

**WSR 20-11-065**  
**EXPEDITED RULES**  
**DEPARTMENT OF LICENSING**

[Filed May 19, 2020, 4:34 p.m.]

Title of Rule and Other Identifying Information: WAC 308-56A-460 Destroyed or wrecked vehicle—Reporting—Rebuilt.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 46.12.600 (4) requires market value threshold (MVT) be increased when the target of \$50.00 has been reached. The target has been reached and now requires WAC 308-56A-460 to be updated.

The proposed amendment will: Amend subsection (2)(a)(iii) to remove the form number at the end of the sentence (TD 420-074); and amend subsection (3) to read "The current market value threshold amount is eight thousand ten dollars."

Reasons Supporting Proposal: RCW 46.12.600 requires the department to determine the market value threshold each year according to information provided in the United States Department of Labor Consumer Price Index Report. An increase in the threshold that exceeds fifty dollars requires the department to document the new amount by updating the rule, which will become effective July 1, 2020.

Statutory Authority for Adoption: RCW 46.12.600.

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

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Brandon Giddens, 1125 Washington Street S.E., Olympia, WA 98501, 360-902-3879; and Enforcement: Kyle Strozyk, 1125 Washington Street S.E., Olympia, WA 98501, 360-902-3998.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The need for expedited rule making is in accordance with RCW 46.12.600(4). The department is required to update the rule to reflect the new increase effective July 1st of the year immediately following any year with an increase of fifty dollars or more. There are no anticipated impacts to affected businesses or stakeholders.

**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 Brandon Giddens, Department of Licensing, P.O. Box 9020, phone 360-902-3879, email bgiddens@dol.wa.gov, AND RECEIVED BY July 20, 2020.

May 19, 2020  
Damon Monroe  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-13-008, filed 6/6/19, effective 7/7/19)

**WAC 308-56A-460 Destroyed or wrecked vehicle—Reporting—Rebuilt.** (1) **What are total loss, destroyed, salvage, and wrecked vehicles?** For the purposes of this section:

(a) A total loss vehicle is one whose destruction has been reported to the department as described in RCW 46.12.600 by an insurer (insurance companies and self-insurers as described in RCW 46.29.630);

(b) A destroyed vehicle is one whose destruction has been reported to the department as described in RCW 46.12.600 by the vehicle's owner;

(c) A salvage vehicle as defined in RCW 46.04.514;

Note: When used in this section, the terms "destroyed" and "destroyed vehicle" include total loss, destroyed, and salvage vehicles.

(d) A wrecked vehicle as defined in RCW 46.80.010(6).

Note: A vehicle may be considered destroyed or wrecked when the evidence of ownership is a salvage certificate/title, insurance company bill of sale, or wrecker bill of sale from any jurisdiction, or when the evidence of ownership indicates the vehicle may be a destroyed vehicle not reported to the department.

(2) **How are vehicles reported to the department as total loss, destroyed, salvage, or wrecked?**

(a) Insurers may report total loss vehicles to the department:

(i) Electronically through the department's online reporting system. Insurers must destroy ownership documents for a vehicle reported this way; or

(ii) By submitting the certificate of title or affidavit in lieu of title indicating the vehicle is "DESTROYED"; or

(iii) By submitting a completed total loss claim settlement form (~~((TD 420-074))~~).

Note: Reports of total loss vehicles must include the insurer's name, address, and the date of loss.

(b) Registered or legal owners report a vehicle as destroyed by submitting the certificate of title or affidavit in lieu of title indicating the vehicle is "DESTROYED," and must include the registered owner's name, address, and date of loss.

(c) Licensed wreckers report wrecked vehicles as required in RCW 46.80.090.

(d) For vehicles six through twenty years old a statement whether or not the vehicle meets the market value threshold amount as defined in RCW 46.12.600 is also required.

(3) **What is the current market value threshold amount?** The current market value threshold amount is (~~seven thousand nine hundred thirty~~) eight thousand ten dollars.

(4) **How is the market value threshold amount determined?** Using the current market value threshold amount described in RCW 46.12.600 each year the department will add the increased value if the increase is equal to or greater than fifty dollars.

(5) **What if the "market value threshold amount" is not provided as required?** If the market value threshold amount is not provided when required, the department would treat the report of destruction as if the market value threshold as described in RCW 46.12.600 has been met. The certificate of title will be branded according to WAC 308-56A-530.

