

WSR 19-11-009
WITHDRAWAL OF
EXPEDITED RULE MAKING
DEPARTMENT OF AGRICULTURE

[Filed May 2, 2019, 2:56 p.m.]

The Washington state department of agriculture is providing notice of withdrawal of WSR 19-05-088, filed on February 20, 2019, regarding amendments to chapter 16-305 WAC, Industrial hemp research program.

Jessica Allenton
 Assistant Director
 Commodity Inspection Division

WSR 19-11-053
EXPEDITED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed May 13, 2019, 11:52 a.m.]

Title of Rule and Other Identifying Information: WAC 181-79A-2510.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Clarify date of teacher principal evaluation program certificate renewal requirement for principals and program administrators so it correctly aligns with the start date of this requirement as stated elsewhere in WAC.

Reasons Supporting Proposal: Technical clarity in implementation of WAC.

Statutory Authority for Adoption: RCW 28A.410.220.

Statute Being Implemented: RCW 28A.410.220, 28A.410.210.

Rule is necessary because of federal law, federal court decision, and state court decision [no further information supplied by agency].

Name of Proponent: Professional educator standards board (PESB), governmental.

Name of Agency Personnel Responsible for Drafting: Maren Johnson, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6264; Implementation and Enforcement: PESB, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6275.

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.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Makes small technical corrections and clarifies existing intent of 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 Rules Coordinator, PESB, 600 Washington Street S.E., Olympia, WA 98504, phone 360-725-6275, email rulespesb@k12.wa.us, AND RECEIVED BY July 23, 2019.

May 10, 2019
 Justin Montermini
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-23-176, filed 11/21/17, effective 12/22/17)

WAC 181-79A-2510 Principal and program administrator residency and professional certification—Renewal and reinstatement. (1) **Residency certificate.**

(a) Principals/program administrators who hold or have held residency certificates may have their residency certificates renewed by completing one hundred continuing education credit hours as defined in chapter 181-85 WAC, or four annual professional growth plans as ~~((defined in WAC 181-79A-030))~~ described in WAC 181-85-033, within the previous five years from the date of the five-year residency administrator renewal application. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours.

~~((a))~~ (b) Subsequent five-year renewals shall be issued based on completion of one hundred continuing education credit hours since the issue date of the latest five-year residency administrator renewal certificate; or four professional growth plans developed since the certificate was issued. Completion of four annual professional growth plans during each five-year period between subsequent lapse dates meets the requirement for renewal. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours. ~~((The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and career level benchmarks defined in WAC 181-79A-207 for teachers, and as published by the professional educator standards board for administrators and educational staff associates.~~

~~For educators holding multiple certificates in WAC 181-79A-251, 181-79A-2510, 181-79A-2511, or 181-79A-2512, or in chapter 181-85 WAC, a professional growth plan for teacher, administrator, or education staff associate shall meet the requirement for all certificates held by an individual which is affected by this section.~~

~~Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal.~~

~~Until June 30, 2018, individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours. Beginning July 1, 2018, individuals who complete an annual professional growth plan to renew their professional certificate~~

shall receive the equivalent of twenty-five continuing education credit hours.)

Provided, application for subsequent renewals shall not be submitted earlier than twelve months prior to the expiration date of the current renewal.

Expired five-year residency administrator renewal certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the five-year residency administrator renewal application or by completing four professional growth plans as defined in WAC ((181-79A-030)) 181-85-033. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours.

An expired certificate may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour or professional growth plan requirement within the five years prior to the date of the renewal application.

Candidates who apply for the five-year residency administrator renewal certificate who have not successfully completed course work or an in-service program on issues of abuse, must complete the abuse course work requirement as defined in WAC 181-79A-030((6)) and required per RCW 28A.410.2212.

~~((b))~~ (c) A three-year renewal is available until June 30, 2020, for individuals who have held or hold a principal or program administrator residency certificate that expires prior to July 1, 2019.

(2) Professional certificate.

(a) Individuals who hold a professional certificate may have that certificate renewed for additional five-year periods by completion of one hundred continuing education credit hours as defined in chapter 181-85 WAC or four professional growth plans developed annually since the certificate was issued, ~~((in collaboration with the professional growth team as defined in WAC 181-79A-030))~~ as described in WAC 181-85-033. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credits needed to be the equivalent of one hundred clock hours.

~~(Provided,)~~ Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current renewal.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the five-year renewal application or by completing four professional growth plans as ~~((defined in WAC 181-79A-030))~~ described in WAC 181-85-033. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credits needed to be the equivalent of one hundred clock hours.

An expired certificate may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour or professional growth plan requirement within the five years prior to the date of the renewal application.

~~((a))~~ Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal.

~~(b)~~ Until June 30, 2018, individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours. Beginning July 1, 2018, individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of twenty-five hours of continuing education credit hours.

~~(c)~~ The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks.

~~(d)~~ Provided, as per RCW 28A.410.278(2) beginning ~~September 1, 2016,~~) (b) Under RCW 28A.410.278 (2)(b) in-service training, continuing education, or professional growth plans shall incorporate professional development on the revised teacher and principal evaluation systems under RCW 28A.405.100 as a requirement for renewal of continuing or professional level certificates. Certificates with a renewal date of ~~((June 30))~~ September 1, 2019, and beyond for all principals and program administrators must document completion of at least fifteen clock hours, or at least one goal from an annual professional growth plan, related to knowledge and competency of the teacher and principal evaluation criteria or system. This requirement is considered met by holders of a valid National Board Certificate issued by the National Board for Professional Teaching Standards (NBPTS).

