

WSR 24-23-088

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed November 19, 2024, 11:25 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-545 WAC, Washington turfgrass seed commission.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In response to a petition for rule making, the department of agriculture (department) is proposing to clarify current rule language by replacing all gender-specific pronouns with modern gender-inclusive pronouns.

Reasons Supporting Proposal: RCW 43.01.160 requires state agencies to use gender-neutral terms in rules unless a specification of gender is intended. Replacing gender-specific terminology supports the department's commitment to integrate inclusive policies and procedures.

Gender-inclusive pronouns are pronouns that are not specifically gendered and can be utilized when referring to each other in the third person. They are linguistic tools that we use to refer to people. Using gender-neutral pronouns can help create a more inclusive and welcoming environment and show respect for people's gender identities.

Statutory Authority for Adoption: RCW 43.23.025.

Statute Being Implemented: Chapter 15.65 RCW.

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

Name of Proponent: Washington turfgrass seed commission, governmental.

Name of Agency Personnel Responsible for Drafting: Megan Finkenbinder, 1111 Washington Street S.E., Olympia, 360-902-1887; Implementation and Enforcement: Shane Johnson, 6601 West Deschutes Avenue, Suite C-2, Kennewick, 509-585-5460.

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

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

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Expedited process is appropriate due to it being name changes and no impact to rule effects.

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 Megan Finkenbinder, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, phone 360-902-1887, fax 360-902-2092, email mfinkenbinder@agr.wa.gov, BEGINNING December 4, 8:00 a.m., AND RECEIVED BY January 21, 11:59 p.m.

November 19, 2024
Derek I. Sandison
Director

OTS-5973.1

AMENDATORY SECTION (Amending WSR 23-16-119, filed 8/1/23, effective 9/1/23)

WAC 16-545-020 Turfgrass seed board. (1) **Administration.** The provisions of this order and the applicable provisions of the act is administered and enforced by the board as the designee of the director.

(2) **Board membership.**

(a) The board consists of seven voting members numbered positions one through seven.

(b) Except as otherwise provided by this chapter, each district has the following positions represented:

District 1 - Positions one and two.

District 2 - Positions three and four.

(c) Position five represents the district with the highest reported value of production of turfgrass seed the previous three years.

(d) Position six is a handler appointed by the appointed or elected producer members of the board.

(e) Position seven represents and is appointed by the director.

(3) **Board membership qualifications.**

(a) Positions one through five.

(i) Except as otherwise provided by this chapter, board members in positions one through five must be practical producers of turfgrass seed in the district in and for which they are nominated, appointed, or elected and each shall be a citizen and resident of the state, over the age of (~~eighteen~~) 18 years. Each producer board member must be and have been actually engaged in producing turfgrass seed within the state of Washington for a period of three years and has during that time derived a substantial portion of (~~his or her~~) their income therefrom and who is not engaged in business as a handler or other dealer.

(ii) If any district has fewer than three practical producers of turfgrass seed or if no nominations are made for a district, that district's position is deemed "at large" for that term of office and may be filled by a producer of turfgrass seed in another district who meets all membership qualifications. This provision does not apply to position five.

(b) The board member in position six must be a practical handler of turfgrass seed and must be a citizen and resident of the state, over the age of (~~eighteen~~) 18 years. The handler board member must be and have been, either individually or as an officer or an employee of a corporation, firm, partnership, association or cooperative actually engaged in handling turfgrass seed within the state of Washington for a period of five years and has during that period derived a substantial portion of (~~his or her~~) their income therefrom.

(c) The board member in position seven must be neither a producer nor a handler.

(d) The qualifications of members of the board must continue during their term of office.

(4) **Term of office.** The term of office for members of the board is three years. One-third of the membership as nearly as possible must be appointed or elected each year.

(5) **Nomination of elected or director-appointed board members.**

(a) Each year the director shall call a nomination meeting for elected and/or director-appointed producer board members in those districts whose board members term is about to expire. The meeting(s) must be held at least (~~thirty~~) 30 days in advance of the date set by the director for the election or advisory vote of board members.

(b) Notice of a nomination meeting must be published in a newspaper of general circulation within the affected district at least (~~ten~~) 10 days in advance of the date of the meeting and in addition, written notice of every meeting must be given to all affected producers within the affected district according to the list maintained by the board pursuant to RCW 15.65.295.

(c) Nonreceipt of notice by any interested person will not invalidate the proceedings at the nomination meeting.

(d) Any qualified affected producer may be nominated orally for membership on the board at the nomination meetings. Nominations may also be made within five days after the meeting by written petition filed with the director, signed by at least five affected producers.

(e) When only one nominee is nominated by the affected producers for an elected and/or director-appointed position, RCW 15.65.250 shall apply.

(f) If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the open board position(s) by mail to all affected producers. Nominating petitions for producers must be signed by at least five affected producers of the district from which the candidate will be appointed or elected. The final date for filing nominations must be at least (~~twenty~~) 20 days after the notice was mailed.

(6) Election or advisory vote of board members.

(a) An election or advisory vote shall be conducted by secret ballot under the supervision of the director within the month of January. Each affected producer shall be entitled to one vote.

(b) Elected members of the board must be elected by a majority of the votes cast by the affected producers within the affected district. If a nominee does not receive a majority of the votes on the first ballot a runoff election must be held by mail in a similar manner between the two candidates for the position receiving the largest number of votes.

(c) An advisory vote shall be conducted for producer board members appointed by the director under the provision of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, and advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(d) Notice of every election or advisory vote for board membership must be published in a newspaper of general circulation within the affected district at least (~~ten~~) 10 days in advance of the date of the election or advisory vote. At least (~~ten~~) 10 days before every election or advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears upon the list of the affected producers maintained by the board pursuant to RCW 15.65.295. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing their qualifications.

(e) Nonreceipt of a ballot by an affected producer will not invalidate the election or advisory vote of any board member.

(7) **Vacancies.**

(a) In the event of a vacancy on the board in an elected or commission-appointed position, the remaining members shall select a qualified person to fill the unexpired term. The appointment shall be made at the board's first or second meeting after the position becomes vacant.

(b) In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

(8) **Quorum.** A majority of the members is a quorum for the transaction of all business and to execute the duties of the board.

(9) **Board compensation.** No member of the board will receive any salary or other compensation, but each member may be compensated for each day in actual attendance at or traveling to and from meetings of the board or on special assignment for the board, in accordance with RCW 43.03.230 together with travel expenses in accordance with RCW 43.03.050 and 43.03.060. The board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this market-ing order pursuant to RCW 15.65.270.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and other officers as the board deems advisable.

(c) To employ and discharge at its discretion the personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to execute the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. The expenses and costs may be paid by check; draft or voucher in the form and the manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director to defray the costs of formulating the order.

(f) To establish a "turfgrass seed board marketing revolving fund" and to deposit the fund in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed (~~one hundred dollars~~) \$100, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done under this order. The records, books and accounts must be audited at least once every five years subject to procedures and methods lawfully prescribed by the state auditor. The books and accounts must be closed as of the last day of each fiscal year of the commission. A copy of the audit shall be delivered within (~~thirty~~) 30 days after completion to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board may deem necessary. The board must pay the premium for the bond or bonds from assessments collected. The bond may not be necessary if any blanket bond

covering officials or employees of the state of Washington covers any board member or employee.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. The board, at least (~~sixty~~) 60 days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(j) To establish by resolution a headquarters, which shall continue unless, changed by the board. All records, books and minutes of board meetings must be kept at the headquarters.

(k) To adopt rules of a technical or administrative nature for the operation of the board, under chapter 34.05 RCW (Administrative Procedure Act).

(l) To execute RCW 15.65.510 covering the obtaining of information necessary to effectuate the order and the act, along with the necessary authority and procedure for obtaining the information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States to obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To execute any other grant of authority or duty provided designees and not specifically set forth in this section.

(p) To sue or be sued.

(q) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(r) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local.

(s) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(t) To enter into contracts or agreements for research in the production, irrigation, and transportation of turfgrass seed.

(u) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of attorney general.

(v) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(w) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, and transportation of turfgrass seed including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(x) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(y) To maintain a list of the names and addresses of persons who handle turfgrass seed within the affected area and data on the amount and value of the turfgrass seed handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(z) To maintain a list of names and addresses of all affected persons who produce turfgrass seed and the amount, by unit, of turfgrass seed produced during the past three years pursuant to RCW 15.65.295.

(aa) To maintain a list of all persons who handle turfgrass seed and the amount of turfgrass seed handled by each person during the past three years pursuant to RCW 15.65.295.

(bb) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(11) **Procedures for board.**

(a) The board shall hold regular meetings, at least quarterly, with the time and date fixed by resolution of the board and held in accordance with chapter 42.30 RCW (Open Public Meetings Act). Notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change to the meeting schedule shall be published in the state register at least (~~twenty~~) 20 days prior to the rescheduled meeting date.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget must be presented for discussion at the meeting. Notice of the annual meeting must be filed in accordance with chapter 42.30 RCW (Open Public Meetings Act). Notice of the annual meeting must be given at least (~~ten~~) 10 days prior to the meeting by written notice to each producer and by notifying the regular news media.

(c) The board shall establish by resolution the time, place, and manner of calling special meetings of the board with (~~twenty-four~~) 24 hours written notice to the members. A board member may waive in writing (~~his or her~~) their notice of any special meeting. Notice for special meetings shall be in compliance with chapter 42.30 RCW.

WSR 24-23-089

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed November 19, 2024, 11:26 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-540 WAC, Washington mint commission.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In response to a petition for rule making, the department of agriculture (department) is proposing to clarify current rule language by replacing all gender-specific pronouns with modern gender-inclusive pronouns.

Reasons Supporting Proposal: RCW 43.01.160 requires state agencies to use gender-neutral terms in rules unless a specification of gender is intended. Replacing gender-specific terminology supports the department's commitment to integrate inclusive policies and procedures.

Gender-inclusive pronouns are pronouns that are not specifically gendered and can be utilized when referring to each other in the third person. They are linguistic tools that we use to refer to people. Using gender-neutral pronouns can help create a more inclusive and welcoming environment and show respect for people's gender identities.

Statutory Authority for Adoption: RCW 43.23.025.

Statute Being Implemented: Chapter 15.65 RCW.

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

Name of Proponent: Washington mint commission, governmental.

Name of Agency Personnel Responsible for Drafting: Megan Finkenbinder, 1111 Washington Street S.E., Olympia, 360-902-1887; Implementation and Enforcement: Shane Johnson, 6601 West Deschutes Avenue, Suite C-2, Kennewick, 509-585-5460.

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November 19, 2024
Derek I. Sandison
Director

OTS-5972.1

AMENDATORY SECTION (Amending WSR 17-05-034, filed 2/8/17, effective 3/11/17)

WAC 16-540-010 Definitions. Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agriculture Commodity Boards Act. For the purpose of this marketing order, the following additional definitions shall apply:

"Act" means the Washington State Agricultural Commodity Boards Act or chapter 15.65 RCW.

"Affected area" means the state of Washington.

"Affected handler" means any person who acts as principal or agent or otherwise in buying, selling, marketing or distributing mint oils produced from mint plants not grown by ~~((him/her))~~ them. Affected handler does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

"Affected producer" or "producer" means any person who produces, or causes to be produced in commercial quantities, in the state of Washington, any variety of mint plant from which the essential oil is distilled or extracted. "To produce" means to act as a producer. For the purposes of the mint marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the essential oil and its resulting agricultural product or the agricultural product delivered for further production or increase.

"Affected unit" means one pound of mint oil as distilled from mint plants grown by an affected producer.

"Commercial quantity" means all of the mint plants produced in any calendar year by any producer, from which the essential oil is distilled or extracted.

"Department" means the department of agriculture of the state of Washington.

"Director" means the director of agriculture of the state of Washington or ~~((his/her))~~ the director's duly appointed representative.

"Disclosure" means inspection or copying.

"Marketing season" or "fiscal year" means the ~~((twelve))~~ 12-month period beginning with July 1st of any year and ending with the last day of June, both dates being inclusive.