(6) **What documentation is required to obtain a certificate of title after a vehicle is destroyed?** After a vehicle has been reported destroyed or wrecked and is rebuilt, you must submit the following documentation to the department in order to obtain a new certificate of title:

(a) Application for certificate of title as described in RCW 46.12.530;

(b) Certificate of vehicle inspection as described in WAC 308-56A-150;

(c) Bill of sale from the insurer, owner, or wrecker who reported the vehicle's destruction to the department.

(i) Bills of sale from insurers must include a representative's signature and title of office;

(ii) Bills of sale from insurers and wreckers do not need to be notarized;

(iii) Bills of sale from owners shown on department records must be notarized or certified;

(iv) A bill of sale is not required when owners shown on department records retain a destroyed vehicle and apply for a new certificate of ownership;

(v) Releases of interest from lien holder(s) or proof of payment such as a canceled check bearing a notation that it has been paid by the bank on which it was drawn or a notarized statement on a receipt from the legal owner that the debt is satisfied are required when the vehicle is retained by the registered owner(s).

(d) Odometer disclosure statement, if applicable.

(7) **What is required of a Washington licensed vehicle dealer prior to selling a destroyed or wrecked vehicle?** Except as permitted by RCW 46.70.101 (1)(b)(viii), before a dealer may sell a destroyed or wrecked vehicle under their Washington vehicle dealer license, the dealer must:

(a) Rebuild the vehicle to standards set by the state of Washington or the federal government pertaining to the construction and safety of vehicles; and

(b) Obtain a vehicle inspection by the Washington state patrol; and

(c) Apply for and receive a certificate of ownership for the vehicle, issued in the name of the vehicle dealer.

(8) **Once a destroyed or wrecked vehicle is rebuilt, do the license plates remain with the vehicle?** Whether or not the license plates remain with the vehicle depends on the circumstance:

(a) Standard issue license plates may remain with a destroyed vehicle unless they are severely damaged or the vehicle was issued a department temporary permit described in WAC 308-56A-140;

(b) Replacement license plates are required for wrecked vehicles since Washington licensed wreckers are required by WAC 308-63-070 to remove them;

(c) Special license plates may remain with or be transferred to a destroyed or wrecked vehicle;

(d) Applicants may retain the current license plate number as provided for in RCW 46.16A.200, unless the vehicle was issued a department temporary permit as described in WAC 308-56A-140.

(9) **Will the certificate of ownership or registration certificate indicate "WA REBUILT"?** Salvage or wrecked vehicles meeting the criteria described in WAC 308-56A-530 will be branded "WA REBUILT."

### WSR 20-11-073

#### EXPEDITED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed May 20, 2020, 9:07 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-06 WAC, Public records, the department is proposing to delete language that duplicates public disclosure exemptions already specified in the Public Records Act (chapter 42.56 RCW). Instead, the department will provide a general reference to the Public Records Act and only list specific exemptions that are specified in other statutes and exemptions the agency is required by statute to detail in rule. In addition, the department proposes to add information on submitting public records requests through an online web portal, add language regarding inspecting records, repeal the exemption for industrial hemp research, and add language referencing the department's website to obtain a list of common record exemptions.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 16-06 WAC establishes procedures the department follows to provide full access to public records and to implement provisions of the Public Records Act, chapter 42.56 RCW. The rule provides information to persons requesting access to the department's records and establishes procedures for both requestors and department staff. The department is proposing to amend chapter 16-06 WAC by:

(1) Repealing public record exemptions already specified in the Public Records Act;

(2) Repealing the industrial hemp research program exemption;

(3) Providing details on how the public can submit record requests utilizing the online public disclosure web portal;

(4) Adding language specifying that inspection or copying of records may only be done during customary business hours;

(5) Adding language requiring the agency to maintain a list of commonly used exemptions on the public website;

(6) Modifying the language to increase clarity and readability; and

(7) Removing obsolete language.