~~((e))~~ For educators holding multiple certificates as described in WAC 181-79A-251, 181-79A-2510, 181-79A-2511, or 181-79A-2512 of this chapter, or in chapter 181-85 WAC, a professional growth plan for teacher, administrator, or education staff associate shall meet the requirement for all certificates held by an individual which is affected by this section.)

WSR 19-11-069

EXPEDITED RULES

HEALTH CARE AUTHORITY

[Filed May 16, 2019, 12:15 p.m.]

Title of Rule and Other Identifying Information: Chapter 182-20 WAC, Standards for community health clinics.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is repealing this chapter as it is no longer in use.

Reasons Supporting Proposal: Community health clinics became federally qualified health centers under various federal reorganization laws during the 1990s and 2000s. Eligibility determination and distribution of funds for medical, dental, and migrant services are found in chapter 182-547 WAC.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: Health care authority (HCA), governmental.

Name of Agency Personnel Responsible for Drafting: Wendy Barcus, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1306; Implementation and Enforcement: Annette Schuffenhauer, P.O. Box 45502, Olympia, WA 98504-5502, 360-725-1254.

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

The rule is no longer necessary because of changed circumstances.

Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

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 Wendy Barcus, Rules Coordinator, HCA, P.O. Box 42716, Olympia, WA 98504-2716, phone 360-725-1306, fax 360-586-9727, email arc@hca.wa.gov, AND RECEIVED BY July 23, 2019.

May 16, 2019
Wendy Barcus
Rules Coordinator

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 182-20-001 Purpose.
- WAC 182-20-010 Definitions.
- WAC 182-20-100 Administration.
- WAC 182-20-130 Application for funds.
- WAC 182-20-160 Eligibility.
- WAC 182-20-200 Allocation of state funds.
- WAC 182-20-300 Dispute resolution procedures.
- WAC 182-20-320 Audit review.
- WAC 182-20-400 Limitations on awards.
- WAC 182-20-500 Dental residency pilot project.
- WAC 182-20-600 Community health care collaborative program.
- WAC 182-20-610 Administration.
- WAC 182-20-620 Application process.

WSR 19-11-110
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 21, 2019, 12:53 p.m.]

Title of Rule and Other Identifying Information: WAC 296-14-400 Reopenings for benefits, this rule explains the requirements for reopening a workers' compensation claim that has been previously closed.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to amend WAC 296-14-400 Reopenings for benefits, to remove the requirement that applications to reopen a workers' compensation claim must be submitted by a provider in the department's medical provider network (MPN) as a result of the state of Washington court of appeals decision (*Ronald V. Ma'ae v. State of Wa Dept of Labor And Industries*, 2019 WL 1492822) that found the department cannot prohibit non-MPN providers from submitting reopening applications. This rule amendment allows the department to be in compliance with the court of appeals decision.

The department proposes removing the following language from WAC 296-14-400: *For services or provider types where the department has established a provider network, beginning January 1, 2013, medical treatment and documentation for reopening applications must be completed by network providers.*

Reasons Supporting Proposal: In 2012, the department amended its rules related to what services for injured workers may be provided by a nonnetwork provider in order to align with the statewide MPN established under RCW 51.36.010, as amended by SSB 5801, chapter 6, Laws of 2011. Recently, the Washington state court of appeals ruled that the requirement in WAC 296-14-400 that a worker submit medical documentation from only a network doctor to reopen a claim for aggravation was outside the statutory authority. *Ronald V. Ma'ae v. State of Wa Dept of Labor and Industries*, 2019 WL 1492822. The court held the amendment to WAC 296-14-400 to be invalid, and the language of the rule must now be amended to be in compliance with the court's decision.

Statutory Authority for Adoption: RCW 51.36.010, 51.04.020, 51.04.030.

Statute Being Implemented: RCW 51.32.160.

Rule is necessary because of state court decision, *Ronald V. Ma'ae v. State of Wa Dept of Labor and Industries*, 2019 WL 1492822.

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

Name of Agency Personnel Responsible for Drafting: Tanya C. Weber, Tumwater, Washington, 360-902-6818; Implementation and Enforcement: Vickie Kennedy, Tumwater, Washington, 360-902-4997.

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

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The proposed rule change is based on the recent court of appeals decision in *Ronald V. Ma'ae v. State of Wa Dept of Labor and Industries* that found the department's rule prohibiting non-

MPN providers from submitting reopening applications was inconsistent with the statute. This prohibition is currently found in WAC 296-14-400 and is a result of language added during the implementation of MPN rules. The department decided to do expedited rule making to be in compliance with the court of appeals ruling.

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 Robert Mayer, Department of Labor and Industries, P.O. Box 44322, Olympia, WA 98504-4322, phone 360-902-5021, fax 360-902-4249, email Robert.mayer@Lni.wa.gov, AND RECEIVED BY July 22, 2019.

May 21, 2019
Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 12-06-066, filed 3/6/12, effective 4/6/12)

WAC 296-14-400 Reopenings for benefits. The director at any time may, upon the workers' application to reopen for aggravation or worsening of condition, provide proper and necessary medical and surgical services as authorized under RCW 51.36.010. This provision will not apply to total permanent disability cases, as provision of medical treatment in those cases is limited by RCW 51.36.010.

The seven-year reopening time limitation shall run from the date the first claim closure becomes final and shall apply to all claims regardless of the date of injury. In order for claim closure to become final on claims where closure occurred on or after July 1, 1981, the closure must include documentation of medical recommendation, advice or examination. Such documentation is not required for closing orders issued prior to July 1, 1981. First closing orders issued between July 1, 1981, and July 1, 1985, shall for the purposes of this section only, be deemed issued on July 1, 1985.

