

WSR 23-15-089
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed July 18, 2023, 9:16 a.m.]

Continuance of WSR 23-13-127.

Preproposal statement of inquiry was filed as WSR 17-17-134.

Title of Rule and Other Identifying Information: Chapter 296-67 WAC, Safety standards for process safety management of highly hazardous chemicals.

Hearing Location(s): On August 16, 2023, at 6:30 p.m., at Majestic Inn & Spa, 419 Commercial Avenue, Anacortes, WA 98221. A prehearing overview will occur one hour prior to the start of the public hearing. The hearing will begin at the indicated time and will continue until all oral comments are received.

Date of Intended Adoption: October 17, 2023.

Submit Written Comments to: Tari Enos, Department of Labor and Industries (L&I), Division of Occupational Safety and Health (DOSH), P.O. Box 44620, Olympia, WA 98504-4620, email Tari.Enos@Lni.wa.gov, fax 360-902-5619, by August 24, 2023, by 5:00 p.m.

Assistance for Persons with Disabilities: Contact Tari Enos, phone 360-902-5541, fax 360-902-5619, email Tari.Enos@Lni.wa.gov, by July 27, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this continuance is to provide another public hearing for chapter 296-67 WAC, Safety standards for process safety management of highly hazardous chemicals. Two in-person public hearings will be held in Bellingham on August 10 and 17, 2023, and one virtual public hearing is scheduled for August 15, 2023. This continuance adds an additional in-person hearing in Anacortes scheduled on August 16, 2023, beginning at 6:30 p.m., with a prehearing overview starting at 5:30 p.m.

L&I is proposing adding a new Part B to chapter 296-67 WAC, Safety standards for process safety management of highly hazardous chemicals, which pertains specifically to process safety management (PSM) in petroleum refineries. The new Part B includes existing PSM requirements applicable to refineries updated with new requirements based on the best available evidence learned since the PSM rule was first adopted in 1992. Please see below for an overview of the new chapter 296-67 WAC, Part B.

Amended Section:

WAC 296-67-001 Process safety management of highly hazardous chemicals.

- Updates the purpose and scope section of the current rule to identify WAC 296-67-001 through 296-67-293 as Part A of the chapter 296-67 WAC.
- Adds an exemption from Part A for petroleum refineries under Part B.

New Sections:

WAC 296-67-300 Purpose and scope—Part B.

- This section identifies WAC 296-67-300 through 296-67-387 as Part B of chapter 296-67 WAC that applies to petroleum refineries.

- Clarifies that Part B supersedes Part A of this chapter as it relates to petroleum refineries.

WAC 296-67-307 Definitions.

- Includes definitions for the following: Affected person, change, damage mechanism, decontamination, employee representative, facility, feasible, flammable gas, flammable liquid, hierarchy of hazard controls, highly hazardous chemical or material, hot work, human factors, independent protection layers, inherent safety, initiating cause, isolate, lagging indicators, leading indicators, major change, must, nonroutine, process, process equipment, process safety culture, process safety hazard, process safety incident, PSM, process safety performance indicators, qualified operator, reactive substance, recognized and generally accepted good engineering practices, replacement-in-kind, safeguard, safety instrumented system, temporary pipe or equipment repair, toxic substance, turnaround, and utility.

WAC 296-67-311 Process safety management program.

- Outlines the requirements employers must follow to develop and maintain an effective written PSM program that needs to be reviewed and updated at least once every three years.

WAC 296-67-315 Employee collaboration.

- Outlines the requirements employers must follow to develop and maintain a written plan to provide for employee collaboration throughout all PSM phases.

WAC 296-67-319 Process safety information.

- Outlines the requirements employers must follow to develop and maintain a compilation of written process safety information before performing any PSM phase.

WAC 296-67-323 Hazard analyses.

- Outlines the requirements employers must follow in order to document an effective process hazard analysis to identify and control hazards associated with each process.

WAC 296-67-327 Operating procedures.

- Outlines the requirements employers must follow to develop and maintain written operating procedures. This includes minimum standards, steps of each operating phase or mode of operation, operating limits, safety and health considerations, and safety systems.

WAC 296-27-331 Training.

- Outlines requirements that each affected employee must be trained in an overview of the process and in applicable operating procedures, as well as being trained in an overview of the process in the hazards and safe work practices related to the process. Includes which training materials are applicable to the employee's job tasks.

WAC 296-67-335 Contractors.

- Outlines requirements regarding refinery employer responsibilities when selecting a contractor. They must evaluate the contract employer's safety performance, require any contractor to use a

skilled and trained workforce, and ensure the contractor informs their employees of potential process safety hazards, as well as applicable safety rules and applicable provisions of this chapter.

- Outlines requirements that the refinery employers must develop and maintain effective written procedures, periodically evaluate the performance of contractors, and document that the requirements of this section are being completed by the contractor. The refinery employer must also ensure a copy of the contractor's injury and illness log is available to DOSH upon request.
- Sets requirements that are the contractor's responsibility, including that a contractor must inform its employees of applicable refinery safety rules.