Reasons Supporting Proposal: Currently, chapter 16-06 WAC lists many of the public disclosure exemptions the department might claim when responding to public disclo-

sure requests. The department updates the rule regularly to reflect changes passed by the legislature. The proposed amendments restructure the rule language to provide a general reference to the exemptions already listed in the Public Records Act, rather than duplicating the same language in rule. Exemptions listed in statutes other than the Public Records Act that the department may commonly claim will continue to be listed in the rule. The department is proposing to maintain a list of common exemptions on the public website that can easily be updated as exemptions are adopted, repealed, or amended by the legislature. Restructuring the rule language in this manner will reduce the need for frequent updates since the Public Records Act is amended regularly. Including reference to submitting requests on the agency's online public disclosure web portal provides additional options to the public for submitting public disclosure requests. The industrial hemp research program exemption is proposed for repeal because the statute the exemption was adopted under was repealed during the 2019 legislative session. This exemption is now obsolete. Currently, the rule language states that public records requests can be initiated during customary business hours. The department is proposing to amend the language to state that records can be inspected or copied during customary business hours in compliance with RCW 42.56.090.

Statutory Authority for Adoption: RCW 42.56.040.

Statute Being Implemented: Chapter 42.56 RCW.

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

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Pam Potwin, 1111 Washington Street S.E., Olympia, WA 98504, 360-902-1935.

This notice meets the following criteria to use the expedited adoption process for these rules:

Relates only to internal governmental operations that are not subject to violation by a person.

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Content is explicitly and specifically dictated by statute.

This notice meets the following criteria to use the expedited repeal process for these rules:

The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule.

The rule is no longer necessary because of changed circumstances.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: These rule amendments meet the criteria for expedited rulemaking under RCW 34.05.353 (1)(a), (c), and (d) and (2)(a), (c).

Deleting public disclosure exemptions that are already specified in the Public Records Act (chapter 42.56 RCW) falls under the exemption specified under RCW 34.05.353 (2)(c) because there is no need to replicate the same exemptions in rule since the agency will be posting commonly used public disclosure exemptions online.

The repeal of the industrial hemp research program public disclosure exemption falls under the exemption specified under RCW 34.05.353 (2)(a) because the statute the public disclosure exemption was based on was repealed during the 2019 legislative session (chapter 158, Laws of 2019).

Providing details on how the public can submit record requests utilizing the online public disclosure web portal falls under the exemption specified under RCW 34.05.353 (1)(d) because RCW 42.56.040 (1)(a) explicitly and specifically dictates that state agencies shall publish in the Washington Administrative Code the methods whereby the public may obtain information, make submittals or requests.

Adding language specifying that inspection or copying of records may only be done during customary business hours falls under the exemption specified under RCW 34.05.353 (1)(d) because RCW 42.56.090 explicitly and specifically dictates that state agencies shall allow the public to inspect and copy records during customary business hours.

Adding language stating that the agency will maintain a list of commonly used public disclosure exemptions online falls under the exemption specified under RCW 34.05.353 (1)(a) because it relates only to internal governmental operations that are not subject to violation by a person.

All other amendments fall under the exemption specified under RCW 34.05.353 (1)(c) because they are simply clarifying the language without changing its effect.

#### NOTICE

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May 20, 2020

Jason Ferrante

Associate Deputy Director

AMENDATORY SECTION (Amending WSR 14-19-056, filed 9/12/14, effective 10/13/14)

**WAC 16-06-160 Description of department, address and telephone number of Olympia administrative offices.** Headquartered in Olympia and located in the Natural Resources Building, 1111 Washington Street S.E., P.O. Box 42560, Olympia, Washington 98504-2560, the department employs personnel in every county in Washington. The department serves the people of Washington state by supporting the agricultural community and promoting consumer and environmental protection since 1913. The information tele-

phone number is 360-902-1800. The department is organized into seven functional areas:

- (1) Director's office;
- (2) Administrative services;
- (3) Animal services division;
- (4) Commodity inspection division;
- (5) Food safety and consumer services division;
- (6) Pesticide management division; and
- (7) Plant protection division.

The department maintains service locations or major field offices around the state. The administrative offices located in Olympia can assist persons in locating office locations around the state. The department's organization chart is available upon request from the Public Records Officer, Washington State Department of Agriculture, P.O. Box 42560, Olympia, Washington 98504-2560, phone 360-902-1935, fax 360-902-2092 ((and also on the agency website. The public is encouraged to view the organization chart on the website)).