The director shall, in the exercise of his or her discretion, reopen a claim provided objective evidence of worsening is present and proximately caused by a previously accepted asbestos-related disease.

In order to support a final closure based on medical recommendation or advice the claim file must contain documented information from a doctor, or nurse consultant (departmental) or nurse practitioner. The doctor or nurse practitioner may be in private practice, acting as a member of a consultation group, employed by a firm, corporation, or state agency.

For the purpose of this section, a "doctor" is defined in WAC 296-20-01002.

When a claim has been closed by the department or self-insurer for sixty days or longer, the worker must file a written application to reopen the claim. An informal written request filed without accompanying medical substantiation of worsening of the condition will constitute a request to reopen, but the time for taking action on the request shall not commence until a formal application is filed with the department or self-insurer as the case may be.

A formal application occurs when the worker and doctor complete and file the application for reopening provided by the department. Upon receipt of an informal request without accompanying medical substantiation of worsening of the worker's condition, the department or self-insurer shall promptly provide the necessary application to the worker for completion. ~~((For services or provider types where the department has established a provider network, beginning January 1, 2013, medical treatment and documentation for reopening applications must be completed by network providers.))~~

If, within seven years from the date the first closing order became final, a formal application to reopen is filed which shows by "sufficient medical verification of such disability related to the accepted condition(s)" that benefits are payable, the department, or the self-insurer, pursuant to RCW 51.32.-210 and 51.32.190, respectively shall mail the first payment within fourteen days of receiving the formal application to reopen. If the application does not contain sufficient medical verification of disability, the fourteen-day period will begin upon receipt of such verification. If the application to reopen is granted, compensation will be paid pursuant to RCW 51.28.040. If the application to reopen is denied, the worker shall repay such compensation pursuant to RCW 51.32.240.

Applications for reopenings filed on or after July 1, 1988, must be acted upon by the department within ninety days of receipt of the application by the department or the self-insurer. The ninety-day limitation shall not apply if the worker files an appeal or request for reconsideration of the department's denial of the reopening application.

The department may, for good cause, extend the period in which the department must act for an additional sixty days. "Good cause" for such an extension may include, but not be limited to, the following:

- (1) Inability to schedule a necessary medical examination within the ninety-day time period;
- (2) Failure of the worker to appear for a medical examination;
- (3) Lack of clear or convincing evidence to support reopening or denial of the claim without an independent medical examination;
- (4) Examination scheduled timely but cannot be conducted and a report received in sufficient time to render a decision prior to the end of the ninety-day time period.

The department shall make a determination regarding "good cause" in a final order as provided in RCW 51.52.050.

The ninety-day limitation will not apply in instances where the previous closing order has not become final.

WSR 19-11-119
EXPEDITED RULES
HEALTH CARE AUTHORITY

[Filed May 22, 2019, 8:18 a.m.]

Title of Rule and Other Identifying Information: WAC 182-535-1050 Dental-related services—Definitions, 182-535-1060 Dental-related services—Client eligibility, 182-535A-0010 Orthodontic services—Definitions, and 182-535A-0020 Orthodontic treatment and orthodontic services—Client eligibility.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is striking all references to dental managed care from these sections. Eligible clients will continue to receive their dental services through fee-for-service.

Reasons Supporting Proposal: Recently signed ESHB 1109 directs the agency to not proceed with a managed care dental option, effective July 1, 2019. The agency previously revised these sections in anticipation of having a managed care dental option, effective July 1, 2019, to comply with SSB 5883 (Laws of 2017). This rule making strikes the dental managed care option.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, ESHB 1109, 66th legislature, 2019 regular session, sections 211 and 1111.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: Health care authority (HCA), governmental.

Name of Agency Personnel Responsible for Drafting: Michael Williams, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1348; Implementation and Enforcement: Pixie Needham, P.O. Box 45502, Olympia, WA 98504-2716 [98504-5502], 360-725-9967.

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

Content is explicitly and specifically dictated by statute.

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 Wendy Barcus, Rules Coordinator, HCA, P.O. Box 42716, Olympia, WA 98504-2716, phone 360-725-1306, fax 360-586-9727, email arc@hca.wa.gov, AND RECEIVED BY July 23, 2019.

May 22, 2019
 Wendy Barcus
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-09-058, filed 4/15/19, effective 7/1/19)

WAC 182-535-1050 Definitions. The following definitions and abbreviations and those found in chapter 182-500 WAC apply to this chapter. The medicaid agency also uses dental definitions found in the American Dental Association's Current Dental Terminology (CDT) and the American Medical Association's Physician's Current Procedural Terminology (CPT). Where there is any discrepancy between the CDT or CPT and this section, this section prevails. (CPT is a trademark of the American Medical Association.)

"Access to baby and child dentistry (ABCD)" is a program to increase access to dental services for medicaid eligible infants, toddlers, and preschoolers through age five. See WAC 182-535-1245 for specific information.

"Alternate living facility" is defined in WAC 182-513-1100.

"American Dental Association (ADA)" is a national organization for dental professionals and dental societies.

"Anterior" refers to teeth (maxillary and mandibular incisors and canines) and tissue in the front of the mouth. Permanent maxillary anterior teeth include teeth six, seven, eight, nine, ten, and eleven. Permanent mandibular anterior teeth include teeth twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, and twenty-seven. Primary maxillary anterior teeth include teeth C, D, E, F, G, and H. Primary mandibular anterior teeth include teeth M, N, O, P, Q, and R.

"Asynchronous" means two or more events not happening at the same time.