"Mint commodity board" hereinafter referred to as "board" or "commission" means the commodity board formed under WAC 16-540-020.

"Mint oil" means essential oil that is distilled from any variety of mint plant.

"Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society or any other organization of individuals, or any unit or agency of local or state government.

"Producer-handler" means any person who acts both as a "producer" and as a "handler" with respect to mint oil. A producer-handler shall be deemed to be a producer with respect to the mint plants and/or oil which ~~((he/she produces))~~ they produce, and a handler with respect to the mint oil which ~~((he/she handles))~~ they handle, including those produced by ~~((himself/herself))~~ themselves.

"Public records" includes any writing containing information relating to the conduct of government or the performance of any govern-

mental or proprietary function prepared, owned, used, or retained by the department regardless of physical form or characteristics.

"Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

AMENDATORY SECTION (Amending WSR 19-12-103, filed 6/5/19, effective 7/6/19)

WAC 16-540-020 The mint commodity board. (1) Administration.

The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) Board membership.

(a) The board shall consist of eight members. Seven members shall be affected producers appointed or elected as provided in this marketing order. The director shall appoint one member of the board who is neither an affected producer nor an affected handler to represent the director. The position representing the director shall be a voting member.

(i) Director-appointed affected producer positions on the board shall be designated as position 1, position 2, position 6, and position 7.

(ii) Elected affected producer positions on the board shall be designated as position 3, position 4, and position 5.

(iii) The position representing the director who is neither an affected producer nor an affected handler shall be designated as position 8.

(b) For the purpose of nomination, appointment, and election of affected producer members of the board, the affected area of the state of Washington shall be divided into two representative districts as follows:

(i) District I shall have four board members, being positions 1, 2, 3 and 4 and shall include the counties of Kittitas, Yakima and Benton.

(ii) District II shall have three board members, being positions 5, 6 and 7 and shall include all other counties located in the state of Washington.

(3) Board membership qualifications.

(a) The affected producer members of the board must be practical producers of mint plants in the district in and for which they are nominated and appointed or elected and each shall be a citizen and resident of the state of Washington, over the age of (~~eighteen~~) 18 years. Each affected producer board member must be and have been actually engaged in producing mint plants within the state of Washington for a period of five years and has during that time derived a substantial portion of (~~his/her~~) their income therefrom and is not engaged in business, directly or indirectly, as a handler or other dealer.

(b) The qualifications of members of the board must continue during their term of office.

(4) Term of office.

(a) The term of office for members of the board shall be three years, and one-third of the membership as nearly as possible shall be appointed or elected each year.

(b) The term of office for the initial board members shall be as follows:

Positions one and two - One year

Positions three, four and eight - Two years

Positions five, six and seven - Three years

(c) Except for the director's representative, no appointed or elected member of the board may serve more than two full consecutive three-year terms.

(d) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members in positions one, two, six and seven shall be forwarded to the director for appointment within (~~thirty~~) 30 days of the effective date of this amended marketing order.

(5) Nomination of elected or director-appointed board members.

(a) For the purpose of nominating candidates for appointment or election to board membership the director shall call separate meetings of affected producers.

(b) Each year the director shall call a nomination meeting for both elected and director-appointed affected producer board members in those districts whose board members' term are about to expire. The meeting shall be held at least (~~thirty~~) 30 days in advance of the date set by the director for the election or advisory vote of board members.

(c) Notice of a nomination meeting shall be published in a newspaper of general circulation within the affected district not less than (~~ten~~) 10 days in advance of the date of the meeting and in addition, written notice of every such meeting shall be given to all affected producers within such affected district according to the list maintained by the board pursuant to RCW 15.65.295.

(d) Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting.

(e) Any qualified affected producer may be nominated orally for membership on the board at the nomination meeting. Nominations may also be made within five days after the nomination meeting by written petition filed with the director signed by not less than five affected producers.

(f) When only one nominee is nominated by the affected producers for any position, RCW 15.65.250 shall apply.

(6) Election or advisory vote of board members.

(a) An election or advisory vote shall be conducted by secret ballot under the supervision of the director within the month of June. Each affected producer shall be entitled to one vote.

(b) Elected affected producer members of the board shall be elected by a majority of the votes cast by the affected producers within the affected district. If a nominee does not receive a majority of the votes on the first ballot a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) An advisory vote shall be conducted for affected producer board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(d) Notice of every election or advisory vote for board membership shall be published in a newspaper of general circulation within

the affected district not less than (~~ten~~) 10 days in advance of the date of the election or advisory vote. Not less than (~~ten~~) 10 days prior to every election or advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears upon the list of such affected producers maintained by the board pursuant to RCW 15.65.295. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing (~~his/her~~) their qualifications.

(e) Nonreceipt of a ballot by an affected producer shall not invalidate the election or advisory vote of any board member.

(7) **Vacancies.**

(a) In the event of a vacancy on the board in an elected position, the remaining members shall select a qualified person to fill the unexpired term. The appointment shall be made at the board's first or second meeting after the position becomes vacant.

(b) In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

(8) **Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary or other compensation, but each member may be compensated in accordance with RCW 43.03.230 and shall be reimbursed for subsistence, lodging, and mileage in accordance with RCW 43.03.050 and 43.03.060, as provided for in RCW 15.65.270. The board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating the order.

(f) To establish a "mint board revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed (~~one hundred dollars~~) \$100, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pur-

suant to this order. Such records, books and accounts shall be audited subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the commission. A copy of such audit shall be delivered within (~~thirty~~) 30 days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. The board, at least (~~sixty~~) 60 days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.04 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon (~~him~~) them by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(p) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(q) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(r) To enter into contract or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of mint.

(s) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(t) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(u) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution,

sale, or use of mint including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(v) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each affected producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(w) To maintain a list of the names and addresses of persons who handle mint within the affected area and data on the amount and value of the mint handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(x) To maintain a list of the names and addresses of all affected persons who produce mint and the amount, by unit, of mint produced during the past three years pursuant to RCW 15.65.295.

(y) To maintain a list of all persons who handle mint and the amount of mint handled by each person during the past three years pursuant to RCW 15.65.295.

(z) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(aa) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(11) **Procedures for board.**

(a) The board shall hold regular meetings, at least quarterly, with the time and date thereof to be fixed by resolution of the board and the meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act). Notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change to the meeting schedule shall be published in the state register at least (~~twenty~~) 20 days prior to the rescheduled meeting date.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least (~~ten~~) 10 days prior to the meeting through regular wire news services and radio-television press.

(c) The board shall establish by resolution, the time, place and manner of calling special meetings with reasonable notice to the members: Provided, That the notice to a member of any special meeting may be waived by a waiver from that member of the board. Notice for special meetings shall be in compliance with chapter 42.30 RCW.

WSR 24-23-090

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed November 19, 2024, 11:28 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-550 WAC, Washington blueberry commission.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In response to a petition for rule making, the department of agriculture (department) is proposing to clarify current rule language by replacing all gender-specific pronouns with modern gender-inclusive pronouns.

Reasons Supporting Proposal: RCW 43.01.160 requires state agencies to use gender-neutral terms in rules unless a specification of gender is intended. Replacing gender-specific terminology supports the department's commitment to integrate inclusive policies and procedures.

Gender-inclusive pronouns are pronouns that are not specifically gendered and can be utilized when referring to each other in the third person. They are linguistic tools that we use to refer to people. Using gender-neutral pronouns can help create a more inclusive and welcoming environment and show respect for people's gender identities.

Statutory Authority for Adoption: RCW 43.23.025.

Statute Being Implemented: Chapter 15.65 RCW.

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

Name of Proponent: Washington blueberry commission, governmental.

Name of Agency Personnel Responsible for Drafting: Megan Finkenbinder, 1111 Washington Street S.E., Olympia, 360-902-1887; Implementation and Enforcement: Alan Schreiber, 2621 Ringold Road, Eltopia, 509-266-4300.

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

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

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Expedited process is appropriate due to it being name changes and no impact to rule effects.

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 Megan Finkenbinder, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, phone 360-902-1887, fax 360-902-2092, email mfinkenbinder@agr.wa.gov, BEGINNING December 4, 8:00 a.m., AND RECEIVED BY January 21, 11:59 p.m.

November 19, 2024
Derek I. Sandison
Director

OTS-5974.1

AMENDATORY SECTION (Amending WSR 06-17-078, filed 8/14/06, effective 9/14/06)

WAC 16-550-010 Definitions of terms. Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agricultural Commodity Boards Act. For the purpose of this marketing order, the following additional definitions shall apply:

(1) "Director" means the director of agriculture of the state of Washington or (~~his or her~~) the director's duly appointed representative.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Act" means the Washington State Agricultural Commodity Boards Act or chapter 15.65 RCW.

(4) "Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society or any other organization of individuals, or any unit or agency of local or state government.

(5) "Affected producer" or "producer" means any person who produces blueberries in commercial quantities in the state of Washington, or who sells or stores blueberries in the state of Washington for fresh market or for processing. "To produce" means to act as a producer. For the purposes of the blueberry marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(6) "Commercial quantity" means any blueberries produced, or stored, for a market by a producer in any calendar year.

(7) "Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, storing, or distributing blueberries not produced by (~~him/her~~) them. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

(8) "Blueberry commodity board" hereinafter referred to as "board" or "commission" means the commodity board formed under the provisions of WAC 16-550-020 of this blueberry order.

(9) "Blueberries" means and includes all kinds, varieties, and hybrids of "vaccinium corym bosum" and "vaccinium australe" grown and marketed in the state of Washington.

(10) "Marketing season" or "fiscal year" means the (~~twelve~~) 12-month period beginning January 1st and ending December 31st, both dates being inclusive.

(11) "Producer-handler" means any person who acts both as a producer and as a handler with respect to blueberries. A producer-handler shall be deemed to be a producer with respect to the blueberries which (~~he/she produces~~) they produce and a handler with respect to the blueberries which (~~he/she handles~~) they handle, including those produced by (~~himself/herself~~) themselves.

(12) "Affected area" means the state of Washington.

(13) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(14) "Affected unit" means one pound net of blueberries.

AMENDATORY SECTION (Amending WSR 06-17-078, filed 8/14/06, effective 9/14/06)

WAC 16-550-020 Blueberry commodity board. (1) Administration.

The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) Board membership.

(a) The board shall consist of seven members. Six members shall be affected producers appointed or elected as provided in this section. The director shall appoint one member of the board who is neither an affected producer nor a handler to represent the director. The position representing the director shall be a voting member.

(i) Director-appointed affected producer positions on the board shall be designated as positions two, four and six.

(ii) Elected affected producer positions on the board shall be designated as positions one, three and five.

(iii) The position representing the director who is neither an affected producer nor a handler shall be designated as position seven.

(b) For the purpose of nomination, appointment, and election of producer members of the board, the affected area shall be the entire state of Washington.

(3) Board membership qualifications. The producer members of the board must be practical producers of blueberries and each must be a citizen and resident of this state, over the age of (~~eighteen~~) 18 years. Each producer board member must be and have been actually engaged in producing blueberries within the state of Washington for a period of five years and has, during that time, derived a substantial portion of (~~his/her~~) their income therefrom and is not engaged in business, directly or indirectly, as a handler or other dealer.

(4) Term of office.

(a) The term of office for members of the board shall be three years and one-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through six and the member representing the director position seven.

(c) The term of office for the initial board members shall be as follows:

Positions one and two - Until June 30, 1970

Positions three and four - Until June 30, 1971

Positions five, six and seven - Until June 30, 1972

(d) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members in positions two, four and six shall be forwarded to the director for appointment within (~~thirty~~) 30 days of the effective date of this amended marketing order.

(5) Nomination of elected or director-appointed board members.

(a) Each year the director shall call a nomination meeting for elected and/or director-appointed producer board members. The meeting(s) shall be held at least (~~thirty~~) 30 days in advance of the date set by the director for the election or advisory vote of board members.