AMENDATORY SECTION (Amending WSR 09-03-032, filed 1/12/09, effective 2/12/09)

**WAC 16-06-190 Public records requests.** (1) ~~((A person wishing to inspect or copy the department's public records may make the request in writing on the department's public records request form or in writing by first class mail, email, or fax. Requests for public records may be initiated at any department office during customary business hours, Monday through Friday, excluding legal holidays.))~~ Persons seeking public records are encouraged to use the online public records center portal on the department's website at <https://agr.wa.gov/contact-us/public-disclosure>.

(2) Alternatively, a request may be submitted to the public records officer in writing using the department's public records request form or other written format using the following methods:

(a) By mail at: Washington State Department of Agriculture, Attn: Public Records Officer, P.O. Box 42560, Olympia, Washington 98504-2560;

(b) By email at [publicdisclosure@agr.wa.gov](mailto:publicdisclosure@agr.wa.gov); or

(c) By fax to 360-902-2092.

(3) Requests must include the following information:

- (a) The name, address and telephone number or other contact information of the person requesting the records;
- (b) The date on which the request is made; and
- (c) Sufficient information to readily identify records being requested.

~~((2))~~(a) The request should be submitted to the public records officer at: Washington State Department of Agriculture, P.O. Box 42560, Olympia, Washington 98504-2560.

(b) The request may also be submitted by fax to 360-902-2092 or by email at: [publicdisclosure@agr.wa.gov](mailto:publicdisclosure@agr.wa.gov).

~~(3))~~ (4) If a requestor cannot submit a request for public records in writing and desires to make an oral request either in person or by telephone, the public records officer or designee receiving the request will summarize the request in writing and then verify in writing with the requestor that the summary correctly memorializes the request.

(5) A person wishing to inspect or copy the department's public records may do so during customary business hours, Monday through Friday, excluding legal holidays.

AMENDATORY SECTION (Amending WSR 17-20-102, filed 10/4/17, effective 11/4/17)

**WAC 16-06-210 Exemptions.** (1) ~~The Public Records Act ((provides that a number of types of information or records are exempt from public inspection and copying. In addition, records))~~ exempts a number of types of records from public disclosure (see chapter 42.56 RCW).

(2) Records are also exempt from disclosure if any other statute exempts or prohibits disclosure. Requestors should be aware of the following exemptions ~~((to public disclosure specific to department records))~~ outside of the Public Records Act, which restrict the availability of some records held by the department. This list is not exhaustive and other exemptions may apply:

~~((1) Personal information in any files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy (reference RCW 42.56.230(3)).~~

(2) Investigative records (reference RCW 42.56.240).

(3) Test questions, scoring keys, and other examination data used to administer a license (reference RCW 42.56.250 (1)).

(4) Records that are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts (reference RCW 42.56.290).

(5) Lists of individuals requested for commercial purposes (reference RCW 42.56.070(9)).

(6) Records related to the entry of prohibited agricultural products imported into Washington state or that had Washington state as a final destination received from the United States Department of Homeland Security or the United States Department of Agriculture that are not disclosable by the federal agency under federal law including 5 U.S.C. Sec. 552 (reference RCW 42.56.380(12)).

(7) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required or governed by other law (reference RCW 42.56.230 (5)).

(8) Applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to the applicant (reference RCW 42.56.250(2)).

(9) Residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, Social Security numbers, driver's license numbers, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, Social Security numbers, and emergency contact information of dependents of employees or volunteers of a public agency that are held by any agency in personnel records, public employment related records, or volun-

teer rosters, or are included in any mailing list of employees or volunteers of any public agency (reference RCW 42.56.250(3)).

(10) Information provided for the semi-annual report for fertilizers, minerals and limes that would reveal the business operation of the person making the report (reference RCW 15.54.362(5) and 42.56.380(2)).

((11)) (a) The semiannual report required in the Commercial Feed Act ((is not a public record, and any information given in such report which would reveal the business operation of the person making the report is exempt from disclosure, and information obtained by the department from other governmental agencies or other sources that is used to verify information received in the report is exempt from public disclosure)) (reference RCW 15.53.9018).

((12)) (b) The department has the authority to publish reports of official seed inspections, seed certifications, laboratory statistics, verified violations of this chapter, and other seed branch activities which do not reveal confidential information regarding individual company operations or production (reference RCW 15.49.370(8)).