"Behavior management" means using one additional professional staff, who is employed by the dental provider or clinic and who is not delivering dental treatment to the client, to manage the client's behavior to facilitate dental treatment delivery.

"By-report" means a method of reimbursement in which the department determines the amount it will pay for a service when the rate for that service is not included in the agency's published fee schedules. Upon request the provider must submit a "report" that describes the nature, extent, time, effort and/or equipment necessary to deliver the service.

"Caries" means carious lesions or tooth decay through the enamel or decay on the root surface.

- **"Incipient caries"** means the beginning stages of caries or decay, or subsurface demineralization.

- **"Rampant caries"** means a sudden onset of widespread caries that affects most of the teeth and penetrates quickly to the dental pulp.

"Comprehensive oral evaluation" means a thorough evaluation and documentation of a client's dental and medical history to include extra-oral and intra-oral hard and soft tissues, dental caries, missing or unerupted teeth, restorations, occlusal relationships, periodontal conditions (including periodontal charting), hard and soft tissue anomalies, and oral cancer screening.

"Conscious sedation" means a drug-induced depression of consciousness during which a client responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, spontaneous ventilation is adequate, and cardiovascular function is maintained.

"Core buildup" means the building up of clinical crowns, including pins.

"Coronal" means the portion of a tooth that is covered by enamel.

"Crown" means a restoration covering or replacing the whole clinical crown of a tooth.

"Current dental terminology (CDT)" means a systematic listing of descriptive terms and identifying codes for reporting dental services and procedures performed by dental practitioners. CDT is published by the Council on Dental Benefit Programs of the American Dental Association (ADA).

"Current procedural terminology (CPT)" means a systematic listing of descriptive terms and identifying codes for reporting medical services, procedures, and interventions performed by physicians and other practitioners who provide physician-related services. CPT is copyrighted and published annually by the American Medical Association (AMA).

"Decay" means a term for caries or carious lesions and means decomposition of tooth structure.

"Deep sedation" means a drug-induced depression of consciousness during which a client cannot be easily aroused, ventilatory function may be impaired, but the client responds to repeated or painful stimulation.

"Dental general anesthesia" see **"general anesthesia."**

"Dentures" means an artificial replacement for natural teeth and adjacent tissues, and includes complete dentures, immediate dentures, overdentures, and partial dentures.

"Denturist" means a person licensed under chapter 18.30 RCW to make, construct, alter, reproduce, or repair a denture.

"Distant site (location of dental provider)" means the physical location of the dentist or authorized dental provider providing the dental service to a client through teledentistry.

"Edentulous" means lacking teeth.

"Endodontic" means the etiology, diagnosis, prevention and treatment of diseases and injuries of the pulp and associated periradicular conditions.

"EPSDT" means the agency's early and periodic screening, diagnostic, and treatment program for clients age twenty and younger as described in chapter 182-534 WAC.

"Extraction" see **"simple extraction"** and **"surgical extraction."**

"Flowable composite" means a diluted low-viscosity-filled resin-based composite dental restorative material that is used in cervical restorations and small, low stress bearing occlusal restorations.

"Fluoride varnish, rinse, foam or gel" means a substance containing dental fluoride which is applied to teeth, not including silver diamine fluoride.

"General anesthesia" means a drug-induced loss of consciousness during which a client is not arousable even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Clients may require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

"Interim therapeutic restoration (ITR)" means the placement of an adhesive restorative material following caries debridement by hand or other method for the management of early childhood caries. It is not considered a definitive restoration.

"Limited oral evaluation" means an evaluation limited to a specific oral health condition or problem. Typically a client receiving this type of evaluation has a dental emergency, such as trauma or acute infection.

"Limited visual oral assessment" means an assessment by a dentist or dental hygienist provided in a setting other than a dental office or dental clinic to identify signs of disease and the potential need for referral for diagnosis.

"Medically necessary" see WAC 182-500-0070.

"Oral evaluation" see **"comprehensive oral evaluation."**

"Oral hygiene instruction" means instruction for home oral hygiene care, such as tooth brushing techniques or flossing.

"Originating site (location of client)" means the physical location of the medicaid client as it relates to teledentistry.

"Partials" or **"partial dentures"** mean a removable prosthetic appliance that replaces missing teeth on either arch.

"Periodic oral evaluation" means an evaluation performed on a patient of record to determine any changes in the client's dental or medical status since a previous comprehensive or periodic evaluation.

"Periodontal maintenance" means a procedure performed for clients who have previously been treated for periodontal disease with surgical or nonsurgical treatment. It includes the removal of supragingival and subgingival microorganisms, calculus, and deposits with hand and mechanical instrumentation, an evaluation of periodontal conditions, and a complete periodontal charting as appropriate.

"Periodontal scaling and root planing" means a procedure to remove plaque, calculus, microorganisms, and rough cementum and dentin from tooth surfaces. This includes hand and mechanical instrumentation, an evaluation of periodontal conditions, and a complete periodontal charting as appropriate.

"Posterior" means the teeth (maxillary and mandibular premolars and molars) and tissue towards the back of the mouth. Permanent maxillary posterior teeth include teeth one, two, three, four, five, twelve, thirteen, fourteen, fifteen, and sixteen. Permanent mandibular posterior teeth include teeth seventeen, eighteen, nineteen, twenty, twenty-one, twenty-eight, twenty-nine, thirty, thirty-one, and thirty-two. Primary maxillary posterior teeth include teeth A, B, I, and J. Primary mandibular posterior teeth include teeth K, L, S, and T.

~~(**"Prepaid ambulatory health plan (PAHP)"** see WAC 182-538-050. For the purpose of this chapter, dental managed care contractors are considered PAHPs.)~~

"Prophylaxis" means the dental procedure of scaling and polishing which includes removal of calculus, plaque, and stains from teeth.

