assigned dollar values, percent-of-allowed-charges (POAC), or diagnostic related groups (DRGs), that set the maximum allowable fee for services rendered.

(d) Billing instructions or policies relating to the submission of bills by providers and the payment of bills by the department or self-insurer.

(e) Average wholesale price (AWP), baseline price (BLP), and policies related to the purchase of medications.

Health services provider or provider: For these rules means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of services related to the treatment of an industrially injured worker. It includes, but is not limited to, hospitals, medical doctors, dentists, chiropractors, vocational rehabilitation counselors, osteopathic physicians, pharmacists, podiatrists, physical therapists, occupational therapists, massage therapists, psychologists, naturopathic physicians, and durable medical equipment dealers.

Home nursing: Those nursing services that are proper and necessary to maintain the worker in his or her residence. These services must be provided through an agency licensed, certified or registered to provide home care, home health or hospice services. Refer to WAC 296-20-091 for more information.

Independent or separate procedure: Certain of the fee schedule's listed procedures are commonly carried out as an integral part of a total service, and as such do not warrant a separate charge. When such a procedure is carried out as a separate entity, not immediately related to other services, the indicated value for "independent procedure" is applicable.

Initial prescription drugs: Any drug prescribed for an alleged industrial injury or occupational disease during the initial visit.

Initial visit: The first visit to a healthcare provider during which the *Report of Industrial Injury or Occupational Disease* is completed and the worker files a claim for workers compensation.

Medical aid rules: The Washington Administrative Codes (WACs) that contain the administrative rules for medical and other services rendered to workers.

Modified work status: The worker is not able to return to their previous work, but is physically capable of carrying out work of a lighter nature. Workers should be urged to return to modified work as soon as reasonable as such work is frequently beneficial for body conditioning and regaining self confidence.

Under RCW 51.32.090, when the employer has modified work available for the worker, the employer must furnish the doctor and the worker with a statement describing the available work in terms that will enable the doctor to relate the

physical activities of the job to the worker's physical limitations and capabilities. The doctor shall then determine whether the worker is physically able to perform the work described. The employer may not increase the physical requirements of the job without requesting the opinion of the doctor as to the worker's ability to perform such additional work. If after a trial period of reemployment the worker is unable to continue with such work, the worker's time loss compensation will be resumed upon certification by the attending doctor.

If the employer has no modified work available, the department should be notified immediately, so vocational assessment can be conducted to determine whether the worker will require assistance in returning to work.

Nonemergent (elective) hospital admission: Placement of the worker in an acute care hospital for medical treatment of an accepted condition which may be safely scheduled in advance without jeopardizing the worker's health or treatment outcome.

Physician or attending physician (AP): For these rules, means any person licensed to perform one or more of the following professions: Medicine and surgery; or osteopathic medicine and surgery. An AP is a treating physician.

Practitioner or licensed health care provider: For these rules, means any person defined as a "doctor" under these rules, or licensed to practice one or more of the following professions: Audiology; physical therapy; occupational therapy; pharmacy; prosthetics; orthotics; psychology; nursing; advanced registered nurse practitioners (ARNPs); certified medical physician assistants or osteopathic physician assistants; and massage therapy.

Preferred drug list: The list of drugs selected by the appointing authority to be used by applicable state agencies as the basis for the purchase of drugs in state purchased health care programs.

Proper and necessary:

(1) The department or self-insurer pays for proper and necessary health care services that are related to the diagnosis and treatment of an accepted condition.

(2) Under the Industrial Insurance Act, "proper and necessary" refers to those health care services which are:

(a) Reflective of accepted standards of good practice, within the scope of practice of the provider's license or certification;

(b) Curative or rehabilitative. Care must be of a type to cure the effects of a work-related injury or illness, or it must be rehabilitative. Curative treatment produces permanent changes, which eliminate or lessen the clinical effects of an accepted condition. Rehabilitative treatment allows an injured or ill worker to regain functional activity in the presence of an interfering accepted condition. Curative and rehabilitative care produce long-term changes;

(c) Not delivered primarily for the convenience of the claimant, the claimant's attending doctor, or any other provider; and

(d) Provided at the least cost and in the least intensive setting of care consistent with the other provisions of this definition.

(3) The department or self-insurer stops payment for health care services once a worker reaches a state of maxi-

imum medical improvement. Maximum medical improvement occurs when no fundamental or marked change in an accepted condition can be expected, with or without treatment. Maximum medical improvement may be present though there may be fluctuations in levels of pain and function. A worker's condition may have reached maximum medical improvement though it might be expected to improve or deteriorate with the passage of time. Once a worker's condition has reached maximum medical improvement, treatment that results only in temporary or transient changes is not proper and necessary. "Maximum medical improvement" is equivalent to "fixed and stable."

(4) In no case shall services which are inappropriate to the accepted condition or which present hazards in excess of the expected medical benefits be considered proper and necessary. Services that are controversial, obsolete, investigational or experimental are presumed not to be proper and necessary, and shall be authorized only as provided in WAC 296-20-03002(6) and 296-20-02850.

Refill: The continuation of therapy with the same drug (including the renewal of a previous prescription or adjustments in dosage) when a prescription is for an antipsychotic, antidepressant, chemotherapy, antiretroviral or immunosuppressive drug, or for the refill of an immunomodulator/antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least twenty-four weeks but no more than forty-eight weeks.

Regular work status: The injured worker is physically capable of returning to his/her regular work. It is the duty of the attending doctor to notify the worker and the department or self-insurer, as the case may be, of the specific date of release to return to regular work. Compensation will be terminated on the release date. Further treatment can be allowed as requested by the attending doctor if the condition is not stationary and such treatment is needed and otherwise in order.