((13) Business-related information obtained under the Organic Food Products Act concerning an entity certified under that act or an applicant for certification under RCW 15.86.110, and records whose disclosure is prohibited by the federal Organic Certification Act, 7 U.S.C. Sec. 6515(g) and the rules adopted under that act (reference RCW 42.56.380(1)).

(14) Consignment information contained on phytosanitary certificates issued by the department under chapters 15.13, 15.17, and 15.49 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States Department of Agriculture, or on applications for phytosanitary certification required by the department (reference RCW 42.56.380(4)).

(15) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by the former chapter 15.110 RCW or chapter 43.325 RCW (the energy freedom loan program) (reference RCW 42.56.270(4)).

(16) Information obtained under RCW 15.19.080 regarding the purchases, sales, or production of an individual American ginseng grower or dealer (reference RCW 42.56.380(6)).

(17)) (c) Financial statement information required ((to determine whether or not an applicant for a license to operate a warehouse under chapter 22.09 RCW, agriculture commodities, meets minimum net worth requirements (reference RCW 22.09.040(9)).

(18) All financial statement information to determine whether or not an applicant for a license to be a grain dealer under chapter 22.09 RCW meets the minimum net worth requirements (reference RCW 22.09.045(7)).

(19) Information submitted by an individual or business to the department of agriculture under the requirements of chapters 16.36, 16.57, and 43.23 RCW for the purpose of herd inventory management for animal disease traceability, is exempt from disclosure. This information includes animal ownership, numbers of animals, locations, contact informa-

tion, movements of livestock, financial information, the purchase and sale of livestock, account numbers or unique identifiers issued by government to private entities, and information related to livestock disease or injury that would identify an animal, a person or location. Disclosure to local, state, and federal officials is not public disclosure. This exemption does not affect the disclosure of information used in reportable animal health investigations under chapter 16.36 RCW once they are complete (reference RCW 42.56.380(9)).

(20) Results of testing for animal diseases from samples submitted by or at the direction of the animal owner or the owner's designee and that can be identified to a particular business or individual is exempt from disclosure (reference RCW 42.56.380(10)).

(21) Information that can be identified to a particular business and that is collected under chapter 15.17 RCW, standards of grades and packs, and specifically RCW 15.17.140(2) and 15.17.143 for certificates of compliance (reference RCW 42.56.380(7)).

(22) Financial statement information provided under RCW 16.65.030 (1)(d), public livestock markets, is confidential information and not subject to public disclosure (reference RCW 16.65.030 (1)(d) and 42.56.380(8)).

(23)) under RCW 22.09.040(9) or 22.09.045(7).

(d) Privileged or confidential information or data that contains trade secrets, commercial, or financial information ((and is required and)) submitted under the Washington Pesticide Control Act (reference RCW 15.58.060 (1)(c) and 15.58.065).

((24) Except for release of statistical information not descriptive of any readily identifiable person or persons, all financial and commercial information and records supplied by persons to the department with respect to export market development projects (reference RCW 43.23.270 and 42.56.270(3)).

(25)) (e) Information submitted by an applicant under chapter 17.24 RCW that is privileged or confidential because it contains trade secrets or commercial or financial information (reference RCW 17.24.061).

((26) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.89, 15.100, and 16.67 RCW, or required by the department to administer these chapters or the department's programs (reference RCW 42.56.380(3)).

(27) Financial and commercial information and records supplied by persons:

(a) To the department for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; or

(b) To the department or commodity boards or commissions formed under chapters 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.89, 15.100, or 16.67 RCW, with respect to domestic or export marketing activities or individual producer's production information (reference RCW 42.56.380(5)).

(28) Farm plans developed by conservation districts, unless the farm plan is used for the application or issuance of a permit (reference RCW 42.56.270(17)).