"Proximal" means the surface of the tooth near or next to the adjacent tooth.

"Radiograph (X-ray)" means an image or picture produced on a radiation sensitive film emulsion or digital sensor by exposure to ionizing radiation.

"Reline" means to resurface the tissue side of a denture with new base material or soft tissue conditioner in order to achieve a more accurate fit.

"Root canal" means the chamber within the root of the tooth that contains the pulp.

"Root canal therapy" means the treatment of the pulp and associated periradicular conditions.

"Root planing" means a procedure to remove plaque, calculus, microorganisms, and rough cementum and dentin from tooth surfaces. This includes hand and mechanical instrumentation.

"Scaling" means a procedure to remove plaque, calculus, and stain deposits from tooth surfaces.

"Sealant" means a dental material applied to teeth to prevent dental caries.

"Simple extraction" means the extraction of an erupted or exposed tooth to include the removal of tooth structure, minor smoothing of socket bone, and closure, as necessary.

"Standard of care" means what reasonable and prudent practitioners would do in the same or similar circumstances.

"Surgical extraction" means the extraction of an erupted or impacted tooth requiring removal of bone and/or sectioning of the tooth, and including elevation of mucoperiosteal flap if indicated. This includes related cutting of gingiva and bone, removal of tooth structure, minor smoothing of socket bone, and closure.

"Synchronous" means existing or occurring at the same time.

"Teledentistry" means the variety of technologies and tactics used to deliver HIPAA-compliant, interactive, real-time audio and video telecommunications (including web-based applications) or store-and-forward technology to deliver covered services within the dental care provider's scope of practice to a client at a site other than the site where the provider is located.

"Temporomandibular joint dysfunction (TMJ/TMD)" means an abnormal functioning of the temporomandibular joint or other areas secondary to the dysfunction.

"Therapeutic pulpotomy" means the surgical removal of a portion of the pulp (inner soft tissue of a tooth), to retain the healthy remaining pulp.

"Usual and customary" means the fee that the provider usually charges nonmedicaid customers for the same service or item. This is the maximum amount that the provider may bill the agency.

AMENDATORY SECTION (Amending WSR 19-09-058, filed 4/15/19, effective 7/1/19)

WAC 182-535-1060 Client eligibility. (1) Refer to WAC 182-501-0060 to see which apple health programs include dental-related services in their benefit package.

(2) ~~((Clients whose benefit package includes dental services are assigned a dental managed care plan. If a client is not eligible for a dental managed care plan, they receive services on a fee-for-service basis.~~

~~(3) Clients enrolled in an agency contracted managed care organization (MCO) or prepaid ambulatory health plan (PAHP) must receive their dental services through that MCO or PAHP, except as described under WAC 182-538-095.~~

~~(a) All clients are eligible for dental managed care benefits with the exception of clients receiving apple health benefits under a state-only program.~~

~~(b) Clients eligible for dental managed care on a voluntary basis include:~~

~~(i) American Indian/Alaska native (AI/AN) clients; and~~

~~(ii) Clients who reside in a county that has only one MCO or PAHP.~~

~~(c) See WAC 182-538-060 for more details regarding managed care choice and assignment.~~

(4)) Managed care clients are eligible under apple health fee-for-service for covered dental-related services not covered by their managed care organization (MCO), subject to the provisions of this chapter and other applicable agency rules.

(3) See WAC 182-507-0115 for rules for clients eligible under the alien emergency medical program.

((5)) (4) Exception to rule procedures as described in WAC 182-501-0160 are not available for services that are excluded from a client's benefit package.

AMENDATORY SECTION (Amending WSR 19-09-058, filed 4/15/19, effective 7/1/19)

WAC 182-535-1245 Access to baby and child dentistry (ABCD) program. The access to baby and child dentistry (ABCD) program is a program established to increase access to dental services for medicaid-eligible clients ages five and younger.

(1) Client eligibility for the ABCD program is as follows:

(a) Clients must be age five and younger. Once enrolled in the ABCD program, eligible clients are covered until their sixth birthday.

(b) Clients eligible under one of the following medical assistance programs are eligible for the ABCD program:

(i) Categorically needy program (CNP);

(ii) Limited casualty program-medically needy program (LCP-MNP);

(iii) Children's health program; ~~((☞))~~

(iv) State children's health insurance program (SCHIP);

or

(c) ABCD program services for eligible clients enrolled in a managed care organization (MCO) plan are paid through the fee-for-service payment system.

(2) Health care providers and community service programs identify and refer eligible clients to the ABCD program. If enrolled, the client and an adult family member may receive:

(a) Oral health education;

(b) "Anticipatory guidance" (expectations of the client and the client's family members, including the importance of keeping appointments); and

(c) Assistance with transportation, interpreter services, and other issues related to dental services.

(3) Only ABCD-certified dentists and other agency-approved certified providers are paid an enhanced fee for furnishing ABCD program services. ABCD program services include, when appropriate:

(a) Family oral health education. An oral health education visit:

(i) Is limited to one visit per day per family, up to two visits per child in a twelve-month period, per provider or clinic; and

(ii) Must include documentation of all of the following in the client's record:

(A) "Lift the lip" training;

(B) Oral hygiene training;

(C) Risk assessment for early childhood caries;

(D) Dietary counseling;

(E) Discussion of fluoride supplements; and

(F) Documentation in the client's record to record the activities provided and duration of the oral education visit.