WAC 296-67-339 Pre-startup safety review.

- Outlines requirements that the employer must perform a pre-startup safety review (PSSR) for new or modified processes, for partial or unplanned shutdowns/outages, and for all turnaround work performed on a process.
- Outlines requirements that a PSSR must contain all of the requirements prior to the introduction of highly hazardous chemicals or materials to a process.
- Outlines requirements that the employer must ensure experienced operating or maintenance employees that are affected by a change are included in the PSSR, and an operating employee currently working in the process must be designated as the employee representative.

WAC 296-67-343 Mechanical integrity.

- Outlines requirements that employers must ensure the mechanical integrity of process equipment by developing and maintaining effective written procedures, which must provide clear instructions for safely performing maintenance on process equipment. These documents developed under this section must be readily accessible to employees and employee representatives.

WAC 296-67-347 Damage mechanism review.

- Outlines requirements that the employer must perform a damage mechanism review (DMR) for each new and existing process, as well as determine the priority order for performing DMRs. These DMRs must be revalidated every five years, and if a major change occurs on a process that a DMR exists [for], it must be reviewed before the change is approved. The employer must retain all DMR reports for the life of the process.

WAC 296-67-351 Hot work.

- Outlines requirements that the employer must develop and maintain effective written procedures for the issuance of hot work permits, and the permit must be issued prior to the commencement of operations. The employer must also keep hot work permits on file for one year.

WAC 296-67-355 Management of change.

- Outlines requirements that a written management of change (MOC) must be developed and maintained by the employer to assess and manage change of process chemicals, technology, procedures, process equipment, and facilities. Qualified personnel and appropri-

ate methods for all MOCs must be used by the employer based on hazard, complexity, and type of change. If any change that is covered in this section changes the process safety information (PSI), information must be amended timely prior to implementation of the change.

WAC 296-67-359 Management of organizational change.

- Outlines that a team must be designated by the employer to perform a management of organizational change (MOOC) assessment prior to reducing staffing levels. The MOOC is needed for changes with a duration exceeding 90 calendar days affecting operations. A description of the change must be included in the written MOOC assessment, factors evaluated by the team, and the team's findings and recommendations.

WAC 296-67-363 Incident investigation—Root cause analysis.

- Outlines the written procedures that the employer must develop to investigate any incident that could end in a safety incident, and how to report on it promptly. The employer must also initiate the investigation no later than 48 hours after the incident occurs, and that the report must also include a method for performing a root cause analysis.

WAC 296-67-367 Emergency planning and response.

- Outlines that the employer must develop and maintain an effective emergency response plan for the entire plant in accordance with WAC 296-24-567 Employee emergency plans and fire prevention plans and also chapter 296-824 WAC, Emergency response.
- Outlines that if the incident exceeds the capability of the internal emergency response team, the written plan must detail how an emergency response would be executed.
- Outlines that the employer must document any agreement with external emergency response teams that are expected to assist in an emergency.

WAC 296-67-371 Compliance audits.

- Outlines that the employer must perform an effective compliance audit every three years and must prepare a written report documenting the findings of the audit. The employer must consult with a person who has expertise and experience from each process audited and document the findings and recommendations from the consultations in the written report.
- Outlines that the employer must make the report available to employees and employee representatives, and if any written comments regarding the report are received by employees, the employer must respond in writing within 60 days. The employer must also keep the three most recent compliance audit reports.

WAC 296-67-375 Process safety culture assessment.

- Outlines that the employer must develop and maintain an effective process safety culture assessment (PSCA) program, and that within 18 months following the effective date of Part B of this chapter and at least every five years thereafter, the employer must perform an effective PSCA. A team with at least one person knowledgeable with refinery operations must develop and implement a

PSCA, and the team must consult with at least one other individual with expertise assessing process safety culture.

- Outlines that the employer must prioritize recommendations and implement corrective actions, with the assistance of the PSCA team, within 24 months of completing the written report. The PSCA team must perform a written assessment of the implementation and effectiveness of each corrective action within three years of completing the PSCA report. If it is found that the corrective action is ineffective, the employer must implement changes.
- Outlines that PSCA reports and corrective action plans must be made available to all affected employees within 60 calendar days of completion. Any participating contractors must provide PSCA reports and corrective action plans to their employees and employee representatives within 14 days of receipt.

WAC 296-67-379 Human factors.

- Outlines that within 18 months of the effective date of Part B of this chapter, the employer must develop and maintain an effective written human factors program. The employer must also include a written analysis of human factors which must contain a description of the selected methodologies and criteria for their use.
- Outlines that the employer must assess human factors in existing procedures and revise them accordingly. Fifty percent of assessments and revisions must be completed by the employer within three years of the effective date of Part B of this chapter, and 100 percent within five years.
- Outlines that the employer must include an assessment of human factors in new and revised procedures, and the employer must train affected operating and maintenance employees in the written human factors program. Also, upon request, the employer must make a copy of the written human factors report available to affected employees.