Temporary partial disability: Partial time loss compensation may be paid when the worker can return to work on a limited basis or return to a lesser paying job is necessitated by the accepted injury or condition. The worker must have a reduction in wages of more than five percent before consideration of partial time loss can be made. No partial time loss compensation can be paid after the worker's condition is stationary. **All time loss compensation must be certified by the attending doctor based on objective findings.**

Termination of treatment: When treatment is no longer required and/or the industrial condition is stabilized, a report indicating the date of stabilization should be submitted to the department or self-insurer. This is necessary to initiate closure of the industrial claim. The patient may require continued treatment for conditions not related to the industrial condition; however, financial responsibility for such care must be the patient's.

Therapeutic alternative: Drug products of different chemical structure within the same pharmacologic or therapeutic class and that are expected to have similar therapeutic effects and safety profiles when administered in therapeutically equivalent doses.

Therapeutic interchange: To dispense with the endorsing practitioner's authorization, a therapeutic alternative to the prescribed drug.

Total permanent disability: Loss of both legs or arms, or one leg and one arm, total loss of eyesight, paralysis or other condition permanently incapacitating the worker from performing any work at any gainful employment. When the attending doctor feels a worker may be totally and permanently disabled, the attending doctor should communicate this information immediately to the department or self-insurer. A vocational evaluation and an independent rating of disability may be arranged by the department prior to a determination as to total permanent disability. Coverage for treatment does not usually continue after the date an injured worker is placed on pension.

Total temporary disability: Full-time loss compensation will be paid when the worker is unable to return to any type of reasonably continuous gainful employment as a direct result of an accepted industrial injury or exposure.

Treating provider: For these rules, means a person licensed to practice one or more of the following professions: Medicine and surgery; osteopathic medicine and surgery; chiropractic; naturopathic physician; podiatry; dentistry; optometry; advanced registered nurse practitioner (ARNP); and certified medical physician assistants or osteopathic physician assistants. A treating provider actively treats an injured or ill worker.

Unusual or unlisted procedure: Value of unlisted services or procedures should be substantiated "by report" (BR).

Utilization review: The assessment of a claimant's medical care to assure that it is proper and necessary and of good quality. This assessment typically considers the appropriateness of the place of care, level of care, and the duration, frequency or quantity of services provided in relation to the accepted condition being treated.

AMENDATORY SECTION (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-20-025 Initial treatment and report of accident. It is the responsibility of the worker to notify the practitioner when the worker has reason to believe his injury or condition is industrial in nature. Conversely, if the attending doctor discovers a condition which he believes to be work related or has reason to believe an injury is work related, he must so notify the worker. Once such determination is made by either the claimant or the attending doctor, a report of accident must be filed.

Failure to comply with this responsibility can result in penalties as outlined in ((WAC 296-20-02001)) RCW 51.48.-060.

It is the practitioner's responsibility to ascertain whether he is the first attending practitioner. If so, he will take the following action:

- (1) Give emergency treatment.
- (2) Immediately complete and forward the report of accident, to the department and the employer or self-insurer. Instruct and give assistance to the injured worker in completing his portion of the report of accident. In filing a claim, the

following information is necessary so there is no delay in adjudication of the claim or payment of compensation.

- (a) Complete history of the industrial accident or exposure.
- (b) Complete listing of positive physical findings.
- (c) Specific diagnosis with ICD-9-CM code(s) and narrative definition relating to the injury.
- (d) Type of treatment rendered.
- (e) Known medical, emotional or social conditions which may influence recovery or cause complications.
- (f) Estimate time loss due to the injury.

(3) If the patient remains under his care continue with necessary treatment in accordance with medical aid rules. If the practitioner is *not* the original attending doctor, he should question the injured worker to determine whether a report of accident has been filed for the injury or condition. If no report of accident has been filed, it should be completed immediately and forwarded to the department or self-insurer, as the case may be, with information as to the name and address of original practitioner if known, so that he/she may be contacted for information if necessary.

If a report of accident has been filed, it is necessary to have the worker complete a request for transfer as outlined in WAC 296-20-065, if the worker and practitioner agree that a change in attending doctor is desirable.

AMENDATORY SECTION (Amending WSR 01-18-041, filed 8/29/01, effective 10/1/01)

WAC 296-20-03001 Treatment requiring authorization. Certain treatment procedures require authorization by the department or self-insurer. Requests for authorization must include a statement of: The condition(s) diagnosed; ICD-9-CM codes; their relationship, if any, to the industrial injury/exposure; an outline of the proposed treatment program, its length and components, procedure codes, and expected prognosis; and an estimate of when treatment would be concluded and condition stable.

(1) Office calls in excess of the first twenty visits or sixty days whichever occurs first.

(2) The department may designate those inpatient hospital admissions that require prior authorization.

(3) X ray and radium therapy.

(4) Diagnostic studies other than routine X-ray and blood or urinalysis laboratory studies.

(5) Myelogram and discogram in nonemergent cases.

(6) Physical therapy treatment beyond initial twelve treatments as outlined in chapters 296-21, 296-23, and 296-23A WAC.

(7) Diagnostic or therapeutic injection. Epidural or caudal injection of substances other than anesthetic or contrast solution will be authorized under the following conditions only:

(a) When the worker has experienced acute low back pain or acute exacerbation of chronic low back pain of no more than six months duration.

(b) The worker will receive no more than three injections in an initial thirty-day treatment period, followed by a thirty-day evaluation period. If significant pain relief is demonstrated one additional series of three injections will be autho-

rized. No more than six injections will be authorized per acute episode.

(8) Home nursing, attendant services or convalescent center care must be authorized per provisions outlined in WAC 296-20-091 or ((~~296-20-303~~)) 296-23-246.

(9) Provision of prosthetics, orthotics, surgical appliances, special equipment for home or transportation vehicle; custom made shoes for ankle/foot injuries resulting in permanent deformity or malfunction of a foot; TNS units; masking devices; hearing aids; etc., must be authorized in advance as per WAC 296-20-1101 and 296-20-1102.