~~(29))~~ (f) Under RCW 42.56.610 and 90.64.190, information identifying the number of animals; volume of livestock nutrients generated; number of acres covered by the plan or used for land application of livestock nutrients; livestock nutrients transferred to other persons; and crop yields in plans, records, and reports obtained by state and local agencies from dairies, animal feeding operations, and concentrated animal feeding operations not required to apply for a National Pollutant Discharge Elimination System permit is disclosable in the following ranges:

- ~~((a))~~ (i) Number of animals: Beef cattle
  - 1 to 19
  - 20 to 159
  - 160 to 299
  - 300 to 999
  - 1,000 to 5,999
  - 6,000 to 10,999
  - 11,000 to 15,999
  - 16,000 to 20,999
  - 21,000 to 25,999
  - 26,000 to 31,199
  - 31,200 to 37,439
  - 37,440 to 44,999
  - 45,000 and above
- ~~((b))~~ (ii) Number of animals: Mature dairy cattle
  - 1 to 37
  - 38 to 199
  - 200 to 699
  - 700 to 1,699
  - 1,700 to 2,699
  - 2,700 to 3,699
  - 3,700 to 4,699
  - 4,700 to 5,699
  - 5,700 to 6,839
  - 6,840 and above
- ~~((c))~~ (iii) Number of animals: Dairy heifers
  - 1 to 49
  - 50 to 149
  - 150 to 299
  - 300 to 999
  - 1,000 to 1,999
  - 2,000 to 2,999
  - 3,000 to 3,999
  - 4,000 and above
- ~~((d))~~ (iv) Number of animals: Swine (fifty-five pounds or greater)
  - 1 to 19
  - 20 to 159
  - 160 to 399
  - 400 to 749
  - 750 to 2,499
  - 2,500 to 4,249
  - 4,250 to 5,999
  - 6,000 to 7,749
  - 7,750 and above
- ~~((e))~~ (v) Number of animals: Swine (less than fifty-five pounds)
  - 1 to 99
  - 100 to 499
  - 500 to 1,099

- 1,100 to 1,999
- 2,000 to 2,999
- 3,000 to 9,999
- 10,000 to 16,999
- 17,000 to 23,999
- 24,000 to 30,999
- 31,000 and above
- ~~((f))~~ (vi) Number of animals: Layers (all ages)
  - 1 to 199
  - 200 to 999
  - 1,000 to 10,999
  - 11,000 to 24,999
  - 25,000 to 81,999
  - 82,000 to 138,999
  - 139,000 to 195,999
  - 196,000 to 252,999
  - 253,000 to 309,999
  - 310,000 to 371,999
  - 372,000 to 446,399
  - 446,400 to 535,679
  - 535,680 to 642,815
  - 642,816 to 771,379
  - 771,380 to 925,655
  - 925,656 to 1,110,787
  - 1,110,788 to 1,332,945
  - 1,332,946 and above
- ~~((g))~~ (vii) Number of animals: Broilers (all ages)
  - 1 to 199
  - 200 to 999
  - 1,000 to 17,999
  - 18,000 to 37,499
  - 37,500 to 124,999
  - 125,000 to 212,499
  - 212,500 to 299,999
  - 300,000 and above
- ~~((h))~~ (viii) Number of animals: Horses
  - 1 to 19
  - 20 to 79
  - 80 to 149
  - 150 to 499
  - 500 to 849
  - 850 to 1,199
  - 1,200 to 1,549
  - 1,550 and above
- ~~((i))~~ (ix) Livestock nutrients generated or exported by volume (ft<sup>3</sup>/day)
  - 1 to 74
  - 75 to 134
  - 135 to 299
  - 300 to 449
  - 450 to 749
  - 750 to 1,499
  - 1,500 to 2,499
  - 2,500 to 4,999
  - 5,000 to 8,499
  - 8,500 to 11,999
  - 12,000 to 15,999
  - 16,000 and above
- ~~((j))~~ (x) Livestock nutrients generated or exported by weight (tons/year)