WAC 296-67-383 Corrective action program.

- Outlines that the employer must develop and maintain an effective written corrective action program that includes all of the process methods included in this section. The team performing the analysis must provide all findings and recommendations to the employer. The employer may reject the team's recommendation if the employer can demonstrate in writing that the recommendation meets the certain criteria.
- Outlines that if the employer can demonstrate in writing that an alternative method would provide an equivalent or higher order of safety, the employer may change the team's recommendation. When a recommendation is rejected or changed, it must be communicated to on-site and off-site team members for comment. All comments received regarding a changed or rejected recommendation must be documented.
- Outlines that the employer must complete all corrective actions and comply with all completion dates required by this section. All completion dates must be available upon request to any affected employees and employee representatives.
- Outlines, with a couple of exceptions, any corrective action that does not require a process shut down must be completed within 30 months after the analysis or review are completed unless an employer demonstrates in writing that this isn't feasible.

- Outlines that within 18 months of the audit being completed, each corrective action from the compliance audit must be completed, unless the employer demonstrates in writing that it isn't feasible. Within 18 months of the investigation being completed, the corrective action of the incident investigation must be completed unless the employer demonstrates in writing that it isn't feasible.
- Outlines that if a corrective action cannot be implemented within the required time limits of this section, the employer must ensure interim safeguards are sufficient in ensuring employee safety and health. The employer must document the decision and include all information required in the rule.

WAC 296-67-387 Trade secrets.

- Outlines that employers must ensure all information needed to comply with Part B of this chapter is available, pursuant to WAC 296-901-14018 Trade secrets.
- Outlines that nothing in this section precludes the employer from requiring the people to whom the information is made available under this section to enter into confidentiality agreements not to disclose the information.

Reasons Supporting Proposal: In 1992, L&I adopted OSHA's PSM standard to prevent or minimize the consequences of catastrophic releases of toxic, reactive, flammable, or explosive chemicals, referred to as highly hazardous chemicals. These releases may result in toxic, fire, or explosion hazards. PSM is a system for managing the use of highly hazardous chemicals during plant processes and activities to prevent risk of unintentional releases. The unexpected release of highly hazardous chemicals can be deadly, leaving profound and lasting impacts on families, businesses, and communities. The potential for such releases exists any time toxic, reactive, flammable, or explosive chemicals are not properly controlled. The current PSM rule applies to employers in industries who have processes that involve certain threshold quantities of highly hazardous chemicals. Petroleum refineries are one industry covered under the current PSM rules.

Catastrophic events at petroleum refineries across the United States have tragically claimed the lives of many workers, including 13 in Washington state since 1998. In 1998, six workers in Washington state died from an incident related to PSM at the then Equilon refinery in Anacortes, and in 2010, seven more workers died at the then Tesoro petroleum refinery in Anacortes. These tragedies have led to significant discussion about what could have been done to prevent them.

The current rule, as applied to refineries, is outdated, not having been updated in over 20 years and do not reflect current industry practices.

In 2019, California adopted new rules for PSM specific for refineries based on recommendations from an interagency taskforce and other safety experts following a chemical release and fire at a California refinery in 2012. L&I reviewed the best available evidence including, but not limited to, the recommendations from the Chemical Safety Board's investigation of the 2010 Tesoro explosion, the California rule, the California interagency report, information from federal OSHA and the Environmental Protection Agency on PSM modernization efforts, information from California OSHA on implementation of the new PSM refinery rule, as well as inspection information from L&I and OSHA. L&I worked with Washington refineries, labor organizations and advocates,

community and environmental advocates, and other stakeholders to develop the proposed rule for PSM in petroleum refineries. The proposed rule largely aligns with the California rule. These changes, incorporating the best available evidence to prevent catastrophic releases, are needed to ensure that employers and employees are safe while working in the refineries as processes and technology in the industry advance over time.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy West, Acting Standards Program Manager, Tumwater, Washington, 360-902-6954; Implementation and Enforcement: Craig Blackwood, Tumwater, Washington, 360-902-5828.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Tari Enos, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-902-5541, fax 360-902-5619, email Tari.Enos@Lni.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: All new requirements under this proposed rule apply to petroleum refineries. There are some requirements that are the responsibility of contractors who may include small businesses; however, those are existing requirements under chapter 296-67 WAC.

Scope of exemption for rule proposal:

Is fully exempt.

July 18, 2023

Joel Sacks

Director

OTS-1344.9

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-67-001 (~~(Process safety management of highly hazardous chemicals.)~~) **Purpose and scope—Part A.** (1) Purpose. WAC 296-67-001 through 296-67-293 comprise Part A of this chapter. This section contains requirements for preventing or minimizing the consequences of catastrophic releases of toxic, reactive, flammable, or explosive chemicals. These releases may result in toxic, fire, or explosion hazards.

(2) Application.