(10) Biofeedback program; pain clinic; weight loss program; psychotherapy; rehabilitation programs; and other programs designed to treat special problems must be authorized in advance. Refer to the department's medical aid rules and fee schedules for details.

(11) Prescription or injection of vitamins for specific therapeutic treatment of the industrial condition(s) when the attending doctor can demonstrate that published clinical studies indicate vitamin therapy is the treatment of choice for the condition. Authorization for this treatment will require presentation of facts to and review by department medical consultant.

(12) Injections of anesthetic and/or anti-inflammatory agents into the vertebral facet joints will be authorized to qualified specialists in orthopedics, neurology, and anesthesia, or other physicians who can demonstrate expertise in the procedure, AND who can provide certification their hospital privileges include the procedure requested under the following conditions:

(a) Rationale for procedure, treatment plan, and request for authorization must be presented in writing to the department or self-insurer.

(b) Procedure must be performed in an accredited hospital under radiographic control.

(c) Not more than four facet injection procedures will be authorized in any one patient.

(13) The long term prescription of medication under the specific conditions and circumstances in (a) and (b) are considered corrective therapy rather than palliative treatment and approval in advance must be obtained.

(a) Nonsteroidal anti-inflammatory agents for the treatment of degenerative joint conditions aggravated by occupational injury.

(b) Anticonvulsive agents for the treatment of seizure disorders caused by trauma.

(14) Intra-muscular and trigger point injections of steroids and other nonscheduled medications are limited to three injections per patient. The attending doctor must submit justification for an additional three injections if indicated with a maximum of six injections to be authorized for any one patient.

(15) The department may designate those diagnostic and surgical procedures which can be performed in other than a hospital inpatient setting. Where a worker has a medical condition which necessitates a hospital admission, prior approval of the department or self-insurer must be obtained.

AMENDATORY SECTION (Amending WSR 90-22-054, filed 11/5/90, effective 12/6/90)

WAC 296-20-097 Reopenings. When a claim has been closed by the department or self-insurer by written order and notice for sixty days, submission of a formal "application to reopen claim for aggravation of condition" form (~~((L-210-79))~~) # F242-079-000 is necessary. The department or self-insurer is responsible for customary charges for examinations, diagnostic studies, and determining whether or not time-loss is payable regardless of the final action taken on the reopening application. Reopening applications should be submitted immediately. When reopening is granted, the department or self-insurer can pay time loss and treatment benefits only for a period not to exceed sixty days *prior* to date the application is received by the department or self-insurer. Necessary treatment should not be deferred pending a department or self-insurer adjudication decision. However, should reopening be denied treatment costs become the financial responsibility of the worker.

WSR 08-19-087
EXPEDITED RULES
DEPARTMENT OF REVENUE

[Filed September 16, 2008, 2:10 p.m.]

Title of Rule and Other Identifying Information: WAC 458-61A-102 Real estate excise tax—Definitions, 458-61A-202 Real estate excise tax—Inheritance or devise (describes requirements for claiming exemption from REET under this rule), and 458-61A-203 Real estate excise tax—Community property, dissolution of marriage, legal separation, decree of invalidity (describes requirements for claiming exemption from REET under this rule).

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Margaret J. Partlow, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, fax (360) 586-0127, e-mail margaretpa@dor.wa.gov, AND RECEIVED BY November 17, 2008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules define what is, and is not, considered a "sale" of real property for purposes of the real estate excise tax (REET), and explain exemptions from REET and the documentation requirements necessary to claim those exemptions. The department is proposing the following amendments:

- WAC 458-61A-202 - recognizing provisions of SSB 6851 (chapter 269, Laws of 2008), which identifies specific documentation requirements in order to

receive an exemption for the community property interest of a decedent that is transferred to a surviving spouse or surviving domestic partner;

- WAC 458-61A-203 - recognizing provisions of 2SHB 3104 (chapter 6, Laws of 2008), which expanded the rights, privileges, obligations, and liabilities of domestic partners and domestic partnerships registered under chapter 26.60 RCW; and
- WAC 458-61A-102 - recognizing provisions of E2SHB 1621 (chapter 116, Laws of 2008), which provides a REET exemption for the sale of a manufactured/mobile home community to certain organizations, including but not limited to qualified tenant organizations, local governments, or nonprofit community or neighborhood-based organizations.

Copies of draft rules are available for viewing and printing on our web site at <http://dor.wa.gov/content/FindALawOrRule/RuleMaking/agenda.aspx>.

Reasons Supporting Proposal: To recognize provisions of chapter 6, Laws of 2008, and chapter 116, Laws of 2008.

Statutory Authority for Adoption: RCW 82.45.150.

Statute Being Implemented: RCW 82.45.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Margaret J. Partlow, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6123; Implementation and Enforcement: Stuart Thronson, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-3230.

September 16, 2008

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-23-093, filed 11/16/05, effective 12/17/05)

WAC 458-61A-102 Definitions. For the purposes of chapter 458-61A WAC, the following definitions apply unless the context requires otherwise:

(1) "**Affidavit**" means the real estate excise tax affidavit provided by the department for use by taxpayers in reporting transfers of real property. Both the seller/grantor and the buyer/grantee, or their agents, sign the affidavit under penalty of perjury. The term also includes the form used to report to the department transfers and acquisitions of a controlling interest in an entity owning real property in this state under WAC 458-61A-101.

(2) "**Consideration**" means money or anything of value, either tangible or intangible, paid or delivered, or contracted to be paid or delivered, including performance of services, in return for the transfer of real property. The term includes the amount of any lien, mortgage, contract indebtedness, or other encumbrance, given to secure the purchase price, or any part thereof, or remaining unpaid on the property at the time of sale. For example, Lee purchases a home for \$250,000. He puts down \$50,000, and finances the balance of \$200,000. The full consideration paid for the house is \$250,000.