(b) Notice of a nomination meeting shall be published in a newspaper of general circulation within the major production area not less than (~~ten~~) 10 days in advance of the date of the meeting and, in ad-

dition, written notice of every meeting shall be given to all affected producers according to the list maintained by the board pursuant to RCW 15.65.295.

(c) Nonreceipt of notice by any interested person shall not invalidate the proceedings at the nomination meeting.

(d) Any qualified affected producer may be nominated orally for membership on the board at the nomination meeting(s). Nominations may also be made within five days after the nomination meeting by written petition filed with the director, signed by not less than five affected producers.

(e) When only one nominee is nominated by the affected producers for any position, RCW 15.65.250 shall apply.

(6) **Election or advisory vote of board members.**

(a) An election or advisory vote shall be conducted by secret ballot under the supervision of the director within the month of May. Each affected producer shall be entitled to one vote. Elected members of the board shall be elected by a majority of the votes cast by the affected producers.

(b) If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) An advisory vote shall be conducted for producer board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(d) Notice of every election or advisory vote for board membership shall be published in a newspaper of general circulation within the major production area not less than (~~ten~~) 10 days in advance of the date of the election or advisory vote. Not less than (~~ten~~) 10 days prior to every election or advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears upon the list of such affected producers maintained by the board pursuant to RCW 15.65.295. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing (~~his/her~~) their qualifications.

(e) Nonreceipt of a ballot by any affected producer shall not invalidate the election or advisory vote of any board member.

(7) **Vacancies.**

(a) In the event of a vacancy on the board in an elected position, the remaining members shall select a qualified person to fill the unexpired term. The appointment shall be made at the board's first or second meeting after the position became vacant.

(b) In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

(8) **Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary except that each member may be compensated in accordance with RCW 43.03.230 and shall be reimbursed for subsistence, lodging, and mileage in accordance with RCW 43.03.050 and 43.03.060, as provided for in RCW 15.65.270. The board may adopt, by resolution, provisions

for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited with the director in order to defray the costs of formulating the order.

(f) To establish a "blueberry board marketing revolving fund" and the fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board except as the amount of petty cash for each day's needs, not to exceed (~~one hundred dollars~~) \$100, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys and other financial transactions made and done pursuant to this order. Records, books and accounts shall be audited at least every five years subject to procedures and methods lawfully prescribed by the state auditor. Books and accounts shall be closed as of the last day of each fiscal year of the state of Washington. A copy of such audit shall be delivered within (~~thirty~~) 30 days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for a bond or bonds shall be paid by the board from assessments collected. A bond shall not be necessary if any board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. At least (~~thirty~~) 30 days prior to the beginning of its fiscal year, the board shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.04 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon (~~him~~) them by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(p) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(q) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(r) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of blueberries.

(s) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(t) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(u) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of blueberries including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(v) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each affected producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(w) To maintain a list of the names and addresses of persons who handle blueberries within the affected area and data on the amount and value of the blueberries handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(x) To maintain a list of names and addresses of all affected persons who produce blueberries and the amount, by unit, of blueberries produced during the past three years pursuant to RCW 15.65.295.

(y) To maintain a list of all persons who handle blueberries and the amount of blueberries handled by each person during the past three years pursuant to RCW 15.65.295.

(z) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(aa) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(11) **Procedures for board.**

(a) The board shall hold regular meetings, at least quarterly, with the time and date thereof to be fixed by resolution of the board

and the meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act). Notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change to the meeting schedule shall be published in the state register at least (~~twenty~~) 20 days prior to the rescheduled meeting date.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least (~~ten~~) 10 days prior to the meeting by written notice to each producer and by regular wire news services and radio-television press.

(c) The board shall establish by resolution, the time, place and manner of calling special meetings of the board with reasonable notice to the members: Provided, That the notice to a member of any special meeting may be waived by a waiver thereof from that member of the board. Notice for special meetings shall be in compliance with chapter 42.30 RCW.

WSR 24-23-098
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed November 20, 2024, 8:17 a.m.]

Title of Rule and Other Identifying Information: Chapter 296-27 WAC, Recordkeeping and reporting.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In July 2023, the Federal Occupational Safety and Health Administration (OSHA) updated federal rules to improve tracking of workplace injuries and illnesses. The rule went into effect in January 2024. The division of occupational safety and health (DOSH) must update WAC rules in order to remain as-effective-as OSHA, as required by the Washington state plan.

Proposed amendments:

- Numerating definitions for ease in cross-referencing.
- Removing "you" and adding "employee" or "employer" in order to provide clarity as to responsible party.
- Removed redundant terms.
- Updated gender-specific terms to gender-neutral terms.
- Establishments with 100 or more employees in certain high-hazard industries must electronically submit information from their Form 300-Log of Work-Related Injuries and Illnesses, and Form 301-Injury and Illness Report to OSHA once a year. These submissions are in addition to submission of Form 300A-Summary of Work Related Injuries and Illnesses.
- Added new Appendix B-1 Designated industries required to file Annual electronic submission of OSHA Form 300 and Form 301.
- Updated filing requirements for establishments listed in Appendix B-1 that had 20-249 employees the previous year.
- Renamed Appendix B to Appendix B-2.
- Updated Appendix B-2 to remove no longer used NAICS codes and include new codes.
- To improve data quality, establishments are required to include their legal company name when making electronic submissions to OSHA from their injury and illness records.

Reasons Supporting Proposal: The proposed rule making is needed in order to be at-least-as-effective-as federal OSHA under the Washington state plan.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

Rule is necessary because of federal law, [no information supplied by agency].

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

Name of Agency Personnel Responsible for Drafting: Carmyn Shute, Tumwater, Washington, 360-870-4525; Implementation and Enforcement: Craig Blackwood, Tumwater, Washington, 360-902-5828.

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.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: This rule making is limited to implementing federal law.

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 Carmyn Shute, Administrative Regulations Analyst, Department of Labor and Industries, DOSH, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-870-4525, fax 360-902-5619, email Carmyn.Shute@lni.wa.gov, BEGINNING November 21, 2024, 8:00 a.m., AND RECEIVED BY January 21, 2025, 5:00 p.m.

November 20, 2024
Joel Sacks
Director

OTS-5904.3

AMENDATORY SECTION (Amending WSR 19-17-068, filed 8/20/19, effective 1/1/20)

WAC 296-27-001 Definitions. (1) Amputation. The traumatic loss of an appendage, such as an upper or lower limb (or part of the limb) or other external body part that has been severed or cut off either completely or partially at the time of the injury, or is surgically removed due to irreparable damage. Amputations may or may not include bone loss.

Note: Amputations include fingertips and amputations of body parts that have since been reattached. Amputations do not include loss of an eye, broken or chipped teeth, scalplings, or avulsions, such as degloving, where the skin and tissue have been torn away from the underlying subcutaneous tissue, tendons, muscle, or bone.

(2) Authorized employee representative. An authorized collective bargaining agent of employees.

(3) Authorized government representative. A representative of the Secretary of Labor, conducting an inspection or investigation under the act, a representative of the Secretary of Health and Human Services (including the National Institute for Occupational Safety and Health (NIOSH)) conducting an investigation under section 20(b) of the act, or a division of occupational safety and health (DOSH) representative of the state department of labor and industries.

(4) Department. The Washington state department of labor and industries.

(5) Employer. A person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in

any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations. Provided that any persons, partnership, or business entity not having employees, and who is covered by the Industrial Insurance Act, must be considered both an employer and employee.

(6) Establishment. A single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas and sanitary services; and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc., that either supervise such activities or are the base from which personnel carry out these activities.

(a) Normally, one business location has only one establishment. Under limited conditions, the employer may consider two or more separate businesses that share a single location to be separate establishments. You may divide one location into two or more establishments only when:

(i) Each of the establishments represents a distinctly separate business;

(ii) Each business is engaged in a different economic activity;

(iii) No one industry description in the North American Industrial Classification System applies to the joint activities of the establishments; and

(iv) Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information. For example, if an employer operates a construction company at the same location as a lumber yard, the employer may consider each business to be a separate establishment.

(b) You may combine two or more physical locations into a single establishment only when:

(i) You operate the locations as a single business operation under common management;

(ii) The locations are all located in close proximity to each other; and

(iii) You keep one set of business records for the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information. For example, one manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

(c) For employees who telecommute from home, the employee's home is not a business establishment, and a separate OSHA 300 Log is not required. Employees who telecommute must be linked to one of your establishments under WAC 296-27-02101(4).

(7) First aid. For the purpose of this chapter, first aid only includes the following:

(a) Using a nonprescription medication at nonprescription strength (for medications available in both prescription and nonprescription form, a recommendation by a physician or other licensed health care professional to use a nonprescription medication at prescription strength is considered medical treatment for recordkeeping purposes);

- (b) Administering tetanus immunizations (other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment);
- (c) Cleaning, flushing, or soaking wounds on the surface of the skin;
- (d) Using wound coverings such as bandages, Band-Aids™, gauze pads, etc., or using butterfly bandages or Steri-Strips™ (other wound closing devices such as sutures, staples, etc., are considered medical treatment);
- (e) Using hot or cold therapy;
- (f) Using any nonrigid means of support, such as elastic bandages, wraps, nonrigid back belts, etc., (devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for recordkeeping purposes);
- (g) Using temporary immobilization devices while transporting an accident victim (e.g., splints, slings, neck collars, back boards, etc.);
- (h) Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister;
- (i) Using eye patches;
- (j) Removing foreign bodies from the eye using only irrigation or a cotton swab;
- (k) Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs, or other simple means;
- (l) Using finger guards;
- (m) Using massages (physical therapy or chiropractic treatment are considered medical treatment for recordkeeping purposes); or
- (n) Drinking fluids for relief of heat stress.

(8) Injury or illness. An abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning. Injuries and illness are recordable only if they are new, work-related cases that meet one or more of this section's recording criteria.

(9) Inpatient hospitalization. To be admitted into a hospital or equivalent facility for medical treatment.

(10) Loss of an eye(s). The physical removal of an eye occurring either at the time of injury or is surgically removed due to irreparable damage. The loss of sight without the removal is not reportable, unless the worker is admitted as an inpatient hospitalization after losing sight as a result of a worker-related incident, then it is reportable within the eight-hour time frame specified in WAC 296-27-031(1).

(11) Medical treatment. The management and care of a patient to ((~~com~~-bat)) combat disease or disorder. For the purposes of this section, medical treatment does not include:

- (a) Visits to a physician or other licensed health care professional solely for observation or counseling;
- (b) The conduct of diagnostic procedures, such as X rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes (e.g., eye drops to dilate pupils); or
- (c) First aid (see definition of first aid).

(12) OSHA. Occupational Safety and Health Administration.

(13) Other potentially infectious materials. Includes all of the following:

(a) The following human body fluids: Semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;

(b) Any unfixed tissue or organ (other than intact skin) from a human (living or dead);

(c) HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV; and

(d) Blood and tissues of experimental animals infected with bloodborne pathogens.

(14) Personal representative. Any person that the employee or former employee designates as such in writing, or the legal representative of a deceased or legally incapacitated employee or former employee.

(15) Physician or other licensed health care professional. A physician or other licensed health care professional whose legally permitted scope of practice (i.e., license, registration, or certification) allows them to independently perform, or be delegated the responsibility to perform, the activities described by this regulation.

(16) Preexisting condition. An injury or illness that resulted solely from a nonwork-related event or exposure.

(17) Routine functions. For recordkeeping purposes, routine functions are those work activities the employee regularly performs at least once per week.

(18) WISHA (WISH Act). The Washington Industrial Safety and Health Act.

(19) Work environment. The establishment and other locations where one or more employees are working or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of their work.

~~((You. An employer (see definition of employer).))~~

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-00103 Partial exemption for employers with ~~((ten))~~ 10 or fewer employees. (1) If ~~((your))~~ the company had ~~((ten))~~ 10 or fewer employees at all times during the last calendar year, ~~((you do))~~ the employer does not need to keep injury and illness records unless DOSH, OSHA, or the Bureau of Labor Statistics (BLS) informs ~~((you))~~ the employer in writing that ~~((you))~~ the employer must keep records under this section. However, as required by WAC 296-27-031, all employers covered by WISHA must report any work-related incident that results in a fatality, inpatient hospitalization, amputation, or the loss of an eye.