(a) This part applies to the following:

(i) A process which involves a chemical at or above the specified threshold quantities listed in WAC 296-67-285, Appendix A;

(ii) A process which involves a Category 1 flammable gas (as defined in WAC 296-901-14006) or a flammable liquid with a flashpoint below 100°F (37.8°C) on site in one location, in a quantity of 10,000 pounds (4535.9 kg) or more except for:

(A) Hydrocarbon fuels used solely for workplace consumption as a fuel (e.g., propane used for comfort heating, gasoline for vehicle refueling), if such fuels are not a part of a process containing another highly hazardous chemical covered by this standard;

(B) Flammable liquids with a flashpoint below 100°F (37.8°C) stored in atmospheric tanks or transferred which are kept below their normal boiling point without benefit of chilling or refrigeration.

(b) This part does not apply to:

(i) Retail facilities;

(ii) Oil or gas well drilling or servicing operations; (~~or~~)

(iii) Normally unoccupied remote facilities; or

(iv) Petroleum refineries under Part B of this chapter.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060 and 29 C.F.R. 1910 Subpart Z. WSR 14-07-086, § 296-67-001, filed 3/18/14, effective 5/1/14. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 07-03-163, § 296-67-001, filed 1/24/07, effective 4/1/07. Statutory Authority: Chapter 49.17 RCW. WSR 92-17-022 (Order 92-06), § 296-67-001, filed 8/10/92, effective 9/10/92.]

PART B

NEW SECTION

WAC 296-67-300 Purpose and scope—Part B. WAC 296-67-300 through 296-67-387 comprise Part B of this chapter. This part contains requirements for petroleum refineries to reduce the risk of process safety incidents by eliminating or minimizing process safety hazards to which employees may be exposed. Part B supersedes the requirements in WAC 297-67-001 through 296-67-293, Part A, with respect to petroleum refineries.

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NEW SECTION

WAC 296-67-307 Definitions. (1) **Affected person.** Anyone who controls, manages, or performs process-related job tasks in or near a process.

(2) **Change.** Any alteration in process chemicals, technology, procedures, process equipment, facilities or organization that could affect a process. A change does not include replacement-in-kind.

(3) **Damage mechanism.** The mechanical, chemical, physical, microbiological, or other mechanism that results in equipment or material degradation.

(4) **Decontamination.** The application of chemical agents, inert gas, steam, or other material in vessels, piping, or other process equipment in order to eliminate the hazards that residual chemicals or materials present to workers who open process equipment.

(5) **Employee representative.** A union representative, where a union exists, or an employee-designated representative in the absence of a union. The employee representative must be qualified for the task. The term is to be construed broadly, and may include the local union, the international union, or a refinery or contract employee designated by these parties, such as the safety and health committee representative, where the person works on-site at the refinery. Employee representative may partner with an employee representative who does not work on-site when designated by the union, employees in the absence of the union, or when their participation is requested by the employee representative.

(6) **Facility.** The plants, units, buildings, containers or equipment that contain(s) or include(s) a process.

(7) **Feasible.** Capable of being accomplished in a successful manner within a reasonable period of time, taking into account health, safety, economic, environmental, legal, social, and technological factors.

(8) **Flammable gas.** As defined in WAC 296-901-14024 (B.2), Appendix B-Physical hazard criteria.

(9) **Flammable liquid.** As defined in WAC 296-901-14024 (B.6), Appendix B-Physical hazard criteria.

(10) **Hierarchy of hazard controls.** Hazard prevention and control measures, in priority order, to eliminate or minimize a hazard. Hazard prevention and control measures ranked from most effective to least effective are: First order inherent safety, second order inherent safety, and passive, active and procedural protection layers.

(11) **Highly hazardous chemical or material.** A flammable liquid or flammable gas, or a toxic or reactive substance.

(12) **Hot work.** Work involving electric or gas welding, cutting, brazing, or any similar heat, flame, or spark-producing procedures or operations.

(13) **Human factors.** The design of machines, operations and work environments such that they closely match human capabilities, limitations and needs. Human factors include:

(a) Working environment factors;

(b) Organizational and job factors;

(c) Human and individual characteristics such as fatigue that can affect job performance, process safety, and health and safety.

(14) **Independent protection layers (IPLs).** Safeguards that reduce the likelihood or consequences of a process safety incident through the application of devices, systems or actions. IPLs are independent of an initiating cause and independent of other IPLs. Independence ensures that an initiating cause does not affect the function of an IPL and that failure in any one layer does not affect the function of any other layer.

(15) **Inherent safety.** An approach to safety that focuses on eliminating or reducing the hazards associated with a set of conditions. A

process is inherently safer if it eliminates or reduces the hazards associated with materials or operations used in the process, and this elimination or reduction is permanent and inseparable from the material or operation. A process with eliminated or reduced hazards is described as inherently safer compared to a process with only passive, active and procedural safeguards. The process of identifying and implementing inherent safety in a specific context is known as inherently safer design:

(a) **First order inherent safety measure.** A measure that eliminates a hazard. Changes in the chemistry of a process that eliminate the hazards of a chemical are usually considered first order inherent safety measures; for example, by substituting a toxic chemical with an alternative chemical that can serve the same function but is nontoxic.