(a) "Consideration" includes the issue of an ownership interest in any entity in exchange for a transfer of real property to the entity. For example, if Julie transfers title to 20 acres of commercial property to Smith Development, LLC in exchange for a 50% ownership interest in the company, that constitutes consideration for the transfer. In the case of partnerships, consideration includes the increase in the capital account of the partner made as a result of the partner's transfer of real property to the partnership, unless the transfer is otherwise specifically exempt under WAC 458-61A-211 or 458-61A-212.

(b) "Consideration" includes the assumption of an underlying debt on the property by the buyer at the time of transfer. For example, Ben buys a residence, valued at \$300,000, from Liza. Liza was purchasing the property on a real estate contract that has an outstanding balance of \$175,000. Ben gives Liza \$125,000 in cash and he assumes the obligation on the real estate contract, which Liza assigns to him. Real estate excise tax is due on \$300,000, which is the total consideration for the sale.

(c) "Consideration" does not include the amount of any outstanding lien or encumbrance in favor of the United States, the state, or a municipal corporation for taxes, special benefits, or improvements. For example, Mel buys residential property for \$300,000. The title is encumbered by a lien for unpaid property taxes in the amount of \$12,000, and a lien for municipal sidewalk improvements in the amount of \$6,000. Although Mel will become liable for those liens in order to take title to the property, they are not considered part of the purchase price for the purpose of calculating real estate excise tax. The real estate excise tax is due only on the purchase price of \$300,000.

(3) "**Controlling interest**" means:

(a) In the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of the corporation entitled to vote, or fifty percent of the capital, profits, or beneficial interest in the voting stock of the corporation; and

(b) In the case of a partnership, association, trust, or other entity, fifty percent or more of the capital, profits, or beneficial interest in the partnership, association, trust, or other entity.

(4) "**County**" means the county treasurer or its agent.

(5) "**Date of sale**" means the date (normally shown on the instrument of conveyance or sale) that ownership of or title to real property, or control of the controlling interest in an entity that has a beneficial interest in real property, is delivered to the buyer/transferee in exchange for valuable consideration. In the case of a lease with option to purchase, the date of sale is the date when the purchase option is exercised and the property is transferred. "Date of sale," "date of transfer," "conveyance date," and "transaction date" all have the same meaning and may be used interchangeably in this chapter. The real estate excise tax is due on the date of sale.

(6) "**Department**" means the department of revenue.

(7) "**Floating home**" means a building on a float used in whole or in part for human habitation as a single-family dwelling, which is not designed for self-propulsion by mechanical means or for propulsion by means of wind, and

which is on the property tax rolls of the county in which it is located.

(8) "**Governmental entity**" means the United States, any agency or instrumentality of the United States, the state of Washington ("state"), any government agency, commission, college, university, or other department of the state, any political subdivision of the state, counties, any county agency, council, instrumentality, commission, office, or department, any Washington taxing district, municipal corporations of this state, and any office, council, department, or instrumentality of a Washington municipal corporation.

(9) "**Mining property**" is property containing or believed to contain metallic or nonmetallic minerals, and sold or leased under terms that require the buyer or lessee to conduct exploration or mining work thereon, and for no other purpose.

(10) "**Mobile home**" means a mobile home as defined by RCW 46.04.302.

(11) "**Mortgage**" has its ordinary meaning, and includes a "deed of trust" for the purposes of this chapter, unless the context clearly indicates otherwise. The term "underlying debt" may also be used to refer to a mortgage or other security interest.

(12) "**Park model trailer**" means a park model trailer as defined in RCW 46.04.622.

(13) "**Real estate**" or "**real property**" means any interest, estate, or beneficial interest in land or anything affixed to land, including the ownership interest or beneficial interest in any entity that owns land, or anything affixed to land, including standing timber and crops. The term includes condominiums and individual apartments for which the buyer receives a warranty deed. The term includes used mobile homes, used park model trailers, used floating homes, and improvements constructed upon leased land. The term also includes any part of an irrigation system that is underground or affixed to the land. The term does not include irrigation equipment that is above the ground or that is not affixed to land. See RCW 82.12.020 for the tax treatment of sales of irrigation equipment that is not included in the definition of "real estate."

(14) "**Real estate contract**" or "**contract**" means any written agreement for the sale of real property in which legal title to the property is retained by the seller as security for the payment of the purchase price. The term does not include earnest money agreements or options to purchase real property.

(15) "**Sale**" means:

(a) Any conveyance, grant, assignment, quitclaim, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such a conveyance, grant, assignment, quitclaim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person at the purchaser's direction, and title to the property is retained by the vendor as security for the payment of the purchase price. The term includes the grant, relinquishment, or assignment of a life estate in property. The term also includes the grant, assignment, quitclaim, sale, or transfer of improvements constructed upon leased land.

(b) The term "sale" also includes the transfer or acquisition within any twelve-month period of a controlling interest in any entity with an interest in real property located in this state for a valuable consideration. For the purposes of this chapter, all acquisitions of persons acting in concert are aggregated for the purpose of determining whether a transfer or acquisition of a controlling interest has taken place.

(c) The term "sale" also applies to successive sales of the same property. An owner of real property is subject to payment of the real estate excise tax upon the entry of each successive contract for the sale of the same parcel of property. For example, Bob owns a house that he sells to Sam on a real estate contract. Real estate excise tax is paid on the transfer from Bob to Sam. Sam makes several payments, until he becomes unemployed. Since Sam can no longer make payments on the property, he conveys it back to Bob. Bob then makes a subsequent sale of the house to Sally. Real estate excise tax is due on the transfer from Bob to Sally. See WAC 458-61A-209 for the tax implications on the conveyance from Sam back to Bob.