(a) The partial exemption for size is based on the number of employees in the entire company.

(b) To determine if ~~((you are))~~ the company is exempt because of size, ~~((you))~~ the employer will need to determine ~~((your))~~ the company's peak employment during the last calendar year. If ~~((you))~~ the em-

ployer had no more than ~~((ten))~~ 10 employees at any time in the last calendar year, ~~((you))~~ the company qualifies for the partial exemption for size.

(2) If ~~((you))~~ the company had more than ~~((ten))~~ 10 employees at any time during the last calendar year, ~~((you))~~ the employer must keep injury and illness records unless ~~((you))~~ the establishment is classified as a partially exempt industry under WAC 296-27-00105.

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-00105 Partial exemption for establishments in certain industries. (1) If ~~((you))~~ the establishment is classified in a specific, low hazard industry group listed in Table 1, Industry Exemption List for Recordkeeping at the end of this section, ~~((you do))~~ the employer does not need to keep injury and illness records unless DOSH, OSHA, or the BLS asks ~~((you))~~ to keep the records under this chapter. However, all employers must report to DOSH any work-related incident that results in a fatality, inpatient hospitalization, amputation, or the loss of an eye of any employee (see WAC 296-27-031).

(2) The partial industry classification exemption is based on the North American Industrial Classification System (NAICS), and it applies to individual business establishments. If a company has several business establishments engaged in different classes of business activities, some of the company's establishments may be required to keep records while others may be exempt.

- Note: To determine your NAICS code, you can do one of the following:
1. Contact your nearest OSHA office or the department.
 2. Use the search feature at the U.S. Census Bureau NAICS main web page: <http://www.census.gov/eos/www/naics/>. In the search box for the most recent NAICS, enter a keyword that describes your type of business. A list of primary business activities containing that keyword and the corresponding NAICS codes will appear. Choose the one that most closely corresponds to your primary business activity or refine your search to obtain other choices.
 3. Rather than searching through a list of primary business activities, you may also view the most recent complete NAICS structure with codes and titles by clicking on the link for the most recent NAICS on the U.S. Census Bureau NAICS main web page: <http://www.census.gov/eos/www/naics/>. Then click on the two-digit sector code to see all the NAICS codes under that sector. Then choose the six-digit code of your interest to see the corresponding definition, as well as cross-references and index items, when available.
 4. If you know your old SIC code, you can also find the appropriate 2002 NAICS code by using the detailed conversion (concordance) between the 1987 SIC and 2002 NAICS available in Excel format for download at the "Concordances" link at the U.S. Census Bureau NAICS main web page: <http://www.census.gov/eos/www/naics/>.

**Table 1
Industry Exemption List for Record-keeping**

NAICS Code	Industry
4412	Other Motor Vehicle Dealers
4431	Electronics and Appliance Stores
4461	Health and Appliance Stores
4471	Gasoline Stations
4481	Clothing Stores
4482	Shoe Stores
4483	Jewelry, Luggage, and Leather Goods Stores
4511	Sporting Goods, Hobby, and Musical Instrument Stores
4512	Book, Periodical, and Music Stores
4531	Florists

NAICS Code	Industry
4532	Office Supplies, Stationery, and Gift Stores
4812	Nonscheduled Air Transportation
4861	Pipeline Transportation of Crude Oil
4862	Pipeline Transportation of Natural Gas
4869	Other Pipeline Transportation
4879	Scenic and Sightseeing Transportation
4885	Freight Transportation Arrangement
5111	Newspaper, Periodical, Book, and Directory Publishers
5112	Software Publishers
5121	Motion Picture and Video Industries
5122	Sound Recording Industries
5151	Radio and Television Broadcasting
5172	Wireless Telecommunications Carriers (except Satellite)
5173	Telecommunications Resellers
5179	Other Telecommunications
5181	Internet Service Providers and Web Search Portals
5182	Data Processing, Hosting, and Related Services
5191	Other Information Services
5211	Monetary Authorities—Central Bank
5221	Depository Credit Intermediation
5222	Nondepository Credit Intermediation
5223	Activities Related to Credit Intermediation
5231	Securities and Commodity Contracts Intermediation and Brokerage
5232	Securities and Commodity Exchanges
5239	Other Financial Investment Activities
5241	Insurance Carriers
5242	Agencies, Brokerages, and Other Insurance Related Activities
5251	Insurance and Employee Benefit Funds
5259	Other Investment Pools and Funds
5312	Office of Real Estate Agents and Brokers
5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)
5411	Legal Services
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services
5413	Architectural, Engineering, and Related Services
5414	Specialized Design Services
5415	Computer Systems Design and Related Services

NAICS Code	Industry
5416	Management, Scientific, and Technical Consulting Services
5417	Scientific Research and Development Services
5418	Advertising and Related Services
5511	Management of Companies and Enterprises
5611	Office Administrative Services
5614	Business Support Services
5615	Travel Arrangement and Reservation Services
5616	Investigation and Security Services
6111	Elementary and Secondary Schools
6112	Junior Colleges
6113	Colleges, Universities, and Professional Schools
6114	Business Schools and Computer and Management Training
6115	Technical and Trade Schools
6116	Other Schools and Instructions
6117	Educational Support Services
6211	Offices of Physicians
6212	Offices of Dentists
6213	Offices of Other Health Practitioners
6214	Outpatient Care Centers
6215	Medical and Diagnostic Laboratories
6244	Child Day Care Services
7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures
7115	Independent Artists, Writers, and Performers
7213	Rooming and Boarding Houses
7221	Full-Service Restaurants
7222	Limited-Service Eating Places
7224	Drinking Places (Alcoholic Beverages)
8112	Electronic and Precision Equipment Repair and Maintenance
8114	Personal and Household Goods Repair and Maintenance
8121	Personal Care Services
8122	Death Care Services
8131	Religious Organizations
8132	Grantmaking and Giving Services
8133	Social Advocacy Organizations
8134	Civic and Social Organizations
8139	Business, Professional, Labor, Political, and Similar Organizations

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-00107 Keeping records for more than one agency. If ~~((you create))~~ the employer creates records to comply with another government agency's injury and illness recordkeeping requirements, OSHA will consider those records as meeting federal recordkeeping requirements if OSHA accepts the other agency's records under a memorandum of understanding with that agency, or if the other agency's records contain the same information as required by 29 C.F.R., Part 1904. ~~((You))~~ The employer may contact DOSH for help in determining whether ~~((you))~~ the records meet OSHA's requirements.

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-011 Recordkeeping forms and recording criteria. This section describes the types of work-related injuries and illnesses that ~~((you))~~ the employer must enter on the OSHA recordkeeping forms. This section also explains the OSHA forms that ~~((you))~~ the employer must use to record work-related fatalities, injuries, and illnesses.

AMENDATORY SECTION (Amending WSR 19-17-068, filed 8/20/19, effective 1/1/20)

WAC 296-27-01107 General recording criteria. (1) The employer must consider an injury or illness to meet the general recording criteria, and therefore to be recordable, if it results in any of the following:

- (a) Death;
- (b) Days away from work;
- (c) Restricted work or transfer to another job;
- (d) Medical treatment beyond first aid;
- (e) Loss of consciousness for any length of time.

(2) The employer must also record any case that involves a **significant injury or illness** ~~((see WAC 296-27-01107(21)))~~ (see subsection (21) of this section) diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work, job transfer, medical treatment beyond first aid, or loss of consciousness.

(3) The employer must record an injury or illness that results in death by entering a check mark on the OSHA 300 Log in the space for cases resulting in death.

(4) When an injury or illness involves one or more days away from work, the employer must record the injury or illness on the OSHA 300 Log with a check mark in the space for cases involving days away and an entry for the number of calendar days away from work in the number of days column. If the employee is out for an extended period, the employer must enter an estimate for the number of days that the employee will be away, and update the day count when the actual number of days is known.

(5) The employer begins counting days away on the day after the injury occurred or the illness began.

(6) To record an injury or illness for which the employee comes to work against the physician's or other licensed health care professional's recommendation, the employer must do the following:

(a) Record these injuries and illnesses on the OSHA 300 Log using the check box for cases with days away from work and enter the number of calendar days away recommended by the physician or other licensed health care professional.

(b) Record the days away whether the injured or ill employee follows the physician or licensed health care professional's recommendation or not.

Notes:

1. If the employer receives recommendations from two or more physicians or other licensed health care professionals, the employer may make a decision as to which recommendation is the most authoritative and record the case based upon that recommendation.
2. Encourage (~~you#~~) the employee to follow the recommendation.

(7) When an employee decides to stay at home after the date a physician or other licensed health care professional recommends that the employee return to work, the employer must end the count of days away from work on the date the physician or other licensed health care professional recommends that the employee return to work.

(8) The employer must count the number of calendar days the employee was unable to work as a result of the injury or illness, regardless of whether or not the employee was scheduled to work on those day(s). Weekend days, holidays, vacation days or other days off are included in the total number of days recorded if the employee would not have been able to work on those days because of a work-related injury or illness.

(9) When a worker is injured or becomes ill on a Friday and reports to work on a Monday, and was not scheduled to work on the weekend, the employer only needs to record this case if they receive information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the weekend. If so, the employer must record the injury or illness as a case with days away from work or restricted work and enter the day counts as appropriate.

(10) If a worker is injured or becomes ill on the day before scheduled time off such as a holiday, a planned vacation, or a temporary plant closing, the employer only needs to record the case if they receive information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the scheduled time off. If so, the employer must record the injury or illness as a case with days away from work or restricted work and enter the day counts as appropriate.

(11) The employer is not required to keep track of the number of calendar days away from work if the injury or illness resulted in more than (~~one hundred eighty~~) 180 calendar days away from work or days of job transfer or restriction. In such a case, entering (~~one hundred eighty~~) 180 in the total days away column will be considered adequate.

(12) If the employee leaves (~~your~~) the company for some reason unrelated to the injury or illness, such as retirement, a plant closing, or to take another job, the employer may stop counting days away from work, days of restriction, or days of job transfer. If the employee leaves (~~your~~) the company because of the injury or illness, the employer must estimate the total number of days away, days of restriction, or days of job transfer and enter the day count on the OSHA 300 Log.

(13) If a case occurs in one calendar year but results in days away during the next calendar year, the employer only records the injury or illness once. The employer must enter the number of calendar days away for the injury or illness on the OSHA 300 Log for the year in which the injury or illness occurred. If the employee is still away from work because of the injury or illness when ~~((you prepare))~~ the employer prepares the annual summary, estimate the total number of calendar days ~~((you expect))~~ the employee is expected to be away from work. Then use this number to calculate the total for the annual summary. Update the initial log entry later when the day count is known or reaches the ~~((one hundred eighty))~~ 180 day cap.

(14) The employer must meet the following requirements for recording restricted work or job transfer.

(a) When an injury or illness involves restricted work or job transfer but does not involve death or days away from work, the employer must record the injury or illness on the OSHA 300 Log by placing a check mark in the space for job transfer or restriction and enter the number of restricted or transferred days in the restricted workdays column.

(b) Restricted work occurs when, as the result of a work-related injury or illness:

(i) The employer keeps the employee from performing one or more of the routine functions of their job, or from working the full workday that they would otherwise have been scheduled to work; or

(ii) A physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of their job, or not work the full workday that they would otherwise have been scheduled to work.

(c) The employer does not have to record restricted work or job transfers if ~~((you))~~ the employer, the physician, or other licensed health care professional impose the restriction or transfer only for the day on which the injury occurred or the illness began.

(d) A recommended work restriction is recordable only if it affects one or more of the employee's routine job functions. To determine whether this is the case, the employer must evaluate the restriction in light of the routine functions of the injured or ill employee's job. If the restriction from ~~((you))~~ the employer, the physician, or other licensed health care professional keeps the employee from performing one or more of their routine job functions, or from working the full workday the injured or ill employee would otherwise have worked, the employee's work has been restricted and ~~((you))~~ the employer must record the case.