(b) **Second order inherent safety measure.** A measure that effectively reduces a risk by reducing the severity of a hazard or the likelihood of a release, without the use of add-on safety devices. Changes in process variables to minimize, moderate and simplify a process are usually considered second order inherent safety measures; for example, by redesigning a high-pressure, high-temperature system to operate at ambient temperatures and pressures.

(16) **Initiating cause.** An operational error, mechanical failure or other internal or external event that is the first event in an incident sequence, which marks the transition from a normal situation to an abnormal situation.

(17) **Isolate.** To cause equipment to be removed from service and completely protected from the inadvertent release or introduction of material or energy by such means as:

(a) Blanking or blinding;

(b) Misaligning or removing sections of lines, pipes, or ducts;

(c) Implementing a double block and bleed system; or

(d) Blocking or disconnecting all mechanical linkages.

(18) **Lagging indicators.** Retrospective metrics of equipment, written procedures, training, employee collaboration, or other practices identified as requiring corrective action.

(19) **Leading indicators.** Predictive metrics of equipment, written procedures, training, employee collaboration, or other best practices used to identify potential and recurring deficiencies.

(20) **Major change.** Any of the following:

(a) Introduction of a new process;

(b) Introduction of new process equipment, or new highly hazardous chemical or material that results in any operational change outside of established safe operating limits;

(c) Any alteration in a process, process condition, process equipment, or process chemistry that results in any operational change outside of established safe operating limits; or

(d) Introduction of a new process safety hazard or worsening of an existing process safety hazard.

(21) **Must.** Must means mandatory.

(22) **Nonroutine.** Any work done outside of steady state normal operations.

(23) **Process.** Any activity involving a highly hazardous chemical or material, including:

(a) Use;

(b) Storage;

(c) Manufacturing;

(d) Handling;

(e) Piping; or

(f) The on-site movement of such chemicals or materials, or combination of these activities.

Utilities and process equipment must be considered part of the process if in the event of a failure or malfunction they could potentially contribute to or fail to mitigate a process safety incident. For purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that an incident in one vessel could affect any other vessel, must be considered a single process. This definition includes processes under partial or unplanned shutdowns.

This definition excludes ancillary administrative and support functions, including office buildings, labs, warehouses, maintenance shops, and change rooms.

(24) **Process equipment.** Equipment including, but not limited to, pressure vessels, rotating equipment, piping, instrumentation, process control, or appurtenances, related to a process.

(25) **Process safety culture.** A combination of group values and behaviors that reflects whether there is a collective commitment by leaders and individuals to emphasize process safety over competing goals, in order to ensure the protection of people and the environment.

(26) **Process safety hazard.** A hazard of a process that has the potential for causing a process safety incident, or death or serious physical harm.

(27) **Process safety incident.** An event within or affecting a process that causes a fire, explosion or release of a highly hazardous chemical or material and has the potential to result in death or serious physical harm.

(28) **Process safety management (PSM).** The application of management systems to ensure the safety of petroleum refinery processes.

(29) **Process safety performance indicators.** Measurements of the refinery's activities and events that are used to evaluate the performance of process safety systems.

(30) **Qualified operator.** A person designated by the employer who, by fulfilling the requirements of the training program, has demonstrated the ability to safely perform all assigned duties.

(31) **Reactive substance.** A self-reactive chemical, as defined in WAC 296-901-14024 Appendix B—Physical hazard criteria.

(32) **Recognized and generally accepted good engineering practices (RAGAGEP).** Engineering, operation or maintenance practices and procedures established in codes, standards, technical reports or recommended practices, and published by recognized and generally accepted organizations such as, but not limited to, the American National Standards Institute (ANSI), American Petroleum Institute (API), American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE), American Society of Mechanical Engineers (ASME), American Society of Testing and Materials (ASTM), National Fire Protection Association (NFPA), and International Society of Automation (ISA). The employer should also consider informative sources of industry practices as appropriate. RAGAGEP does not include standards, guidelines or practices developed for internal use by the employer.

(33) **Replacement-in-kind.** A replacement that satisfies the design specifications of the item it is replacing.

(34) **Safeguard.** A device, system or action designed to interrupt the chain of events or mitigate the consequences following an initiating cause. Safeguards include:

(a) **Passive safeguards:** Process or equipment design features that minimize a hazard by reducing either its frequency or consequence, without the active functioning of any device; for example, a diked wall around a storage tank of flammable liquids.

(b) **Active safeguards:** Controls, alarms, safety instrumented systems and mitigation systems that are used to detect and respond to deviations from normal process operations; for example, a pump that is shut off by a high-level switch.

(c) **Procedural safeguards:** Policies, operating procedures, training, administrative checks, emergency response and other management approaches used to prevent incidents or to minimize the outcome of a process safety incident. Examples include hot work procedures and emergency response procedures.

(35) **Safety instrumented system.** Engineered systems designed to achieve or maintain safe operation of a process in response to an unsafe process condition.