(d) The term "sale" does not include:

(i) Those real property transfers that are excluded from the definition of "sale" and exempted from the real estate excise tax under RCW 82.45.010(3) and this chapter, including transfers without valuable consideration.

(ii) The transfer of lots or graves in an established cemetery. An established cemetery is one that meets the requirements for ad valorem property tax exemption under chapter 84.36 RCW.

(iii) The transfer of an interest in real property merely to secure a debt or the assignment of a security interest, release of a security interest, satisfaction of a mortgage, or reconveyance under the terms of a mortgage or deed of trust.

(iv) A deed given to a purchaser under a real estate contract upon fulfillment of the terms of the contract provided that the proper tax was paid on the original transaction. The fulfillment deed must be stamped by the county treasurer as required by WAC 458-61A-301, and the stamp must show the affidavit number of the sale for which the deed is fulfilling.

(v) A qualified sale of a manufactured/mobile home community, as defined in RCW 59.20.030, that takes place on or after June 12, 2008, but before December 31, 2018.

(e) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a transfer may or may not be taxable. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(i) John paid off his home mortgage and wants to get a loan to make improvements and buy a new car. John obtains an equity loan, secured by his home as collateral. This transaction is not subject to the real estate excise tax.

(ii) Bob purchased real property from Sam pursuant to a real estate contract. Real estate excise tax was paid on the purchase price at the time of the sale. Bob has now paid off the property, and Sam is issuing a fulfillment deed to Bob indicating that the real estate contract has been satisfied. The fulfillment deed from Sam to Bob is not subject to the real estate excise tax.

(iii) Diane has made the final payment on her mortgage, and the bank issues a full reconveyance of her property, indicating that the mortgage is paid in full. The reconveyance is not subject to the real estate excise tax.

(iv) Bill is refinancing his mortgage for a lower interest rate. There is a balloon payment on the new loan that will require that he refinance again in five years. Neither transaction is subject to the real estate excise tax.

(16) **"Seller"** means any individual, receiver, assignee, trustee for a deed of trust, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, joint stock company, limited liability company, business trust, municipal corporation, quasi municipal corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise, but it does not include the United States or the state of Washington. The term "grantor" is used interchangeably with the term "seller" in this chapter and has the same meaning for purposes of the real estate excise tax.

(17) **"Selling price"** means the true and fair value of the property conveyed. There is a rebuttable presumption that the true and fair value is equal to the total consideration paid or contracted to be paid to the seller or to another person for the seller's benefit.

(a) When the price paid does not accurately reflect the true and fair value of the property, one of the following methods may be used to determine the true and fair value:

(i) A fair market appraisal of the property; or

(ii) An allocation of assets by the seller and the buyer made under section 1060 of the Internal Revenue Code of 1986, as amended.

(b) When the true and fair value of the property at the time of sale cannot reasonably be determined by either of the methods in (a) of this subsection, the market value assessment for the property maintained in the county property tax rolls at the time of sale will be used as the selling price. RCW 82.45.030.

(c) When the sale is of a partial interest in real property, the principal balance of any debt remaining unpaid at the time of sale will be multiplied by the percentage of ownership transferred, and that amount added to any other consideration to determine the selling price.

(d) In the case of a lease with option to purchase, the selling price is the true and fair value of the property conveyed at the time the option is exercised.

AMENDATORY SECTION (Amending WSR 05-23-093, filed 11/16/05, effective 12/17/05)

WAC 458-61A-202 Inheritance or devise. (1) **Introduction.** Transfers of real property by inheritance or devise are not subject to the real estate excise tax. For the purpose of this exemption, it does not matter whether the real property transferred was encumbered by underlying debt at the time it was inherited or devised.

(2) **Nonpro rata distributions.** A nonpro rata distribution is one in which the transfer of real property to the heirs or devisees may not be in proportion to their interests. For example, Aunt Mary wills her entire estate equally to her three nieces. The estate consists of her primary residence, a

cottage at the ocean, and significant cash assets, among other things. Rather than take title to the two parcels of real estate in all three names, the estate may be distributed by deeding the primary residence to Meg, the oceanfront property to Beth, and the majority of the cash assets to Jo. Such distribution by a personal representative of a probated estate or by the trustee of a trust is not subject to the real estate excise tax if the transfer is authorized under the nonintervention powers of a personal representative under RCW 11.68.090 or under the nonpro rata distribution powers of a trustee under RCW 11.98.070(15), if no consideration is given to the personal representative or the trustee for the transfer. For the purpose of this section, consideration does not include the indebtedness balance of any real property that is encumbered by a security lien.

(3) **Subsequent transfers.** A transfer of property from an heir to a third party is subject to the real estate excise tax. Examples:

(a) Steve inherits real property from his mother's estate. He sells the property to his son for \$50,000. The transfer of the property from the estate to Steve is exempt from real estate excise tax. The subsequent sale of the property to his son is a taxable event, and tax is due based upon the full sales price of \$50,000.

(b) Susan inherits real property from her father's estate. She decides to sell it to a friend on a real estate contract for \$100,000. Tax is due on the \$100,000.

(c) Sheri and her two sisters inherit their father's home, valued at \$180,000, in equal portions. Sheri wants sole ownership of the home but there are not "in-kind" assets of sufficient value to be distributed by the personal representative to her two sisters in a nonpro rata distribution. In order to take title directly from the personal representative, Sheri pays each of her sisters \$60,000, and they quitclaim their right to the property under the will. Tax is due on the total of \$120,000 paid for the property.

(4) **Community property or right of survivorship.** The transfer of real property to a surviving spouse in accordance with a community property agreement or a survivorship clause is not subject to real estate excise tax.

(5) **Joint tenants.** The transfer of real property upon the death of a joint tenant to the remaining joint tenants under right of survivorship is not subject to the real estate excise tax.