(b) Comprehensive oral evaluations as defined in WAC 182-535-1050, once per client, per provider or clinic, as an initial examination. The agency covers an additional comprehensive oral evaluation if the client has not been treated by the same provider or clinic within the past five years;

(c) Periodic oral evaluations as defined in WAC 182-535-1050, once every six months. Six months must elapse between the comprehensive oral evaluation and the first periodic oral evaluation;

(d) Topical application of fluoride varnish;

(e) Amalgam, resin, and glass ionomer restorations on primary teeth, as specified in the agency's current published documents;

(f) Interim therapeutic restorations (ITRs) for primary teeth, only for clients age five and younger. The agency pays an enhanced rate for these restorations to ABCD-certified, ITR-trained dentists as follows:

(i) A one-surface, resin-based composite restoration with a maximum of five teeth per visit; and

(ii) Restorations on a tooth can be done every twelve months through age five, or until the client can be definitively treated for a restoration.

(g) Therapeutic pulpotomy;

(h) Prefabricated stainless steel crowns on primary teeth, as specified in the agency's current published documents;

(i) Resin-based composite crowns on anterior primary teeth; and

(j) Other dental-related services, as specified in the agency's current published documents.

(4) The client's record must show documentation of the ABCD program services provided.

AMENDATORY SECTION (Amending WSR 19-09-058, filed 4/15/19, effective 7/1/19)

WAC 182-535A-0010 Definitions. The following definitions and those found in chapter 182-500 WAC apply to this chapter.

"Adolescent dentition" means teeth that are present after the loss of primary teeth and prior to the cessation of growth that affects orthodontic treatment.

"Appliance placement" means the application of orthodontic attachments to the teeth for the purpose of correcting dentofacial abnormalities.

"Cleft" means an opening or fissure involving the dentition and supporting structures, especially one occurring in utero. These can be:

(a) Cleft lip;

(b) Cleft palate (involving the roof of the mouth); or

(c) Facial clefts (e.g., macrostomia).

"Comprehensive full orthodontic treatment" means utilizing fixed orthodontic appliances for treatment of adolescent dentition leading to the improvement of a client's severe handicapping craniofacial dysfunction and/or dentofacial deformity, including anatomical and functional relationships.

"Craniofacial anomalies" means abnormalities of the head and face, either congenital or acquired, involving disruption of the dentition and supporting structures.

"Craniofacial team" means a cleft palate/maxillofacial team or an American Cleft Palate Association-certified craniofacial team. These teams are responsible for the management (review, evaluation, and approval) of patients with cleft palate craniofacial anomalies to provide integrated management, promote parent-professional partnership, and make appropriate referrals to implement and coordinate treatment plans.

"Crossbite" means an abnormal relationship of a tooth or teeth to the opposing tooth or teeth, in which normal buccolingual or labiolingual relations are reversed.

"Dental dysplasia" means an abnormality in the development of the teeth.

"Ectopic eruption" means a condition in which a tooth erupts in an abnormal position or is fifty percent blocked out of its normal alignment in the dental arch.

"EPSDT" means the agency's early and periodic screening, diagnostic, and treatment program for clients twenty years of age and younger as described in chapter 182-534 WAC.

"Hemifacial microsomia" means a developmental condition involving the first and second brachial arch. This creates an abnormality of the upper and lower jaw, ear, and associated structures (half or part of the face is smaller in size).

"Interceptive orthodontic treatment" means procedures to lessen the severity or future effects of a malformation and to affect or eliminate the cause. Such treatment may occur in the primary or transitional dentition and may include such procedures as the redirection of ectopically erupting teeth, correction of isolated dental cross-bite, or recovery of recent minor space loss where overall space is adequate.

"Limited orthodontic treatment" means orthodontic treatment with a limited objective, not involving the entire dentition. It may be directed only at the existing problem, or at only one aspect of a larger problem in which a decision is made to defer or forego more comprehensive therapy.

"Malocclusion" means improper alignment of biting or chewing surfaces of upper and lower teeth or abnormal relationship of the upper and lower dental arches.

"Maxillofacial" means relating to the jaws and face.

"Occlusion" means the relation of the upper and lower teeth when in functional contact during jaw movement.

"Orthodontics" means treatment involving the use of any appliance, in or out of the mouth, removable or fixed, or any surgical procedure designed to redirect teeth and surrounding tissues.

"Orthodontist" means a dentist who specializes in orthodontics, who is a graduate of a postgraduate program in orthodontics that is accredited by the American Dental Association, and who meets the licensure requirements of the department of health.

"Permanent dentition" means those teeth that succeed the primary teeth and the additional molars that erupt.

~~("Prepaid ambulatory health plan" or "PAHP" see WAC 182-538-050. For the purpose of this chapter, dental managed care contractors are considered PAHPs.)~~

"Primary dentition" means teeth that develop and erupt first in order of time and are normally shed and replaced by permanent teeth.

"Transitional dentition" means the final phase from primary to permanent dentition, in which most primary teeth have been lost or are in the process of exfoliating and the permanent successors are erupting.

AMENDATORY SECTION (Amending WSR 19-09-058, filed 4/15/19, effective 7/1/19)

WAC 182-535A-0020 Client eligibility. (1) Subject to the limitations of this chapter, the medicaid agency covers medically necessary orthodontic treatment and orthodontic-related services for severe handicapping malocclusions, craniofacial anomalies, or cleft lip or palate, for eligible clients through age twenty. Refer to WAC 182-501-0060 to see which Washington apple health programs include orthodontic services in their benefit package.