(36) **Temporary pipe or equipment repair.** A temporary repair of an active or potential leak from process piping or equipment. This definition includes active or potential leaks in utility piping or utility equipment, and flange or valve packing leaks that may affect a process, and that could result in a process safety incident.

(37) **Toxic substance.** Acute toxicity, as defined in WAC 296-901-14022 Appendix A—Health hazard criteria.

(38) **Turnaround.** A planned total or partial shutdown/outage of a petroleum refinery process unit or plant to perform maintenance, overhaul or repair of a process and process equipment, and to inspect, test, and replace process materials and equipment. Turnaround does not include unplanned shutdowns/outages that occur due to emergencies or other unexpected maintenance matters in a process unit or plant. Turnaround also does not include routine maintenance, where routine maintenance consists of regular, periodic maintenance on one or more pieces of equipment at a refinery process unit or plant that may require shutdown of such equipment.

(39) **Utility.** A system that provides energy or other process-related services to enable the safe operation of a refinery process. This definition includes water, steam and asphyxiants, such as nitrogen and carbon dioxide, when used as part of a process.

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NEW SECTION

WAC 296-67-311 Process safety management program. (1) The employer must designate the refinery manager as the person with authority and responsibility for compliance with Part B of this chapter.

(2) The employer must develop, implement, and maintain an effective written process safety management (PSM) program, which must be reviewed and updated at least once every three years.

(3) The employer must develop, implement, and maintain an organizational chart that identifies management positions responsible for implementing the PSM program elements required by Part B of this chapter.

(4) The employer must develop, implement and maintain an effective program to track, document, and assess leading and lagging process safety performance indicators.

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NEW SECTION

WAC 296-67-315 Employee collaboration. (1) In consultation with employees and employee representatives, the employer must develop, implement, and maintain a written plan to effectively provide for employee collaboration throughout all PSM elements, including:

(a) Effective collaboration by affected operating and maintenance employees and employee representatives, throughout all phases, in performing:

- (i) Process hazard analyses (PHAs);
- (ii) Damage mechanism reviews (DMRs);
- (iii) Hierarchy of hazard controls analyses (HCAs);
- (iv) Management of change assessments (MOCs);
- (v) Management of organizational change assessments (MOOCs);
- (vi) Process safety culture assessments (PSCAs);
- (vii) Incident investigations;
- (viii) Development and maintenance of process safety information;
- (ix) Safeguard protection analyses (SPAs); and
- (x) Pre-startup safety reviews (PSSRs).

(b) Effective collaboration by affected operating and maintenance employees and employee representatives, throughout all phases, in the development, training, implementation, and maintenance of the PSM elements required by this part; and

(c) Access by employees and employee representatives to all documents or information developed or collected by the employer, including information that might be subject to protection as a trade secret.

(2) Authorized collective bargaining agents may select employee(s) to engage in overall PSM program development and implementation planning, and employee(s) to participate in PSM teams and other activities.

(3) Where employees are not represented by an authorized collective bargaining agent, the employer must establish effective procedures in consultation with affected employee(s) for the selection of employee representatives.

(4) Nothing in this section or others in chapter 296-67 WAC, Safety standards for process safety management of highly hazardous chemicals, Part B, must preclude the employer from requiring an employee or employee representative to whom information is made available to enter into a confidentiality agreement prohibiting them from disclosing such information, pursuant to WAC 296-901-14018 Trade secrets.

(5) Within 90 calendar days of the effective date of this part, the employer, in consultation with employees and employee representatives, must develop, implement, and maintain the following:

(a) Effective stop work procedures that ensure:

(i) The authority of all employees, including employees of contractors, to refuse or delay the performance of a task that they believe could reasonably result in serious physical harm or death;

(ii) The authority of all employees, including employees of contractors, to recommend to the qualified operator in charge of a unit that an operation or process be partially or completely shut down, based on a process safety hazard;

(iii) The authority of the qualified operator in charge of a unit to partially or completely shut down an operation or process, based on a process safety hazard; and

(iv) Employees who exercise stop work authority as described in this part are protected from intimidation, retaliation, or discrimination.

(b) Effective procedures to ensure the right of all employees, including employees of contractors, to anonymously report hazards. The employer must respond in writing within 30 calendar days to written hazard reports submitted by employees, employee representatives, contractors, employees of contractors and contractor employee representatives. The employer must prioritize and promptly respond to and correct hazards that present the potential for death and serious physical harm. If the employer determines that an anonymous report does not constitute a hazard, or that the hazard is being corrected by some other means, a written response must be prepared and made available that provides this information to affected employees.

(6) The employer must document the following:

(a) Recommendations to partially or completely shut down an operation or process;

(b) The partial or complete shutdown of an operation or process; and

(c) Written reports of hazards, and the employer's response.

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NEW SECTION

WAC 296-67-319 Process safety information. (1) The employer must develop, implement, and maintain a compilation of written process safety information (PSI) before performing any:

- (a) PHA;
- (b) HCA;
- (c) SPA; or
- (d) DMR.