(6) **Life estates and remainder interests.** The conveyance of a life estate to the grantor with a remainder interest to another party is not a taxable transfer if no consideration passes. For example, Nate and Libby convey their property to their son, Rex, retaining a life estate for themselves. The transaction is not subject to real estate excise tax because Rex pays no consideration. Upon the deaths of Nate and Libby, the title will vest in Rex and no real estate excise tax is due. However, if Nate and Libby convey their property to Rex, retaining a life estate for themselves, and Rex pays any consideration for his future interest, the transaction is taxable. Tax is due on the total consideration paid.

(7) **Documentation.** In order to claim this exemption, the following documentation must be provided:

(a) **Community property agreement.** If the property is being transferred under the terms of a community property

agreement, copies of the recorded agreement and certified copy of the death certificate;

(b) **Trusts.** If property is being transferred under the terms of a testamentary trust without probate, a certified copy of the death certificate, and a copy of the trust agreement showing the authority of the grantor;

(c) **Probate.** In the case of a probated will, a certified copy of the letters testamentary, or in the case of intestate administration, a certified copy of the letters of administration, showing that the grantor is the court appointed executor/executrix or administrator;

(d) **Joint tenants and remainder interests.** A certified copy of the death certificate is recorded to perfect title;

(e) ~~((Other.))~~ **Court order.** If the property is being transferred pursuant to a court order, a certified copy of the court order requiring the transfer of property, and confirming that the grantor is required to do so under the terms of the order.

(f) **Other.** If the community property interest of the decedent is being transferred to a surviving spouse or surviving domestic partner absent the documentation set forth in (a) through (e) of this subsection, a certified copy of the death certificate and a signed affidavit from the surviving spouse or surviving domestic partner affirming that he or she is the sole and rightful heir of the property.

AMENDATORY SECTION (Amending WSR 05-23-093, filed 11/16/05, effective 12/17/05)

WAC 458-61A-203 Community property, dissolution of marriage or domestic partnership, legal separation, decree of invalidity. (1) **Community property.** Transfers from one spouse or domestic partner to the other that establish or separate community property are not subject to the real estate excise tax.

(2) **Court decree.** The real estate excise tax does not apply to any transfer, conveyance, or assignment of property or interest in property from one spouse or domestic partner to the other in fulfillment of a settlement agreement incident to a decree of dissolution, declaration of invalidity, or legal separation.

(3) **Transfers to third parties.** A sale of real property by either one or both spouses or domestic partners to a third party is subject to the real estate excise tax, regardless of whether the sale is pursuant to the terms of a decree of dissolution, declaration of invalidity, or legal separation.

(4) **Former spouses or domestic partners.** Transfers of real property between ex-spouses or former domestic partners that are independent of any settlement agreement incident to their decree of dissolution or decree of invalidity are subject to the real estate excise tax, unless otherwise exempt under this chapter.

WSR 08-19-089
EXPEDITED RULES
DEPARTMENT OF REVENUE

[Filed September 16, 2008, 2:33 p.m.]

Title of Rule and Other Identifying Information:
 Amending WAC 458-18-220 Refunds—Rate of interest.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kim M. Qually, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail kimq@dor.wa.gov, AND RECEIVED BY November 17, 2008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule is to provide the rate of interest that is attached when property taxes paid in 2009 are refunded to taxpayers. This revision also includes the interest rate used the first year, 1985, that the department was required to publish a rule stating a rate of interest for property tax refunds.

The rates of interest reflected in this rule are used when property taxes are refunded. The rates of interest are shown in chronological order with reference to the year the property taxes were paid. The rule is being amended to provide the rate of interest for treasury bill auction year 1984, which was used for taxes refunded in 1985 and for auction year 2008, which will be used in refunding taxes paid in 2009. This rule is updated annually.

A copy of the draft rule is available for viewing and printing on our web site at <http://dor.wa.gov/content/findalaworrule/rulemaking/agenda.aspx>.

Reasons Supporting Proposal: RCW 84.69.100 requires interest to be paid when property taxes are refunded. It also requires the department to annually adopt a rule that specifies the amount of interest to be collected for each year property taxes were paid.

Statutory Authority for Adoption: RCW 84.69.100.

Statute Being Implemented: RCW 84.69.100.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Kim M. Qually, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6113; Implementation and Enforcement: Brad Flaherty, 1025 Union Avenue S.E., Suite #200, Olympia, WA, (360) 570-5860.

September 16, 2008
 Alan R. Lynn
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-24-037, filed 11/30/07, effective 12/31/07)

WAC 458-18-220 Refunds—Rate of interest. The following rates of interest shall apply on refunds of taxes made pursuant to RCW 84.69.010 through 84.69.090 in accordance with RCW 84.69.100. The following rates shall also apply to judgments entered in favor of the plaintiff pursuant to RCW 84.68.030. The interest rate is derived from the equivalent coupon issue yield of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted after June 30th of the calendar year preceding the date the taxes were paid. The rate thus determined shall be applied to the amount of the judgment or the amount of the refund, until paid:

Year tax paid	Auction Year	Rate
1985	1984	11.27%
1986	1985	7.36%
1987	1986	6.11%
1988	1987	5.95%
1989	1988	7.04%
1990	1989	8.05%
1991	1990	8.01%
1992	1991	5.98%
1993	1992	3.42%
1994	1993	3.19%
1995	1994	4.92%
1996	1995	5.71%
1997	1996	5.22%
1998	1997	5.14%
1999	1998	5.06%
2000	1999	4.96%
2001	2000	5.98%
2002	2001	3.50%
2003	2002	1.73%
2004	2003	0.95%
2005	2004	1.73%
2006	2005	3.33%
2007	2006	5.09%
2008	2007	4.81%
<u>2009</u>	<u>2008</u>	<u>2.14%</u>

WSR 08-19-090
EXPEDITED RULES
DEPARTMENT OF REVENUE

[Filed September 16, 2008, 2:34 p.m.]