~~(2) ((Clients enrolled in an agency contracted managed care organization (MCO) or prepaid ambulatory health plan (PAHP) must receive their orthodontic services through that MCO or PAHP, except as described under WAC 182-538-095. Clients whose benefit package includes dental services are assigned a dental managed care plan. If a client is not eligible for a dental managed care plan, they receive services on a fee-for-service basis.~~

~~(a) All clients are eligible for dental managed care benefits with the exception of clients receiving apple health benefits under a state-only program.~~

~~(b) Clients eligible for dental managed care on a voluntary basis include:~~

~~(i) American Indian/Alaska native (AI/AN) clients; and~~

~~(ii) Clients who reside in a county that has only one MCO or PAHP.~~

~~(c) See WAC 182-538-060 for more details regarding managed care choice and assignment.~~

~~(d) If a client receiving orthodontic services through an MCO or PAHP chooses to transfer to another MCO or PAHP or to fee-for-service (FFS) during active orthodontic treatment, the MCO or PAHP that initiated the orthodontic treatment remains responsible for payment until completion of the orthodontic treatment.~~

~~(e) If an FFS client transfers to an MCO or PAHP during active orthodontic treatment, the MCO or PAHP assumes~~

~~payment responsibility until completion of the orthodontic treatment.~~

~~(3))~~ Eligible clients may receive the same orthodontic treatment and orthodontic-related services in recognized out-of-state bordering cities on the same basis as if provided in-state. See WAC 182-501-0175.

~~((4))~~ (3) Eligible clients may receive the same orthodontic treatment and orthodontic-related services for continued orthodontic treatment when originally rendered by a non-medicaid or out-of-state provider as follows:

(a) The provider must submit the initial orthodontic case study and treatment plan records with the request for continued treatment.

(b) The agency evaluates the initial orthodontic case study and treatment plan to determine if the client met the agency's orthodontic criteria per WAC 182-535A-0040 (1) through (3).

(c) The agency determines continued treatment duration based on the client's current orthodontic conditions.

(d) The agency does not cover continued treatment if the client's initial condition did not meet the agency's criteria for the initial orthodontic treatment. The agency pays a deband and retainer fee if the client does not meet the initial orthodontic treatment criteria.

WSR 19-11-132

EXPEDITED RULES

ENERGY FACILITY SITE

EVALUATION COUNCIL

[Filed May 22, 2019, 10:54 a.m.]

Title of Rule and Other Identifying Information: This rule making would revise adoption-by-reference chapter 463-78 WAC, 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-by-reference of the WAC air rules to incorporate the updates made by department of ecology air rules: Chapter 173-400 WAC, updated October 25, 2018; chapter 173-401 WAC, updated September 16, 2018; and chapter 173-460 WAC, updated June 20, 2009.

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 incorporated regulates the same subject matter and conduct as the adopting or incorporating 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 Sonia Bumpus, Manager, EFSEC, P.O. Box 43172, Olympia, WA 98504-3172, phone 360-664-1363, email EFSEC@utc.wa.gov, AND RECEIVED BY July 22, 2019.

May 22, 2019
Sonia Bumpus
Manager

AMENDATORY SECTION (Amending WSR 15-16-033, filed 7/27/15, effective 8/27/15)

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, as it existed on ~~((December 29, 2012))~~ November 25, 2018, with the exceptions that:

(a) WAC 173-400-111 (5)(a) (last six words), (6), (9), ~~((and WAC 173-400-720 is adopted by reference except the date in WAC 173-400-720 (4)(a)(vi) is May 1, 2015, and WAC))~~ 173-400-730(4), and 173-400-750(2) second sentence are not adopted by reference~~((s))~~; and

(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	<u>Adoption of federal rules.</u>
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 173-400-070 (5) and (7) only:))~~

WAC 173-400-075:	Emission standards for sources emitting hazardous air pollutants.
WAC 173-400-081:	<u>Emission limits during startup and shutdown.</u>
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 <u>(ERC).</u>
WAC 173-400-161:	Compliance schedules.
WAC 173-400-171:	Public ((involvement)) <u>notice and opportunity for public comment.</u>
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 173-401-620:	Standard terms and conditions.
WAC 173-400-740:	PSD permitting public involvement requirements.	WAC 173-401-625:	Federally enforceable requirements.
WAC 173-400-750:	Revisions to PSD permits.	WAC 173-401-630:	Compliance requirements.
WAC 173-400-800:	Major stationary source and major modification in a nonattainment area.	WAC 173-401-635:	Temporary sources.
WAC 173-400-810:	Major stationary source and major modification definitions.	WAC 173-401-640:	Permit shield.
WAC 173-400-820:	Determining if a new stationary source or modification to a stationary source is subject to these requirements.	WAC 173-401-645:	Emergency provision.
WAC 173-400-830:	Permitting requirements.	WAC 173-401-650:	Operational flexibility.
WAC 173-400-840:	Emission offset requirements.	WAC 173-401-700:	Action on application.
WAC 173-400-850:	Actual emissions plantwide applicability limitation (PAL).	WAC 173-401-705:	Requirement for a permit.
WAC 173-400-860:	Public involvement procedures.	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.

(2) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-401 WAC, as it existed on September ~~((10, 2011))~~ 16, 2018, with the exception that (a) WAC 173-401-620 (2)~~((a))~~(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 173-401-100:	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.

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

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) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-460 WAC, as it existed on ~~((March 1, 2005))~~ June 20, 2009.

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.))~~ First tier review.

WAC 173-460-090: Second tier ~~((analysis))~~ review.

WAC 173-460-100: ~~((Request for risk management decision.))~~ Third tier review.

~~((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.))~~ Table of ASIL, SQER, and de minimis emission values.

~~((WAC 173-460-160: Class B toxic air pollutants and acceptable source impact levels.))~~

(5) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-441 WAC, as it existed on January 1, 2011.