- 1 to 5,256
- 5,257 to 10,512
- 10,513 to 21,024
- 21,025 to 42,048
- 42,049 to 84,096
- 84,097 to 164,184
- 164,185 to 262,734
- 262,735 to 394,200
- 394,201 to 558,384
- 558,385 to 722,634
- 722,635 to 919,734
- 919,735 to 1,051,134
- 1,051,135 and above
- ~~((4))~~ (xi) Number of acres covered by the plan or used for land application of livestock nutrients
  - 0 to 25
  - 26 to 65
  - 66 to 120
  - 121 to 300
  - 301 to 550
  - 551 to 900
  - 901 to 1,300
  - 1,301 to 1,800
  - 1,801 to 2,500
  - 2,501 to 3,200
  - 3,201 to 4,000
  - 4,001 to 6,000
  - 6,001 to 9,000
  - 9,001 to 11,500
  - 11,501 to 14,000
  - 14,001 and above
- ~~((4))~~ (xii) Crop yields - tons/acre
  - 0 to 1
  - 1.1 to 2
  - 2.1 to 3.5
  - 3.6 to 5
  - 5.1 to 7
  - 7.1 to 9
  - 9.1 to 12
  - 12.1 to 14.5
  - 14.6 to 17
  - 17.1 to 19.5
  - 19.6 to 22
  - 22.1 to 26
  - 26.1 and above
- ~~((30))~~ Records of international livestock importation that can be identified to a particular animal, business, or individual received from the United States Department of Homeland Security or the United States Department of Agriculture that are not disclosable by the federal agency under federal law including 5 U.S.C. Sec. 552 (reference RCW 42.56.380(11)).
- ~~(31))~~ (g) A person aggrieved by a violation of chapter 17.21 RCW or the rules adopted under that chapter is entitled, on request, to have his or her name protected from disclosure in any communication with persons outside the department and in any record published, released, or made available to persons outside the department except as provided in RCW 17.21.340 (1)(a)(ii).

~~((32))~~ All records, data, and information filed in support of an industrial hemp research program license application (reference RCW 15.120.050(7)).

~~(33)~~ Effective April 1, 2018, (h) Information about marijuana processors otherwise exempt from public inspection and copying under chapter 42.56 RCW is also exempt from public inspection and copying if submitted to or used by the department (reference RCW 69.07.200(4)).

~~((34))~~ (i) Information about marijuana producers, marijuana processors, and marijuana retailers otherwise exempt from public inspection and copying under chapter 42.56 RCW is also exempt from public inspection and copying if submitted to or used by the department (reference RCW 15.125.050).

(3) A list of common record exemptions can be found on the department's website.

**WSR 20-11-082**  
**EXPEDITED RULES**  
**ENERGY FACILITY SITE**  
**EVALUATION COUNCIL**

[Filed May 20, 2020, 11:40 a.m.]

Title of Rule and Other Identifying Information: This rule making would revise Adoption-by-reference, WAC 463-78-005, general and operating permit regulations for air pollution sources.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal would revise the adoption-by-reference to provide continuity with the current version(s) of department of ecology updated air rules.

Reasons Supporting Proposal: The energy facility site evaluation council (EFSEC) is updating its adoption of chapters as listed below. Adoption of the WAC air rules will incorporate the updates made by department of ecology air rules, reflected below. Chapter 173-460 WAC updated November 11, 2019.

Statutory Authority for Adoption: RCW 80.50.040(1); chapter 34.05 RCW.

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

Name of Proponent: EFSEC, governmental.

Name of Agency Personnel Responsible for Drafting: Tammy Mastro, Commerce Specialist, P.O. Box 43172, Olympia, WA 98504-3172, 360-664-1359; Implementation and Enforcement: Sonia Bumpus, EFSEC Manager, P.O. Box 43172, Olympia, WA 98504-3172, 360-664-1363.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incor-

porated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate:

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 Sonia Bumpus, EFSEC Manager, Energy Facility Site Evaluation Council, P.O. Box 43172, Olympia, WA 98504-3172, phone 360-664-1363, email EFSEC@utc.wa.gov, AND RECEIVED BY July 21, 2020.

May 20, 2020  
 Kathleen Drew  
 EFSEC Chair

AMENDATORY SECTION (Amending WSR 19-16-025, filed 7/26/19, effective 8/26/19)

**WAC 463-78-005 Adoption by reference.** (1) The energy facility site evaluation council adopts by reference the ~~((following))~~ provisions ~~((of chapter 173-400 WAC,))~~ in the chapters listed below in this section and the federal rules in WAC 463-78-115 as it existed on November 11, 2019, with the exceptions that:)

(2) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-400 WAC in effect on the date in subsection (1) of this section with the following exceptions:

(a) These provisions are not adopted by reference:

(i) WAC 173-400-111 (5)(a) (last six words), (6), (9)(c);

(ii) WAC 173-400-730(4) ~~((, and))~~;

(iii) WAC 173-400-750(2) second sentence ~~((are not adopted by reference))~~; and

(iv) The adoption date shall be November 11, 2019.