Title of Rule and Other Identifying Information:
 Amending WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kim M. Qually, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail kimq@dor.wa.gov, AND RECEIVED BY November 17, 2008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule is to provide county assessors with the rate of interest and property tax component used in valuing farm and agricultural land classified under chapter 84.34 RCW (the open space program) during assessment year 2009.

The rule is being amended to update the interest rate and property tax component used to value farm and agricultural land classified under chapter 84.34 RCW. The amendments provide information that local taxing officials will use when valuing classified farm and agricultural land during assessment year 2009.

A copy of the draft rule is available for viewing and printing on our web site at http://dor.wa.gov/content/finda_laworrule/rulemaking/agenda.aspx.

Reasons Supporting Proposal: RCW 84.34.065 requires the department to annually determine a rate of interest and property tax component. This information is to be set forth in a rule that is to be published in the state register no later than January 1st each year for use in that assessment year.

Statutory Authority for Adoption: RCW 84.34.065 and 84.34.141.

Statute Being Implemented: RCW 84.34.065.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Kim M. Qually, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6113; Implementation and Enforcement: Brad Flaherty, 1025 Union Avenue S.E., Suite #200, Olympia, WA, (360) 570-5860.

September 16, 2008

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-04-051, filed 1/31/08, effective 3/2/08)

WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component. For assessment year ((2008)) 2009, the interest rate and the property tax component that are to be used to value classified farm and agricultural lands are as follows:

- (1) The interest rate is ((7.60)) 7.69 percent; and
(2) The property tax component for each county is:

Table with 4 columns: COUNTY, PERCENT, COUNTY, PERCENT. Lists counties and their respective interest rates and property tax components.

WSR 08-19-092
EXPEDITED RULES
ENERGY FACILITY SITE
EVALUATION COUNCIL

[Filed September 16, 2008, 2:56 p.m.]

Title of Rule and Other Identifying Information: Chapter 463-78 WAC, General and operating permit regulations for air pollution sources. In WAC 463-78-005(1) the effective date of adoption by reference of chapter 173-400 WAC will be changed from March 1, 2005, to November 1, 2008.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS

ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Allen Fiksdal, EFSEC Manager, Energy Facility Site Evaluation Council (EFSEC), P.O. Box 43172, Olympia, WA 98504-3172, AND RECEIVED BY November 18, 2008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Adoption of the department of ecology's most recent rules for the prevention of significant deterioration (PSD) program will enable EFSEC to receive full delegation from the United States Environmental Protection Agency (USEPA) for new major stationary sources and major modifications to major stationary sources located in attainment or unclassified areas in Washington. Currently EFSEC has only partial delegation of that program. This partial delegation requires the USEPA to cosign all of EFSEC's PSD permits. The USEPA has informed EFSEC that if EFSEC adopts the most recent ecology rules regarding the PSD program it will grant EFSEC full delegation. The effect will be that EFSEC will have the same rules as ecology allowing the USEPA to grant EFSEC full PSD delegation. Once full delegation is granted EFSEC will be able to issue PSD permits without cosignature by USEPA.

WAC 463-78-005(1) will be amended so the effective date of adoption by reference of chapter 173-400 WAC will be November 1, 2008, rather than March 1, 2005.

Reasons Supporting Proposal: With full delegation of the PSD program, there will be no differences between EFSEC's and ecology's PSD programs and there will be reduced costs to new energy facilities with the removal of a regulatory step prior to start of construction.

Statutory Authority for Adoption: RCW 80.50.040.

Statute Being Implemented: Chapter 80.50 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Energy facility site evaluation council, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Allen Fiksdal, P.O. Box 43172, Olympia, WA 98504-3172, (360) 956-2152.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Adoption of these rules will not have any fiscal impact on the agency, nor will the rule adoption change the effectiveness or enforcement of the PSD permit for air emissions from EFSEC regulated energy facilities.

September 16, 2008

Allen J. Fiksdal

Manager

AMENDATORY SECTION (Amending WSR 06-06-037, filed 2/23/06, effective 3/26/06)

WAC 463-78-005 Adoption by reference. (1) The energy facility site evaluation council adopts the following provisions of chapter 173-400 WAC, in effect on (~~March~~)

November 1, (~~2005~~) 2008, by reference. WAC 173-400-110(8) and 173-400-730(4) are not adopted by reference.

- WAC 173-400-030: Definitions.
- WAC 173-400-035: Portable and temporary sources.
- WAC 173-400-040: General standards for maximum emissions.
- WAC 173-400-050: Emission standards for combustion and incineration units.
- WAC 173-400-060: Emission standards for general process units.
- WAC 173-400-075: Emission standards for sources emitting hazardous air pollutants.
- WAC 173-400-081: Startup and shutdown.
- WAC 173-400-091: Voluntary limits on emissions.
- WAC 173-400-105: Records, monitoring, and reporting.
- WAC 173-400-107: Excess emissions.
- WAC 173-400-110: New source review (NSR).
- WAC 173-400-112: Requirements for new sources in nonattainment areas.
- WAC 173-400-113: Requirements for new sources in attainment or unclassifiable areas.
- WAC 173-400-114: Requirements for replacement or substantial alteration of emission control technology at an existing stationary source.
- WAC 173-400-117: Special protection requirements for federal Class I areas.
- WAC 173-400-120: Bubble rules.
- WAC 173-400-131: Issuance of emission reduction credits.
- WAC 173-400-136: Use of emission reduction credits.
- WAC 173-400-151: Retrofit requirements for visibility protection.
- WAC 173-400-161: Compliance schedules.
- WAC 173-400-171: Public involvement.
- WAC 173-400-175: Public information.
- WAC 173-400-180: Variance.
Requirements for nonattainment areas.
- WAC 173-400-200: Creditable stack height and dispersion techniques.
- WAC 173-400-205: Adjustment for atmospheric conditions.
- WAC 173-400-700: Review of major stationary sources of air pollution.
- WAC 173-400-710: Definitions.
- WAC 173-400-720: Prevention of significant deterioration (PSD).