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 173-441-090: 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 173-441-140: 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.

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

WAC 463-78-100 Registration. (1) Purpose. The registration program is used by the council to develop and maintain a current and accurate record of air contaminant sources subject to chapter 80.50 RCW. Information collected through the registration program is used to evaluate the effectiveness of air pollution strategies in collaboration with the department of ecology, and to verify source compliance with applicable air pollution requirements.

(2) Requirement to register. Except as provided in subsection (3) of this section, the owner or operator of each source subject to chapter 80.50 RCW shall register the source with the council. Sources subject to the Operating permit regulation in chapter 173-401 WAC are not required to comply with these registration requirements.

(3) The following sources are exempt from registration:

(a) A source that emits pollutants below the following emission rates:

Pollutant	Tons/Year
Carbon monoxide	5.0
Nitrogen oxides	2.0
Sulfur dioxide	2.0
Particulate Matter (PM)	1.25
Fine Particulate (PM10)	0.75
Volatile Organic Compounds (VOC)	2.0
Lead	0.005

; and

(b) A source or emission unit that does not emit measurable amounts of Class A (~~or Class B~~) toxic air pollutants specified in WAC 173-460-150 (~~and 173-460-160~~).

(4) Initial registration. The owner or operator of a source that exists on the effective date of this rule must register the source with the council by no later than one year after the effective date of this rule. The owner or operator of a new source must register with the council within ninety days after beginning operation.

(5) Annual reregistration. After initial registration, the owner or operator of a source must reregister with the council

by February 15 of each year. The reregistration must include all of the information required in the initial registration and must be updated to reflect any changes to such information since the previous registration. For information that has not changed since the previous registration, the owner or operator may reaffirm in writing the correctness and current status of the information previously furnished to the council.

(6) Registration format. Registration shall be in a format approved by the council. Each registration submittal shall include the following information:

- (a) Name of the source and the nature of the business;
- (b) Street address, telephone number(~~(, facsimile number,)~~) and email address of the source;
- (c) Name, mailing address, telephone number(~~(, facsimile number,)~~) and email address of the owner or operator;
- (d) Name, mailing address, telephone number(~~(, facsimile number,)~~) and email address of the local individual responsible for compliance with this rule;
- (e) Name, mailing address, telephone number(~~(, facsimile number,)~~) and email address of the individual authorized to receive requests for data and information;
- (f) A description of the production processes and a related flow chart;
- (g) Identification of emission units and air pollutant generating activities;
- (h) A plot plan showing the location and height of all emission units and air pollutant generating activities. The plot plan must also show the property lines of the air pollution source and indicate the distance to and direction of the nearest residential or commercial property;
- (i) Type and quantity of fuels, including the sulfur content of fuels, used on a daily and annual basis;
- (j) Type and quantity of raw materials used on a daily and annual basis;
- (k) Estimates of the total actual emissions for the air pollution source of the following air pollutants: Particulate matter emissions, PM₁₀ emissions, sulfur dioxide (SO₂), nitrogen oxides (NO_x), carbon monoxide (CO), volatile organic compounds (VOC), lead (Pb), fluorides, sulfuric acid mist, hydrogen sulfide (H₂S), total reduced sulfur (TRS), and reduced sulfur compounds;
- (l) Calculations used to determine the estimated emissions in (k) of this subsection;
- (m) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions; and
- (n) Any other information specifically requested by the council.

(7) Procedure for estimating emissions. The registration submittal must include an estimate of actual emissions taking into account equipment, operating conditions, and air pollution control measures. The emission estimates must be based upon actual test data, or in the absence of such data, upon procedures acceptable to the council. Any emission estimates submitted to the council must be verifiable using currently accepted engineering criteria. The following procedures are generally acceptable for estimating emissions from air pollution sources:

- (a) Source-specific emission tests;
- (b) Mass balance calculations;

(c) Published, verifiable emission factors that are applicable to the source;

(d) Other engineering calculations; or

(e) Other procedures to estimate emissions specifically approved by the council.

(8) Other reports required.

(a) A report of closure shall be filed with the council within ninety days after operations producing emissions permanently ceased at any source within the council's jurisdiction.

(b) A report of relocation of the source shall be filed with the council no later than ninety days prior to the relocation of the source. Submitting a report of relocation does not relieve the owner or operator of other site certification agreement amendment requirements pursuant to chapter 463-66 WAC, nor does it relieve the owner or operator from the requirement to obtain a permit or approval to construct if the relocation of the air pollution source would be a new source or modification subject to any federal or state permit to construct rule.

(c) A report of change of owner or operator shall be reported to the council within ninety days after the change in ownership is effective. Submitting the report of change of ownership does not relieve the owner or operator of other site certification agreement amendment requirements pursuant to chapter 463-66 WAC.

(9) Certification of truth and accuracy. All registrations and reports must include a certification by the owner or operator as to the truth, accuracy, and completeness of the information. This certification must state that, based on information and belief formed after reasonable inquiry, the statements and information are true, accurate, and complete.

(10) The council shall ensure that the following, as it pertains to sources covered under this rule, is passed on to ecology in a timely manner for inclusion in its permit register:

(a) Public meetings or hearings on draft operating permits;

(b) Receipt of complete applications;

(c) Permit appeals;

(d) Issuance or denial of final permit, permit modifications, or renewals;

(e) Authorization for a source to operate without an operating permit by limiting its potential to emit to levels below those that would require the source to obtain an operating permit;

(f) Periodic summaries of enforcement order and changes made without revising the permit pursuant to WAC 173-401-722.