(e) If an employee works only for a partial work shift because of the work-related injury or illness, the employer must record the partial day of work as a day of job transfer or restriction. However, the employer need not record the partial day of work if it is the same day the injury occurred or the illness began.

Note: The case is considered restricted work only if the worker does not perform all of the routine functions (see definition in this chapter) of their job or does not work the full shift that they would otherwise have worked.

(15) If the employer is not clear about the physician or other licensed health care professional's recommendation (i.e., engage only in "light duty" or "take it easy for the week"), the employer may ask the physician or other licensed health care professional:

(a) "Can the employee do all of their routine job functions?"

(b) "Can the employee work all of their normally assigned work shift?"

(i) If the answer to both of these questions is "Yes," then the case does not involve a work restriction and does not have to be recorded.

(ii) If the answer to one or both of these questions is "No," the case involves restricted work and must be recorded as a restricted work case.

(iii) If the employer is unable to obtain this additional information from the physician or other licensed health care professional who recommended the restriction, record the injury or illness as a case involving restricted work.

(16) To record an injury or illness for which a physician or other licensed health care professional recommends a job restriction, but the employee does all of their routine job functions, the employer must do the following:

(a) Record the injury or illness on the OSHA 300 Log as a restricted work case.

(b) Record this job restriction even if the employee chooses to do all of their routine job functions.

Notes: 1. If ~~((you receive))~~ the employer receives recommendations from two or more physicians or other licensed health care professionals, ~~((you))~~ the employer may make a decision as to which recommendation is the most authoritative and record the case based upon that recommendation.
2. If a physician or other licensed health care professional recommends a job restriction, ~~((you))~~ the employer should ensure that the employee complies with that restriction.

(17) If the employer assigns an injured or ill employee to a job other than their regular job for part of the day, the employer must record the case as a job transfer.

Notes: 1. This does not include the day on which the injury or illness occurred.
2. Transfers to another job are recorded in the same way as restricted work cases on the OSHA 300 Log. Example: If ~~((you assign))~~ the employer assigns, or a physician or other licensed health care professional recommends that ~~((you))~~ the employer assign(s) an injured or ill worker to their routine job duties for part of the day and to another job for the rest of the day, the injury or illness involves a job transfer. ~~((You))~~ The employer must record an injury or illness that involves a job transfer by placing a check in the box for job transfer.

(18) The employer counts days of job transfer or restriction in the same way they count days away from work. The only difference is that, if the employer permanently assigns the injured or ill employee to a job that has been modified or permanently changed in a manner that eliminates the routine functions the employee was restricted from performing, the employer may stop the day count when the modification or change is made permanent. The employer must count at least one day of restricted work or job transfer for such cases.

(19) If a work-related injury or illness results in medical treatment beyond first aid, the employer must record the case on the OSHA 300 Log. If the injury or illness did not involve death, one or more days away from work, one or more days of restricted work, or one or more days of job transfer, the employer enters a check mark in the box for cases where the employee received medical treatment but remained at work and was not transferred or restricted.

Note: The professional status of the person providing treatment has no effect on what is considered first aid or medical treatment as defined in WAC 296-27-051.

(20) The employer must record a case even if the injured or ill employee does not follow the physician or other licensed health care professional's recommendation for medical treatment.

(21) The employer must record "significant" diagnosed injuries or illnesses, such as work-related cases involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum at the time of diagnosis by a physician or other licensed health care professional even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

Note: OSHA believes that most significant injuries and illnesses will result in one of the criteria listed in WAC 296-27-01107(1): Death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness. However, there are some significant injuries, such as a punctured eardrum or a fractured toe or rib, for which neither medical treatment nor work restrictions may be recommended. In addition, there are some significant progressive diseases, such as byssinosis, silicosis, and some types of cancer, for which medical treatment or work restrictions may not be recommended at the time of diagnosis but are likely to be recommended as the disease progresses. Cancer, chronic irreversible diseases, fractured or cracked bones, and punctured eardrums are generally considered significant injuries and illnesses, and must be recorded at the initial diagnosis, even if medical treatment or work restrictions are not recommended, or are postponed, in a particular case.

AMENDATORY SECTION (Amending WSR 19-17-068, filed 8/20/19, effective 1/1/20)

WAC 296-27-01111 Recording criteria for medical removal cases.

(1) The employer must record any case that involves the medical removal of an employee on the OSHA 300 Log under the medical surveillance requirements.

(2) The employer must enter each medical removal case as either a case involving days away from work or a case involving restricted work activity. For medical removal cases that resulted from chemical exposure, ~~((you))~~ the employer must check the "poisoning" column.

Notes:

- Standards that do not include medical removal provisions include bloodborne pathogens and noise.
- Standards that cover specific chemical substances have medical removal provisions. These standards include, but are not limited to, lead, cadmium, methylene chloride, formaldehyde, and benzene.
- If ~~((you))~~ the employer voluntarily removes an employee from exposure before the medical removal criteria are met, ~~((you do))~~ the employer does not have to record the case.

AMENDATORY SECTION (Amending WSR 19-17-068, filed 8/20/19, effective 1/1/20)

WAC 296-27-01115 Recording criteria for work-related tuberculosis cases. The employer must record a tuberculosis (TB) case on the OSHA 300 Log by checking the "respiratory condition" column if any employee has been occupationally exposed to anyone with a known case of active TB, and that employee subsequently develops a TB infection that is confirmed by a positive skin test or diagnosis by a physician or other licensed health care professional.

Notes:

- The employer does not have to record a positive TB skin test result obtained at a preemployment physical because the employee was not occupationally exposed to a known case of active TB in ~~((your))~~ the workplace.
- The employer may line-out or erase a TB case from the log under the following circumstances:
 - The worker contracted TB while living in a household with a person who had been previously diagnosed with active TB;
 - The public health department has identified the worker as a contact of an individual with a case of active TB unrelated to the workplace; or
 - A medical investigation shows that the employee's infection was caused by exposure to TB away from work, or proves that the case was not related to the workplace TB exposure.

AMENDATORY SECTION (Amending WSR 19-17-068, filed 8/20/19, effective 1/1/20)

WAC 296-27-01119 Forms. (1) The employer must use the following OSHA forms (or equivalent forms), for recording work-related injuries and illnesses:

- OSHA 300, Log of Work-Related Injuries and Illnesses;
- OSHA 300-A, Summary of Work-Related Injuries and Illnesses;

and

- OSHA 301, Injury and Illness Incident Report.

(2) The employer must complete the OSHA forms as follows:

(a) At the top of the OSHA 300 Log, enter ~~((your))~~ the business information and enter a one or two line description for each recorda-

ble injury or illness. Summarize this information on the OSHA 300-A form at the end of the year.

(b) Complete an OSHA 301 Incident Report form, or an equivalent form, for each recordable injury or illness entered on the OSHA 300 Log.

(c) Enter each recordable injury or illness on the OSHA 300 Log and 301 Incident Report within seven calendar days of receiving information that a recordable injury or illness has occurred.

Note: ~~((You))~~ The employer may keep ~~((your))~~ injury and illness forms on a computer if ~~((you))~~ the employer can produce equivalent forms when they are needed, as described under WAC 296-27-02111, 296-27-03101(1), and 296-27-03103.

(3) The employer must follow these requirements for **privacy concern cases** when filling out the OSHA 300 Log:

(a) The employer may not enter the employee's name on the OSHA 300 Log. Instead, enter "privacy case" in the space normally used for the employee's name in order to protect the identity of the injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the OSHA 300 Log under WAC 296-27-02111.

(b) The employer must keep a separate, confidential list of the case numbers and employee names for their privacy concern cases so they can update the cases and provide the information to the government if asked to do so.

(c) The following injuries or illnesses are the **only** types of privacy concern cases recognized by this section:

(i) An injury or illness to an intimate body part or the reproductive system;

(ii) An injury or illness resulting from a sexual assault;

(iii) Mental illnesses;

(iv) HIV infection, hepatitis, or tuberculosis;

(v) Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (see definition in WAC 296-27-051 of this chapter); **and**

(vi) Other illnesses if the employee independently and voluntarily requests that their name not be entered on the log.

(4) If the employer has a reasonable basis to believe that information describing the privacy concern case may be personally identifiable even though the employee's name has been omitted, they may use discretion in describing the injury or illness on both the OSHA 300 and 301 forms. The employer must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but they do not need to include details of an intimate or private nature. For example, a sexual assault case could be described as "injury from assault," or an injury to a reproductive organ could be described as "lower abdominal injury."

(5) If the employer decides to voluntarily disclose the forms to persons other than government representatives, employees, former employees or authorized representatives (as required by WAC 296-27-02111 and 296-27-03103), the employer must remove or hide the employees' names and other personally identifying information, except for the following cases. The employer may disclose the forms with personally identifying information only:

(a) To an auditor or consultant hired by the employer to evaluate the safety and health program;

(b) To the extent necessary for processing a claim for workers' compensation or other insurance benefits; or

(c) To a public health authority or law enforcement agency for uses and disclosures for which consent, an authorization, or opportu-

nity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. 164.512.

(6) Falsification, failure to keep records or reports.

(a) RCW 49.17.190(2) of the act provides that "whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter shall, upon conviction be guilty of a gross misdemeanor and be punished by a fine of not more than ~~((ten thousand dollars))~~ \$10,000, or by imprisonment for not more than six months or by both."

(b) Failure to maintain records or file reports required by this chapter, or in the detail required by the forms and instructions issued under this chapter, may result in the issuance of citations and assessment of penalties as provided for in chapter 296-900 WAC, Administrative rules.

AMENDATORY SECTION (Amending WSR 19-17-068, filed 8/20/19, effective 1/1/20)

WAC 296-27-02101 Multiple business establishments. (1) The employer must keep a separate OSHA 300 Log for each establishment that is expected to be in operation for one year or longer.

(2) The employer must keep injury and illness records for short-term establishments (i.e., establishments that will exist for less than a year). The employer does not have to keep a separate OSHA 300 Log for each such establishment. The employer may keep one OSHA 300 Log that covers all of ~~((your))~~ the short-term establishments. The employer may also include the short-term establishments' recordable injuries and illnesses on an OSHA 300 Log that covers short-term establishments for individual company divisions or geographic regions.

(3) If the employer keeps records for an establishment at their headquarters or other central location, the employer must be able to:

(a) Transmit information about the injuries and illnesses from the establishment to the central location within seven calendar days of receiving information that a recordable injury or illness has occurred; **and**

(b) Produce and send the records from the central location to the establishment within the time frames required by WAC 296-27-02111, 296-27-03101(1), and 296-27-03103 when the employer is required to provide records to a government representative, employees, former employees, or employee representatives.

(4) If the employer has employees that work at different locations or do not work at any of their establishments, they must link each of their employees with one of their establishments for record-keeping purposes. The employer must record the injury and illness on the OSHA 300 Log of the injured or ill employee's establishment, or on an OSHA 300 Log that covers that employee's short-term establishment.

(5) If an employee of one of ~~((your))~~ the employer establishments is injured or becomes ill while visiting or working at another of ~~((your))~~ the employer establishments, or while working away from any of ~~((your))~~ the employer establishments, the employer must record the injury or illness on the OSHA 300 Log of the establishment at which the injury or illness occurred. If the employee is injured or becomes ill and is not at one of ~~((your))~~ the employer establishments, the em-

ployer must record the case on the OSHA 300 Log at the establishment at which the employee normally works.

AMENDATORY SECTION (Amending WSR 19-17-068, filed 8/20/19, effective 1/1/20)

WAC 296-27-02103 Covered employees. (1) The employer must record on the OSHA 300 Log the recordable injuries and illnesses of all employees on their payroll, whether they are labor, executive, hourly, salary, part-time, seasonal, or migrant workers. The employer also must record the recordable injuries and illnesses that occur to employees who are not on their payroll if (~~you supervise~~) the employer supervises these employees on a day-to-day basis. If the employer's business is organized as a sole proprietorship or partnership, the owner or partners are not considered employees for recordkeeping purposes.