- WAC 173-400-730: Prevention of significant deterioration application processing procedures.
- WAC 173-400-740: PSD permitting public involvement requirements.
- WAC 173-400-750: Revisions to PSD permits.

(2) The energy facility site evaluation council adopts the following provisions of chapter 173-401 WAC, in effect on March 1, 2005, by reference.

- WAC 173-401-100: Program overview.
- WAC 173-401-200: Definitions.
- WAC 173-401-300: Applicability.
- WAC 173-401-500: Permit applications.
- WAC 173-401-510: Permit application form.
- WAC 173-401-520: Certification.
- WAC 173-401-530: Insignificant emission units.
- WAC 173-401-531: Thresholds for hazardous air pollutants.
- WAC 173-401-532: Categorically exempt insignificant emission units.
- WAC 173-401-533: Units and activities defined as insignificant on the basis of size or production rate.
- WAC 173-401-600: Permit content.
- WAC 173-401-605: Emission standards and limitations.
- WAC 173-401-610: Permit duration.
- WAC 173-401-615: Monitoring and related record-keeping and reporting requirements.
- WAC 173-401-620: Standard terms and conditions. Except (2)(i).
- WAC 173-401-625: Federally enforceable requirements.
- WAC 173-401-630: Compliance requirements.
- WAC 173-401-635: Temporary sources.
- WAC 173-401-640: Permit shield.
- WAC 173-401-645: Emergency provision.
- WAC 173-401-650: Operational flexibility.
- WAC 173-401-700: Action on application.
- WAC 173-401-705: Requirement for a permit.
- WAC 173-401-710: Permit renewal, revocation and expiration.
- WAC 173-401-720: Administrative permit amendments.
- WAC 173-401-722: Changes not requiring permit revisions.
- WAC 173-401-725: Permit modifications.
- WAC 173-401-730: Reopening for cause.
- WAC 173-401-750: General permits.

- WAC 173-401-800: Public involvement.
- WAC 173-401-810: EPA Review.
- WAC 173-401-820: Review by affected states.

(3) The energy facility site evaluation council adopts the following provisions of chapter 173-406 WAC, in effect on March 1, 2005, by reference.

Part I - GENERAL PROVISIONS

- WAC 173-406-100: Acid rain program general provisions.
- WAC 173-406-101: Definitions.
- WAC 173-406-102: Measurements, abbreviations, and acronyms.
- WAC 173-406-103: Applicability.
- WAC 173-406-104: New units exemption.
- WAC 173-406-105: Retired units exemption.
- WAC 173-406-106: Standard requirements.

Part II - DESIGNATED REPRESENTATIVE

- WAC 173-406-200: Designated representative.
- WAC 173-406-201: Submissions.
- WAC 173-406-202: Objections.

Part III - APPLICATIONS

- WAC 173-406-300: Acid rain permit applications.
- WAC 173-406-301: Requirement to apply.
- WAC 173-406-302: Information requirements for acid rain permit applications.
- WAC 173-406-303: Permit application shield and binding effect of permit application.

Part IV - COMPLIANCE PLAN

- WAC 173-406-400: Acid rain compliance plan and compliance options.
- WAC 173-406-401: General.
- WAC 173-406-402: Repowering extensions.

Part V - PERMIT CONTENTS

- WAC 173-406-500: Acid rain permit.
- WAC 173-406-501: Contents.
- WAC 173-406-502: Permit shield.

Part VI - PERMIT ISSUANCE

- WAC 173-406-600: Acid rain permit issuance procedures.
- WAC 173-406-601: General.
- WAC 173-406-602: Completeness.
- WAC 173-406-603: Statement of basis.
- WAC 173-406-604: Issuance of acid rain permits.

Part VII - PERMIT REVISIONS

- WAC 173-406-700: Permit revisions.

Part VII - PERMIT REVISIONS

- WAC 173-406-701: General.
- WAC 173-406-702: Permit modifications.
- WAC 173-406-703: Fast-track modifications.
- WAC 173-406-704: Administrative permit amendment.
- WAC 173-406-705: Automatic permit amendment.
- WAC 173-406-706: Permit reopenings.

Part VIII - COMPLIANCE CERTIFICATION

- WAC 173-406-800: Compliance certification.
- WAC 173-406-801: Annual compliance certification report.
- WAC 173-406-802: Units with repowering extension plans.

Part IX - NITROGEN OXIDES

- WAC 173-406-900: Nitrogen oxides emission reduction program.

Part X - SULFUR DIOXIDE OPT-IN

- WAC 173-406-950: Sulfur dioxide opt-ins.

(4) The energy facility site evaluation council adopts the following provisions of chapter 173-460 WAC, in effect on March 1, 2005, by reference.

- WAC 173-460-010: Purpose.
- WAC 173-460-020: Definitions.
- WAC 173-460-030: Requirements, applicability and exemptions.
- WAC 173-460-040: New source review.
- WAC 173-460-050: Requirement to quantify emissions.
- WAC 173-460-060: Control technology requirements.
- WAC 173-460-070: Ambient impact requirement.
- WAC 173-460-080: Demonstrating ambient impact compliance.
- WAC 173-460-090: Second tier analysis.
- WAC 173-460-100: Request for risk management decision.
- WAC 173-460-110: Acceptable source impact levels.
- WAC 173-460-120: Scientific review and amendment of acceptable source impact levels and lists.
- WAC 173-460-130: Fees.
- WAC 173-460-140: Remedies.
- WAC 173-460-150: Class A toxic air pollutants: Known, probable and potential human carcinogens and acceptable source impact levels.
- WAC 173-460-160: Class B toxic air pollutants and acceptable source impact levels.