(b) The terms "ecology," "authority," "director," and "permitting authority" in WAC 173-400-030 shall mean "the energy facility site evaluation council" unless a different meaning is plainly required by the context.

- WAC 173-400-025: Adoption of federal rules.
- WAC 173-400-030: Definitions.
- WAC 173-400-036: Relocation of portable 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: Emission limits during 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) for sources and portable sources.
- WAC 173-400-111: Processing notice of construction applications for sources, stationary sources and portable sources.
- 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 173-400-116: Increment protection.
- 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 (ERC).
- WAC 173-400-161: Compliance schedules.
- WAC 173-400-171: Public notice and opportunity for public comment.
- WAC 173-400-175: Public information.
- WAC 173-400-180: Variance.
- WAC 173-400-190: 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 173-401-620:	Standard terms and conditions.
WAC 173-400-750:	Revisions to PSD permits.	WAC 173-401-625:	Federally enforceable requirements.
WAC 173-400-800:	Major stationary source and major modification in a nonattainment area.	WAC 173-401-630:	Compliance requirements.
WAC 173-400-810:	Major stationary source and major modification definitions.	WAC 173-401-635:	Temporary sources.
WAC 173-400-820:	Determining if a new stationary source or modification to a stationary source is subject to these requirements.	WAC 173-401-640:	Permit shield.
WAC 173-400-830:	Permitting requirements.	WAC 173-401-645:	Emergency provision.
WAC 173-400-840:	Emission offset requirements.	WAC 173-401-650:	Operational flexibility.
WAC 173-400-850:	Actual emissions plantwide applicability limitation (PAL).	WAC 173-401-700:	Action on application.
WAC 173-400-860:	Public involvement procedures.	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.

~~((2))~~ (3) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-401 WAC, ~~((as it existed on September 16, 2018))~~ in effect on the date referenced in subsection (1) of this section, with the ~~((exception that))~~ following exceptions:

(a) WAC 173-401-620 (2)(i) is not adopted by reference~~((;))~~; and

(b) The terms "ecology," "authority," "director," and "permitting authority" shall mean "the energy facility site evaluation council" unless a different meaning is plainly required by the context.

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))~~ (4) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-406 WAC, ~~((as it existed on March 1, 2005))~~ in effect on the date referenced to in subsection (1) of this section.

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.

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.

Part III - 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.  
 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))~~ (5) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-460 WAC, ~~((as it existed on June 20, 2009))~~ in effect on the date referenced in subsection (1) of this section.

WAC 173-460-010: Purpose.  
 WAC 173-460-020: Definitions.  
 WAC 173-460-030: Applicability.  
 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: First tier review.  
 WAC 173-460-090: Second tier review.  
 WAC 173-460-100: Third tier review.  
 WAC 173-460-140: Remedies.  
 WAC 173-460-150: Table of ASIL, SQER, and de minimis emission values.

~~((5))~~ (6) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-441 WAC, ~~((as it existed on January 1, 2011))~~ in effect on the date referenced in subsection (1) of this section.

WAC 173-441-010: Scope.  
 WAC 173-441-020: Definitions.  
 WAC 173-441-030: Applicability.  
 WAC 173-441-040: Greenhouse gases.  
 WAC 173-441-050: General monitoring, reporting, recordkeeping and verification requirements.  
 WAC 173-441-060: Authorization and responsibilities of the designated representative.  
 WAC 173-441-070: Report submittal.  
 WAC 173-441-080: Standardized methods and conversion factors incorporated by reference.  
WAC 173-441-085: Third-party verification.  
WAC 173-441-086: Assigned emissions level.  
 WAC 173-441-090: Compliance and enforcement.  
 WAC 173-441-100: Addresses.  
 WAC 173-441-110: Fees.  
 WAC 173-441-120: Calculation methods incorporated by reference from 40 C.F.R. Part 98 for facilities.  
WAC 173-441-130: Calculation methods for suppliers.  
 WAC 173-441-140: Petitioning ecology to use an alternative calculation method to calculate greenhouse gas emissions.  
 WAC 173-441-150: Confidentiality.

- WAC 173-441-160: Ecology to share information with local air authorities and with the energy facility site evaluation council.
- WAC 173-441-170: Severability.