(2) The compilation of written PSI must be sufficient to enable the employer and employee involved in operating or maintaining a process to identify and understand the hazards posed by the process.

(3) The PSI must include accurate, verified, and complete information pertaining to the following:

- (a) The hazards of highly hazardous chemicals and materials used in or produced by the process;
- (b) The technology of the process;
- (c) Process equipment used in the process; and
- (d) Results of previous DMRs.

(4) Information pertaining to the highly hazardous chemicals or materials used in, present in, or produced by the process, must include at least the following:

(a) Toxicity information, including acute and chronic health hazards;

(b) Permissible exposure limits pursuant to WAC 296-841-20025;

- (c) Physical data;
- (d) Damage mechanism data;
- (e) Thermal and chemical stability data;
- (f) Reactivity data; and
- (g) Hazardous effects of incompatible mixtures that could foreseeably occur.

Note: Safety data sheets meeting the requirements of WAC 296-901-14014 may be used to comply with this requirement to the extent they contain the information required by this section.

- (5) Information pertaining to the technology of the process must include at least the following:
 - (a) A block flow diagram or simplified process flow diagram;
 - (b) Process chemistry;
 - (c) Maximum intended inventory;
 - (d) Safe upper and lower limits of process variables, such as temperatures, pressures, flows, levels, and compositions; and
 - (e) The consequences of deviations, including chemical mixing and reactions that may affect the safety and health of employees.
- (6) Information pertaining to the equipment in the process must include at least the following:
 - (a) Materials of construction;
 - (b) Piping and instrumentation diagrams (P&IDs);
 - (c) Electrical classification;
 - (d) Relief system design and design basis;
 - (e) Ventilation system design;
 - (f) Design codes and standards employed, including design conditions and operating limits;
 - (g) Material and energy balances for processes built after September 1, 1992;
 - (h) Safety systems, such as interlocks and detection and suppression systems;
 - (i) Electrical supply and distribution systems; and
 - (j) Results of prior DMRS.
- (7) The employer must document that process equipment complies with recognized and generally accepted good engineering practices (RAGAGEP), where RAGAGEP has been established for that process equipment, or with more protective internal practices that ensure safe operation.
- (8) If the employer installs new process equipment for which no RAGAGEP exists, the employer must determine and document that the equipment is designed, constructed, installed, maintained, inspected, tested and operated in a safe manner.
- (9) If existing process equipment was designed and constructed in accordance with codes, standards or practices that are no longer in general use, the employer must determine and document that the process equipment is designed, constructed, installed, maintained, inspected, tested and operated in a safe manner for its intended purpose.
- (10) The employer must provide for employee collaboration, pursuant to WAC 296-67-315 Employee collaboration. The PSI must be made available to all employees, and relevant PSI must be made available to employees of contractors. Information pertaining to the hazards of the process must be effectively communicated to all affected employees.

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NEW SECTION

WAC 296-67-323 Hazard analyses. (1) Process hazard analysis (PHA).

(a) The employer must perform and document an effective PHA appropriate to the complexity of each process, in order to identify, evaluate, and control hazards associated with each process. All initial PHAs for processes not previously covered by WAC 296-67-017 must be completed within three years of the effective date of Part B of this chapter. PHAs performed in accordance with the requirements of WAC 296-67-017 must satisfy the initial PHA requirements of Part B of this chapter. All modes of operation pursuant to WAC 296-67-327 Operating procedures, must be covered by the PHA.

(b) The employer must determine and document the priority order for performing PHAs based on the complexity, severity, and extent of process hazards, the number of potentially affected employees, the age of the process and the process operating history. The employer must use at least one of the following methodologies:

- (i) What-if;
 - (ii) Checklist;
 - (iii) What-if/checklist;
 - (iv) Hazard and operability study (HAZOP);
 - (v) Failure mode and effects analysis (FMEA);
 - (vi) Fault tree analysis; or
 - (vii) Other PHA methods recognized by engineering organizations or governmental agencies.
- (c) The PHA must address:
- (i) The hazards of the process;
 - (ii) Previous publicly documented process safety incidents in the petroleum refinery and petrochemical industry sectors that are relevant to the process;
 - (iii) DMR reports that are applicable to the process;
 - (iv) HCA reports that are applicable to the process;
 - (v) Potential consequences of failures of process equipment;
 - (vi) Facility siting, including the placement of processes, equipment, buildings, employee occupancies and work stations, in order to effectively protect employees from process safety hazards;
 - (vii) Human factors;
 - (viii) A qualitative evaluation of the types, severity and likelihood of possible incidents that could result from a failure of the process or of process equipment;
 - (ix) The potential effects of external events, including seismic events, if applicable;
 - (x) The findings of incident investigations relevant to the process;
 - (xi) A review of applicable management of change (MOC) documents completed since the last PHA; and
 - (xii) Engineering and administrative controls associated with the process.