Note: If a self-employed person is injured or becomes ill while working for (~~you~~) the employer, the employer is not required to report the injury or illness because they are not covered under WISHA or the recordkeeping requirements.

(2) The employer must record injuries and illnesses of employees from a temporary help service, employee-leasing service, or personnel supply service if they supervise these employees on a day-to-day basis.

(3) The employer must record an injury or illness of a contractor's employee who is working in (~~your~~) the establishment if they supervise them on a day-to-day basis. However, if the contractor's employee is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness.

(4) The employer must make sure that each injury and illness is recorded only once:

(a) Either on their OSHA 300 Log (if they provide day-to-day supervision); or

(b) On the other employer's OSHA 300 Log (if that company provides day-to-day supervision).

AMENDATORY SECTION (Amending WSR 19-17-068, filed 8/20/19, effective 1/1/20)

WAC 296-27-02105 Annual summary. (1) At the end of each calendar year, the employer must:

(a) Review the OSHA 300 Log to verify that the entries are complete and accurate, and correct any deficiencies identified;

(b) Use the OSHA 300-A Log or equivalent form of (~~your~~) the recorded injuries and illnesses to create (~~your~~) the employer's annual summary;

(c) Certify the annual summary; and

(d) Post the annual summary.

(2) The employer must complete the annual summary by doing the following:

(a) Total the columns on the OSHA 300 Log (if (~~you~~) the employer had no recordable cases, enter zeros for each column total); and

(b) Enter the calendar year covered, the company's name, establishment name, establishment address, annual average number of employ-

ees covered by the OSHA 300 Log, and the total hours worked by all employees covered by the OSHA 300 Log.

(c) Include the employee access and employer penalty statements found on the OSHA 300-A summary form when using an equivalent form as permitted by this chapter. For the definition of "equivalent form" see WAC 296-27-051.

(3) A company executive must certify that they have examined the OSHA 300 Log and that they reasonably believe, based on their knowledge of the process by which the information was recorded, that the annual summary is correct and complete.

(4) The company executive who certifies the log must be one of the following persons:

(a) An owner of the company (only if the company is a sole proprietorship or partnership);

(b) An officer of the corporation;

(c) The highest ranking company official working at the establishment; or

(d) The immediate supervisor of the highest ranking company official working at the establishment.

(5) The employer must post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. The employer must ensure that the posted annual summary is not altered, defaced or covered by other material.

(6) The employer must post the summary no later than February 1st of the year following the year covered by the records and keep the posting in place until April 30th.

AMENDATORY SECTION (Amending WSR 19-17-068, filed 8/20/19, effective 1/1/20)

WAC 296-27-02107 Retention and updating. (1) The employer must save the OSHA 300 Log, the privacy case list (if one exists), the OSHA 300-A Annual Summary, and the OSHA 301 Incident Report forms for five years following the end of the calendar year that each of these records cover.

(2) The employer must update (~~you~~) stored OSHA 300 Logs during the five-year retention period to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, the employer must remove or line-out the original entry and enter the new information.

Note: During the five-year retention period, the employer is not required to update the OSHA 300-A Annual Summary of Work-Related Injuries or Illnesses, or the OSHA 301 Incident Reports, but (~~you~~) may do so (~~if you wish~~).

AMENDATORY SECTION (Amending WSR 02-01-064, filed 12/14/01, effective 1/1/02)

WAC 296-27-02109 Change in business ownership. If (~~you~~) the business changes ownership, (~~you are~~) the employer is responsible for recording and reporting work-related injuries and illnesses only for that period of the year during which (~~you~~) the employer owned the establishment. (~~You~~) The employer must transfer these records to

the new owner. The new owner must save all records of the establishment kept by the prior owner, as required by WAC 296-27-02107, but need not update or correct the records of the prior owner.

AMENDATORY SECTION (Amending WSR 19-17-068, filed 8/20/19, effective 1/1/20)

WAC 296-27-02111 Employee involvement. (1) (~~Your~~) Employees and their representatives must be involved in the recordkeeping system in several ways. The employer must do the following:

(a) Inform each employee of how they are to report an injury or illness to you.

(b) Provide employees with the information described in subsection (2) of this section.

(c) Provide access to (~~your~~) the employer's injury and illness records for (~~your~~) the employees and their representatives as described in subsection (3) of this section.

(2) The employer must do the following to ensure employees report work-related injuries and illnesses to them:

(a) Establish a reasonable procedure for employees to report work-related injuries and illnesses promptly and accurately. A procedure is not reasonable if it would deter or discourage a reasonable employee from accurately reporting a workplace injury or illness;

(b) Inform each employee of (~~your~~) the procedure for reporting work-related injuries and illnesses;

(c) Inform each employee that:

(i) Employees have the right to report work-related injuries and illnesses; and

(ii) The employer is prohibited from discharging or, in any manner, discriminating against employees for reporting work-related injuries or illnesses.

(d) The employer must not discharge or, in any manner, discriminate against any employee for reporting a work-related injury or illness.

(3) (~~Your~~) Employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the OSHA injury and illness records, with some limitations, as discussed in subsections (4) through (8) of this section.

(4) When an employee, former employee, personal representative, or authorized employee representative asks for copies of (~~your~~) current or stored OSHA 300 Log(s) for an establishment the employee or former employee has worked in, the employer must give the requestor a copy of the relevant OSHA 300 Log(s) by the end of the next business day.

(5) The employer must leave employee names and any other information on the OSHA 300 Log before giving copies to an employee, former employee, or an employee representative. However, to protect the privacy of injured and ill employees, the employer may not record the employee's name on the OSHA 300 Log for certain "privacy concern cases," as specified in WAC 296-27-01119(3).

(6) When an employee, former employee, or personal representative asks for a copy of the OSHA 301 Incident Report describing an injury or illness to that employee or former employee, the employer must give the requestor a copy of the OSHA 301 Incident Report containing that information by the end of the next business day.

(7) When an authorized employee representative asks for copies of the OSHA 301 Incident Reports for an establishment where the agent represents employees under a collective bargaining agreement, the employer must give copies of those forms to the authorized employee representative within seven calendar days. The employer is only required to give the authorized employee representative information from the OSHA 301 Incident Report section titled "Tell us about the case." The employer must remove all other information from the copy of the OSHA 301 Incident Report or the equivalent substitute form that they give to the authorized employee representative.

(8) The employer may not charge for these copies the first time they are provided. However, if one of the designated persons asks for additional copies, the employer may assess a reasonable charge for retrieving and copying the records. An example of what a "reasonable charge" would be is what a print company would charge for copying the same documents.

AMENDATORY SECTION (Amending WSR 19-17-068, filed 8/20/19, effective 1/1/20)

WAC 296-27-02117 Variances from the recordkeeping rule. (1) If the employer wishes to keep records in a different manner from that prescribed in this section, the employer may submit a variance petition to the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, DC 20210. The employer can obtain a variance only if they can show that their alternative recordkeeping system:

- (a) Collects the same information as this section requires;
 - (b) Meets the purposes of the federal Occupational Safety and Health Act; and
 - (c) Does not interfere with the administration of the federal Occupational Safety and Health Act.
- (2) The employer must include the following items in their variance petition:
- (a) The employer's name and address;
 - (b) A list of the state(s) where the variance would be used;
 - (c) The address(es) of the business establishment(s) involved;
 - (d) A description of why the employer is seeking a variance;
 - (e) A description of the different recordkeeping procedures you propose to use;
 - (f) A description of how the employer's proposed procedures will collect the same information as would be collected by this section and achieve the purpose of the act; and
 - (g) A statement that the employer has informed their employees of the petition by giving them or their authorized representative a copy of the petition and by posting a statement summarizing the petition in the same way as notices are posted under 29 C.F.R. 1903.2(a).
- (3) The assistant secretary will take the following steps to process your variance petition.
- (a) The assistant secretary will offer (~~you~~) the employees and their authorized representatives an opportunity to submit written data, views, and arguments about (~~you~~) the variance petition.
 - (b) The assistant secretary may allow the public to comment on (~~you~~) the variance petition by publishing the petition in the *Federal Register*. If the petition is published, the notice will establish

a public comment period and may include a schedule for a public meeting on the petition.

(c) After reviewing ~~((your))~~ the variance petition and any comments from ~~((your))~~ the employees and the public, the assistant secretary will decide whether or not ~~((your))~~ the proposed recordkeeping procedures will meet the purposes of the act, will not otherwise interfere with the act, and will provide the same information as required by this section. If ~~((your))~~ the employer's procedures meet these criteria, the assistant secretary may grant the variance subject to such conditions as ~~((he or she finds))~~ they find appropriate.

(d) If the assistant secretary grants ~~((your))~~ the variance petition, OSHA will publish a notice in the *Federal Register* to announce the variance. The notice will include the practices the variance allows ~~((you))~~ the employer to use, any conditions that apply, and the reasons for allowing the variance.

(4) The employer must comply with this section's requirements while the assistant secretary is reviewing their variance petition.

(5) The assistant secretary may elect not to review ~~((your))~~ the variance petition if it includes an element for which ~~((you have))~~ the company has been cited and the citation is still under review by a court, an administrative law judge (ALJ), or the OSH Review Commission.

(6) A variance may be revoked for good cause. The variance revocation procedures are the same as those followed to request the exception. In cases of willfulness or where necessary for public safety, the assistant secretary will:

(a) Notify ~~((you))~~ the company in writing of the facts or conduct that may warrant revocation of ~~((your))~~ the variance; and

(b) Provide ~~((you, your))~~ the employer, the employees, and authorized employee representatives with an opportunity to participate in the revocation procedures.

(7) DOSH must recognize any recordkeeping or reporting variance issued by federal OSHA.

AMENDATORY SECTION (Amending WSR 19-17-068, filed 8/20/19, effective 1/1/20)

WAC 296-27-031 Reporting fatalities, inpatient hospitalizations, amputations, and losses of an eye as the result of work-related incidents.

(1) The employer must report to DOSH within eight hours of a work-related incident that results in:

(a) A fatality; or

(b) An inpatient hospitalization of any employee.

Notes:

1. Secure the scene of work-related events that result in the death or inpatient hospitalization of any worker, refer to WAC 296-800-320.

2. Do not move equipment involved (i.e., personal protective equipment (PPE), tools, machinery or other equipment), unless it is necessary to remove the victim or prevent further injuries, refer to WAC 296-800-32010.

(2) The employer must report to DOSH within ~~((twenty-four))~~ 24 hours of a work-related incident that results in either an amputation or the loss of an eye that does not require inpatient hospitalization.

Notes:

1. If the amputation or loss of an eye requires inpatient hospitalization, follow the eight-hour reporting requirement in WAC 296-27-031(1).

2. Inpatient hospitalization that involves only observation or diagnostic testing is not a reportable inpatient hospitalization.

(3) If the employer does not learn about a reportable fatality, inpatient hospitalization, amputation, or loss of an eye at the time it takes place, the employer must make the report to DOSH within the following time periods after the fatality, inpatient hospitalization,

amputation, or loss of an eye is reported to (~~you~~) the employer or any of (~~your~~) the employers' agents:

(a) Eight hours for a fatality or an inpatient hospitalization of one or more employees.

(b) (~~Twenty-four~~) 24 hours for an amputation or a loss of an eye that does not require inpatient hospitalization.

(4) If the employer does not learn right away that the reportable fatality, inpatient hospitalization, amputation, or loss of an eye was the result of a work-related incident, the employer must make the report to DOSH within the following time periods after (~~you~~) the employer or any of (~~your~~) the employers' agents learn that the reportable fatality, inpatient hospitalization, amputation, or loss of an eye was the result of a work-related incident:

(a) Eight hours for a fatality or an inpatient hospitalization of one or more employees.

(b) (~~Twenty-four~~) 24 hours for an amputation or a loss of an eye that does not require inpatient hospitalization.

(5) The employer must report the fatality, inpatient hospitalization, amputation, or loss of an eye in the required time frame using one of the following methods:

(a) By telephone to the department's toll-free telephone number, 1-800-4BE-SAFE (1-800-423-7233) or in person to the Labor and Industries' Division of Occupational Safety and Health (DOSH) office located nearest to the site of the incident;

(b) By telephone to the OSHA toll-free telephone number, 1-800-321-OSHA (1-800-321-6742); or

(c) To DOSH by any other means.

(6) If the local office is closed, the employer must report a fatality, inpatient hospitalization, amputation, or the loss of an eye incident by:

(a) Calling the department at 1-800-4BE-SAFE (1-800-423-7233); or

(b) Calling OSHA's toll-free telephone number at 1-800-321-6742.

(7) The employer must provide DOSH with the following information for each fatality, inpatient hospitalization, amputation, or loss of an eye:

(a) The establishment name;

(b) The location of the work-related incident;

(c) The time and date of the work-related incident;

(d) The type of reportable event (i.e., fatality, inpatient hospitalization, amputation, or loss of an eye);

(e) The number of employees who suffered a fatality, inpatient hospitalization, amputation, or loss of an eye;

(f) The names of the employees who suffered a fatality, inpatient hospitalization, amputation, or loss of an eye;

(g) (~~Your~~) The contact person and their phone number; and

(h) A brief description of the work-related incident.

(8) If a fatality does not occur during or right after the work-related incident, the employer must only report it to DOSH if the fatality occurs within (~~thirty~~) 30 days of the work-related incident.

(9) The employer does not have to report an incident that resulted in a fatality, inpatient hospitalization, amputation, or loss of an eye to DOSH if it occurred on a commercial or public transportation system (e.g., airplane, train, subway, or bus). However, the fatality, inpatient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if the employer is required to keep such records.

(10) The employer must report to DOSH when a heart attack occurs in the work environment that results in a fatality or inpatient hospitalization. DOSH will decide whether to investigate the event, depending on the circumstances of the heart attack.

(11) The employer must only report to DOSH each inpatient hospitalization that involves medical care or treatment. Inpatient hospitalization involving only observation or diagnostic testing need not be reported.

AMENDATORY SECTION (Amending WSR 19-17-068, filed 8/20/19, effective 1/1/20)

WAC 296-27-03103 Electronic submission of injury and illness records to OSHA.

Note: The information required by this section is reported and tracked by OSHA for their own injury and illness data analysis. DOSH is not notified when employers submit this information to OSHA.

(1) Summary of basic requirements.

(a) Annual electronic submission of OSHA Form 300A Summary of Work-Related Injuries and Illnesses by establishments that employed ~~((two hundred fifty))~~ 250 or more different employees. If ~~((your))~~ the establishment employed ~~((two hundred fifty))~~ 250 or more different employees during the course of the previous calendar year, and this chapter requires ~~((your))~~ the establishment to keep records, then ~~((you))~~ the employer must electronically submit information from OSHA Form 300A Summary of Work-Related Injuries and Illnesses to OSHA or OSHA's designee.

(b) Annual electronic submission of OSHA Form 300A Summary of Work-Related Injuries and Illnesses by establishments that both; employed ~~((twenty to two hundred forty nine))~~ 20 to 249 different employees, and are in designated industries. If ~~((your))~~ the establishment employed ~~((twenty to two hundred forty nine))~~ 20 to 249 different employees during the course of the previous calendar year, and ~~((your))~~ the establishment is in a designated industry listed in WAC 296-27-071 Appendix B-2, then ~~((you))~~ the employer must electronically submit information from OSHA Form 300A Summary of Work-Related Injuries and Illnesses to OSHA or OSHA's designee.

(c) Annual electronic submission of information from OSHA 300 Log of Work-Related Injuries and Illnesses and OSHA Form 301 Injury and Illness Incident Report by establishments with 100 or more employees in designated industries. If your establishment is classified in an industry listed in WAC 296-27-069 Appendix B-1, then you must electronically submit information from the OSHA Forms 300 and 301 to OSHA or OSHA's designee.

(d) Electronic submission of OSHA 300A records upon notification. All establishments not meeting the criteria of (a) or (b) of this subsection((7)) must, upon notification; electronically submit the information from ((your)) the OSHA 300A to OSHA or OSHA's designee.

((d)) (e) Electronic submission of the employer identification number (EIN) and legal name. When electronically reporting injury and illness records, the employer must also provide the EIN or federal tax identification number used by the establishment. The submission must also include a legal company name, either as part of the establishment name or separately as the company name.

(2) Basic requirements.

(a) Categories of employers that must submit OSHA Form 300A information to OSHA.

(i) First, if ~~((your))~~ the establishment had ~~((two hundred fifty))~~ 250 or more total employees over the course of the previous calendar year, and this chapter requires ~~((your))~~ the establishment to keep injury and illness records; then ~~((you))~~ the employer must submit the required information to OSHA once a year. This information is due before the date listed in subsection (3) of this section.

(ii) Second, if ~~((your))~~ the establishment had ~~((twenty))~~ 20 or more, but fewer than ~~((two hundred fifty))~~ 250 total employees over the course of the previous calendar year, and ~~((your))~~ the establishment is in a designated industry listed in WAC 296-27-071 Appendix B-2; then ~~((you))~~ the employer must submit the required information to OSHA once a year. This information is due before the date listed in subsection (3) of this section.

~~((iii))~~ Third, if your (b) Category of employers that must submit OSHA Form 300 Log of Work-Related Injuries and Illnesses and OSHA Form 301 Injury and Illness Incident Report information to OSHA.

(i) If the establishment had 100 or more total employees over the course of the previous calendar year, and the employers' industry is in a designated industry listed in WAC 296-27-069 Appendix B-1, then the employer must submit the required information to OSHA once a year. This information is due before the date listed in subsection (3) of this section.

(ii) If the establishment is not in either of the ~~((two))~~ three categories above, then ~~((you))~~ the employer must submit information to OSHA only when OSHA notifies ~~((you))~~ the employer to do so for an individual calendar year. OSHA's notification will provide instructions for when this information is due.

~~((b))~~ (c) Categories of employees included under (a) of this subsection requirement.

Employers must count all full-time, part-time, seasonal, and temporary workers towards their running count of individual employees for the year. Each individual employed in the establishment during any part of the previous calendar year counts as one employee.

~~((e))~~ (d) Notification from OSHA for a subsection (1)(c) of this section employer to submit records electronically.

OSHA will only notify subsection (1)(c) of this section employers by mail when they must submit information as part of an individual data collection. OSHA will also announce individual data collections through publication in the Federal Register the OSHA newsletter, and announcements on the OSHA website. If you are an employer who must routinely submit information per subsection (1)(a) and (b) of this section, then OSHA will not notify ~~((you))~~ the company about ~~((your))~~ routine submittal.

~~((d))~~ (e) Due date for the above mentioned information.

Employers required to submit information under subsection (1)(a) or (b) of this section, must submit the information once a year, by the date listed in subsection (3) of this section - Effective reporting date of this section of the year after the calendar year covered by the form or forms. Employers submitting information because OSHA notified them to submit information as part of an individual data collection under subsection (1)(c) of this section, must submit the information as specified in OSHA's notification.

~~((e))~~ (f) Process for employers to submit the above mentioned information.

Employers must submit the information electronically. OSHA will provide a secure website for the electronic submission of information. For individual data collections under subsection (1) ~~((e))~~ (d) of this section, OSHA will include the website's location in the notification for the data collection.

~~((f))~~ (g) Partially exempt establishments from the recordkeeping rule itself, under WAC 296-27-00103 and/or 296-27-00105.

Employers that are partially exempt from keeping injury and illness records under WAC 296-27-00103 and/or 296-27-00105 do not have to routinely submit OSHA Form 300A information under subsection (1) (a) and (b) of this section. However, these employers must submit information under subsection (1) ~~((e))~~ (d) of this section if OSHA informs ~~((you))~~ the employer in writing that OSHA is collecting injury and illness information ~~((from you))~~ for any specific year. If ~~((you receive))~~ the company receives such a notification, then ~~((you))~~ the employer must keep the injury and illness records required by this part and submit that information as directed by OSHA.

~~((g))~~ (h) Enterprise or corporate entities electronically submitting OSHA Form 300A records on behalf of its establishment(s).

Enterprise or corporate offices which, have ownership of, or control over, one or more establishments required to submit information under subsection (1) of this section; may collect and electronically submit the information on behalf of the establishment(s).

(3) **Effective reporting date.**

Employers ~~((must begin submitting the above mentioned information to OSHA by the following date and schedule.~~

~~Beginning in calendar year 2020, establishments which are required to submit under subsection (1) (a) and (b) of this section must routinely submit the required information by March 2nd, for the previous calendar year. For example employers will electronically report calendar year 2019 information to OSHA after; OSHA begins accepting calendar year 2019 information, and before March 2, 2020.)~~ that are required to submit under subsection (1) (a), (b), or (c) of this section must submit all of the required information by March 2nd of the year after the calendar year covered by the form(s). For example, the employer must submit by March 2, 2025, for the forms covering 2024.

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-03105 Requests from the Bureau of Labor Statistics (BLS) for data. (1) If ~~((you receive))~~ the employer receives a Survey of Occupational Injuries and Illnesses form from the BLS, or a BLS designee, ~~((you))~~ the employer must promptly complete the form and return it following the instructions contained on the survey form.

(2) Each year, the BLS sends injury and illness survey forms to randomly selected employers and uses the information to create the nation's occupational injury and illness statistics. In any year, some employers will receive a BLS survey form and others will not. ~~((You do))~~ The employer does not have to send injury and illness data to the BLS unless ~~((you))~~ they receive a survey form.

(3) If ~~((you receive))~~ the employer receives a Survey of Occupational Injuries and Illnesses form from the BLS, or a BLS designee, ~~((you))~~ the employer must promptly complete the form and return it, following the instructions contained on the survey form.

(4) If ~~((you are))~~ the employer is exempt from keeping injury and illness records under WAC 296-27-00103 through 296-27-00107, the BLS may inform ~~((you))~~ the employer in writing that it will be collecting injury and illness information from ~~((you))~~ the employer in the coming year. If ~~((you receive))~~ the employer receives such a letter, ~~((you))~~ the employer must keep the injury and illness records required by WAC 296-27-01103 through 296-27-01115 and make a survey report for the year covered by the survey.

(5) Washington state employers must respond to the BLS survey form if they receive one.

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-061 Nonmandatory Appendix A—Age adjustment calculations for comparing audiograms for recording hearing loss. IMPORTANT: These computations may only be used for comparison of audiograms to record hearing loss on the OSHA 300 Log. This appendix is nonmandatory.

(1) In determining whether a recordable threshold shift has occurred, allowance may be made for the contribution of aging to the change in hearing level by adjusting the most recent audiogram. If ~~((you choose))~~ the employer chooses to adjust the audiogram, ~~((you))~~ the employer must follow the procedure described below. This procedure and the age correction tables were developed by the National Institute for Occupational Safety and Health in the criteria document entitled "Criteria for a Recommended Standard...Occupational Exposure to Noise," ((HSM)-11001).

(2) For each audiometric test frequency:

(a) Determine from Tables A-1 or A-2 the age correction values for the employee by:

(i) Finding the age at which the most recent audiogram was taken and recording the corresponding values of age corrections at 1000 Hz through 6000 Hz;

(ii) Finding the age at which the baseline audiogram was taken and recording the corresponding values of age corrections at 1000 Hz through 6000 Hz.

(b) Subtract the values found in step (a)(ii) from the value found in step (a)(i).

(c) The differences calculated in step (b) represent that portion of the change in hearing that may be due to aging.

EXAMPLE: Employee is a 32-year-old male. The audiometric history for his right ear is shown in decibels below.

Audiometric Test Frequency (Hz)					
Employee's age	1000	2000	3000	4000	6000
26	10	5	5	10	5
*27	0	0	0	5	5
28	0	0	0	10	5
29	5	0	5	15	5
30	0	5	10	20	10
31	5	10	20	15	15

Audiometric Test Frequency (Hz)					
Employee's age	1000	2000	3000	4000	6000
*32	5	10	10	25	20

The audiogram at age 27 is considered the baseline since it shows the best hearing threshold levels. Asterisks have been used to identify the baseline and most recent audiogram. A threshold shift of 20 dB exists at 4000 Hz between the audiograms taken at ages 27 and 32.

(The threshold shift is computed by subtracting the hearing threshold at age 27, which was 5, from the hearing threshold at age 32, which is 25.) A retest audiogram has confirmed this shift. The contribution of aging to this change in hearing may be estimated in the following manner:

Go to Table A-1 and find the age correction values (in dB) for 4000 Hz at age 27 and age 32.

	Frequency (Hz)				
	1000	2000	3000	4000	6000
Age 32	6	5	7	10	14
Age 27	5	4	6	7	11
Difference	1	1	1	3	3

The difference represents the amount of hearing loss that may be attributed to aging in the time period between the baseline audiogram and the most recent audiogram. In this example, the difference at 4000 Hz is 3 dB. This value is subtracted from the hearing level at 4000 Hz, which in the most recent audiogram is 25, yielding 22 after adjustment. Then the hearing threshold in the baseline audiogram at 4000 Hz (5) is subtracted from the adjusted annual audiogram hearing threshold at 4000 Hz (22). Thus the age-corrected threshold shift would be 17 dB (as opposed to a threshold shift of 20 dB without age correction).

TABLE A-1 - AGE CORRECTION VALUES IN DECIBELS FOR MALES

Audiometric Test Frequency (Hz)					
Age	1000	2000	3000	4000	6000
20 or younger	5	3	4	5	8
21	5	3	4	5	8
22	5	3	4	5	8
23	5	3	4	6	9
24	5	3	5	6	9
25	5	3	5	7	10
26	5	4	5	7	10
27	5	4	6	7	11
28	6	4	6	8	11
29	6	4	6	8	12
30	6	4	6	9	12
31	6	4	7	9	13
32	6	5	7	10	14
33	6	5	7	10	14
34	6	5	8	11	15

Audiometric Test Frequency (Hz)					
Age	1000	2000	3000	4000	6000
35	7	5	8	11	15
36	7	5	9	12	16
37	7	6	9	12	17
38	7	6	9	13	17
39	7	6	10	14	18
40	7	6	10	14	19
41	7	6	10	14	20
42	8	7	11	16	20
43	8	7	12	16	21
44	8	7	12	17	22
45	8	7	13	18	23
46	8	8	13	19	24
47	8	8	14	19	24
48	9	8	14	20	25
49	9	9	15	21	26
50	9	9	16	22	27
51	9	9	16	23	28
52	9	10	17	24	29
53	9	10	18	25	30
54	10	10	18	26	31
55	10	11	19	27	32
56	10	11	20	28	34
57	10	11	21	29	35
58	10	12	22	31	36
59	11	12	22	32	37
60 or older	11	13	23	33	38

TABLE A-2 - AGE CORRECTION VALUES IN DECIBELS FOR FEMALES

Audiometric Test Frequency (Hz)					
Age	1000	2000	3000	4000	6000
20 or younger	7	4	3	3	6
21	7	4	4	3	6
22	7	4	4	4	6
23	7	5	4	4	7
24	7	5	4	4	7
25	8	5	4	4	7
26	8	5	5	4	8
27	8	5	5	5	8
28	8	5	5	5	8
29	8	5	5	5	9
30	8	6	5	5	9
31	8	6	6	5	9
32	9	6	6	6	10

Audiometric Test Frequency (Hz)					
Age	1000	2000	3000	4000	6000
33	9	6	6	6	10
34	9	6	6	6	10
35	9	6	7	7	11
36	9	7	7	7	11
37	9	7	7	7	12
38	10	7	7	7	12
39	10	7	8	8	12
40	10	7	8	8	13
41	10	8	8	8	13
42	10	8	9	9	13
43	11	8	9	9	14
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49	12	9	11	11	16
50	12	10	11	12	17
51	12	10	12	12	17
52	12	10	12	13	18
53	13	10	13	13	18
54	13	11	13	14	19
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60 or older	14	12	16	17	22

NEW SECTION

WAC 296-27-069 Appendix B-1—Annual electronic submission of OSHA Form 300 and OSHA Form 301.

Designated Industries

NAICS	INDUSTRY
1111	Oilseed and Grain Farming.
1112	Vegetable and Melon Farming.
1113	Fruit and Tree Nut Farming.
1114	Greenhouse, Nursery, and Floriculture Production.
1119	Other Crop Farming.
1121	Cattle Ranching and Farming.
1122	Hog and Pig Farming.

NAICS	INDUSTRY
1123	Poultry and Egg Production.
1129	Other Animal Production.
1133	Logging.
1141	Fishing.
1142	Hunting and Trapping.
1151	Support Activities for Crop Production.
1152	Support Activities for Animal Production.
1153	Support Activities for Forestry.
2213	Water, Sewage and Other Systems.
2381	Foundation, Structure, and Building Exterior Contractors.
3111	Animal Food Manufacturing.
3113	Sugar and Confectionery Product Manufacturing.
3114	Fruit and Vegetable Preserving and Specialty Food Manufacturing.
3115	Dairy Product Manufacturing.
3116	Animal Slaughtering and Processing.
3117	Seafood Product Preparation and Packaging.
3118	Bakeries and Tortilla Manufacturing.
3119	Other Food Manufacturing.
3121	Beverage Manufacturing.
3161	Leather and Hide Tanning and Finishing.
3162	Footwear Manufacturing.
3211	Sawmills and Wood Preservation.
3212	Veneer, Plywood, and Engineered Wood Product Manufacturing.
3219	Other Wood Product Manufacturing.
3261	Plastics Product Manufacturing.
3262	Rubber Product Manufacturing.
3271	Clay Product and Refractory Manufacturing.
3272	Glass and Glass Product Manufacturing.
3273	Cement and Concrete Product Manufacturing.
3279	Other Nonmetallic Mineral Product Manufacturing.
3312	Steel Product Manufacturing from Purchased Steel.
3314	Nonferrous Metal (except Aluminum) Production and Processing.
3315	Foundries.
3321	Forging and Stamping.
3323	Architectural and Structural Metals Manufacturing.
3324	Boiler, Tank, and Shipping Container Manufacturing.
3325	Hardware Manufacturing.
3326	Spring and Wire Product Manufacturing.
3327	Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing.

NAICS	INDUSTRY
3328	Coating, Engraving, Heat Treating, and Allied Activities.
3331	Agriculture, Construction, and Mining Machinery Manufacturing.
3335	Metalworking Machinery Manufacturing.
3361	Motor Vehicle Manufacturing.
3362	Motor Vehicle Body and Trailer Manufacturing.
3363	Motor Vehicle Parts Manufacturing.
3366	Ship and Boat Building.
3371	Household and Institutional Furniture and Kitchen Cabinet Manufacturing.
3372	Office Furniture (including Fixtures) Manufacturing.
3379	Other Furniture Related Product Manufacturing.
4231	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers.
4233	Lumber and Other Construction Materials Merchant Wholesalers.
4235	Metal and Mineral (except Petroleum) Merchant Wholesalers.
4239	Miscellaneous Durable Goods Merchant Wholesalers.
4244	Grocery and Related Product Merchant Wholesalers.
4248	Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers.
4413	Automotive Parts, Accessories, and Tire Stores.
4422	Home Furnishings Stores.
4441	Building Material and Supplies Dealers.
4442	Lawn and Garden Equipment and Supplies Stores.
4451	Grocery Stores.
4522	Department Stores.
4523	General Merchandise Stores, including Warehouse Clubs and Supercenters.
4533	Used Merchandise Stores.
4543	Direct Selling Establishments.
4811	Scheduled Air Transportation.
4841	General Freight Trucking.
4842	Specialized Freight Trucking.
4851	Urban Transit Systems.
4852	Interurban and Rural Bus Transportation.
4853	Taxi and Limousine Service.
4854	School and Employee Bus Transportation.
4859	Other Transit and Ground Passenger Transportation.
4871	Scenic and Sightseeing Transportation, Land.
4881	Support Activities for Air Transportation.

NAICS	INDUSTRY
4883	Support Activities for Water Transportation.
4889	Other Support Activities for Transportation.
4911	Postal Service.
4921	Couriers and Express Delivery Services.
4931	Warehousing and Storage.
5322	Consumer Goods Rental.
5621	Waste Collection.
5622	Waste Treatment and Disposal.
6219	Other Ambulatory Health Care Services.
6221	General Medical and Surgical Hospitals.
6222	Psychiatric and Substance Abuse Hospitals.
6223	Specialty (except Psychiatric and Substance Abuse) Hospitals.
6231	Nursing Care Facilities (Skilled Nursing Facilities).
6232	Residential Intellectual and Developmental Disability, Mental Health, and Substance Abuse Facilities.
6233	Continuing Care Retirement Communities and Assisted Living Facilities for the Elderly.
6239	Other Residential Care Facilities.
6243	Vocational Rehabilitation Services.
7111	Performing Arts Companies.
7112	Spectator Sports.
7131	Amusement Parks and Arcades.
7211	Traveler Accommodation.
7212	RV (Recreational Vehicle) Parks and Recreational Camps.
7223	Special Food Services.

AMENDATORY SECTION (Amending WSR 19-17-068, filed 8/20/19, effective 1/1/20)

WAC 296-27-071 Appendix B-2—Annual electronic submission of OSHA Form 300A.

((Table 3))
Designated Industries

NAICS	INDUSTRY
11	Agriculture, forestry, fishing and hunting
22	Utilities
23	Construction
31-33	Manufacturing
42	Wholesale trade
4413	Automotive parts accessories, and tire stores
4421	Furniture stores
4422	Home furnishings stores

NAICS	INDUSTRY
4441	Building material and supplies dealers
4442	Lawn and garden equipment and supplies stores
4451	Grocery stores
4452	Specialty food stores
((4521)) 4522	Department stores
((4529	Other general merchandise stores))
4523	General merchandise stores, including warehouse clubs and supercenters
4533	Used merchandise stores
4542	Vending machine operators
4543	Direct selling establishments
4811	Scheduled air transportation
4841	General freight trucking
4842	Specialized freight trucking
4851	Urban transit systems
4852	Interurban and rural bus transportation
4853	Taxi and limousine service
4854	School and employee bus transportation
4855	Charter bus industry
4859	Other transit and ground passenger transportation
4871	Scenic and sightseeing transportation, land
4881	Support activities for air transportation
4882	Support activities for rail transportation
4883	Support activities for water transportation
4884	Support activities for road transportation
4889	Other support activities for transportation
4911	Postal service
4921	Couriers and express delivery services
4922	Local messengers and local delivery
4931	Warehousing and storage
5152	Cable and other subscription programming
5311	Lessors of real estate
5321	Automotive equipment rental and leasing
5322	Consumer goods rental
5323	General rental centers
5617	Services to buildings and dwellings
5621	Waste collection
5622	Waste treatment and disposal
5629	Remediation and other waste management services
6219	Other ambulatory health care services
6221	General medical and surgical hospitals
6222	Psychiatric and substance abuse hospitals
6223	Specialty (except psychiatric and substance abuse) hospitals

NAICS	INDUSTRY
6231	Nursing care facilities
6232	Residential mental retardation, mental health and substance abuse facilities
6233	Community care facilities for the elderly
6239	Other residential care facilities
6242	Community food and housing, and emergency and other relief services
6243	Vocational rehabilitation services
7111	Performing arts companies
7112	Spectator sports
7121	Museums, historical sites, and similar institutions
7131	Amusement parks and arcades
7132	Gambling industries
7211	Traveler accommodation
7212	RV (recreational vehicle) parks and recreational camps
(7213)	Rooming and boarding houses
7223	Special food services
8113	Commercial and industrial machinery and equipment (except automotive and electronic) repair and maintenance
8123	Dry-cleaning and laundry services