(d) The PHA must be performed by a team with expertise in engineering and process operations, and must include at least one refinery operating employee who currently works in, or provides training about the process, and who has experience and knowledge specific to the process being evaluated. The team must also include one member with expertise in the specific PHA methodology being used. As necessary, the team must consult with individuals with expertise in damage mecha-

nisms, process chemistry, safeguard protection analysis, and control systems.

(e) The team must document its findings and recommendations in a PHA report, which must be available to affected employees whose work assignments are in the petroleum refinery and who may be affected by the findings and recommendations.

(f) The PHA report must include:

(i) The methodologies, analyses and factors considered by the PHA team;

(ii) The findings of the PHA team; and

(iii) The PHA team's recommendations, including additional safeguards to address any deficiencies identified by the SPA.

(g) At least every five years, the written PHA must be updated and revalidated in accordance with the requirements of this section to ensure that the PHA is consistent with the current process.

(2) Safeguard protection analysis.

(a) For each scenario in the PHA that identifies the potential for a process safety incident, the employer must perform:

(i) An effective written safeguard protection analysis (SPA) to determine the effectiveness of existing individual safeguards;

(ii) The combined effectiveness of all existing safeguards for each failure scenario in the PHA;

(iii) The individual and combined effectiveness of safeguards recommended in the PHA; and

(iv) The individual and combined effectiveness of additional or alternative safeguards that may be needed.

(b) All independent protection layers for each failure scenario must be independent of each other and independent of initiating causes.

(c) The SPA must utilize a quantitative or semi-quantitative method, such as layer of protection analysis (LOPA), or an equally effective method to identify the most protective safeguards. The risk reduction attainable by each safeguard must be based on site-specific failure rate data, or in the absence of such data, industry failure rate data for each device, system, or human factor.

(d) The SPA must be performed by at least one individual with expertise in the specific SPA methodology being used. The SPA may be performed as part of the PHA or as a stand-alone analysis.

(e) The SPA must document the likelihood and severity of all potential initiating events, including equipment failures, human factors, loss of flow control, loss of pressure control, loss of temperature control, loss of level control, excess reaction, and other conditions that may lead to a loss of containment. The SPA must document the risk reduction achieved by each safeguard for all potential initiating events.

(f) The employer must complete all SPAs within six months of the completion or revalidation of the PHA.

(3) Hierarchy of hazard controls analysis.

(a) The employer must perform an HCA in a timely manner as follows:

(i) For all recommendations made by a PHA team for each scenario that identifies the potential for a process safety incident;

(ii) For all recommendations that result from the investigation of a process safety incident;

(iii) As part of managing changes, whenever a major change is proposed; and

(iv) During the design and review of new processes, new process units, new facilities, and their related process equipment.

(b) All HCAs for facility processes must be updated and revalidated as standalone analyses at least once every five years, and can be performed in conjunction with the PHA schedule.

(c) HCAs must be documented and performed by a team with expertise in engineering and process operations. The team must include one member knowledgeable in the HCA methodology being used, and at least one operating employee who currently operates the process and has expertise and experience in the process being evaluated. As necessary, the team must consult with individuals with expertise in damage mechanisms, process chemistry, and control systems.

(d) The HCA team must:

(i) Compile or develop all risk-relevant data for each process;

(ii) Identify, characterize, and prioritize risks posed by each process safety hazard;

(iii) Identify, analyze, and document all inherent safety measures and safeguards for each process safety hazard in the following sequence and priority order, from most preferred to least preferred:

(A) First order inherent safety measures;

(B) Second order inherent safety measures;

(C) Passive safeguards;

(D) Active safeguards; and

(E) Procedural safeguards.

(iv) For purposes of this section, first order inherent safety measures are considered to be most effective and procedural safeguards are considered to be least effective;

(v) Identify, analyze, and document relevant, publicly available information on inherent safety measures and safeguards. This information must include inherent safety measures and safeguards that have been:

(A) Achieved in practice by the petroleum refining industry and related industrial sectors; and

(B) Required or recommended for the petroleum refining industry by a federal or state agency or in a regulation or report.

(vi) For each process safety hazard identified, develop written recommendations in the following sequence and priority order:

(A) Eliminate hazards to the greatest extent feasible using first order inherent safety measures;

(B) Reduce any remaining hazards to the greatest extent feasible using second order inherent safety measures;

(C) Effectively reduce remaining risks using passive safeguards;

(D) Effectively reduce remaining risks using active safeguards;

and

(E) Effectively reduce remaining risks using procedural safeguards.

(e) The HCA team must complete an HCA report within 90 calendar days of developing the recommendations. The employer must append the HCA report to the PHA report. The report must include:

(i) A description of the composition and qualification of the team;

(ii) A description of the HCA methodology used by the team;

(iii) A description of each process safety hazard analyzed by the team;

(iv) A description of the inherent safety measures and safeguards analyzed by the team; and

(v) The rationale for the inherent safety measures and safeguards recommended by the team for each process safety hazard.

(4) The employer must implement all recommendations pursuant to WAC 296-67-383 Corrective action program.

(5) Employers must retain the initial, updated and revalidation of PHAs, SPAs, and HCAs for each process covered by this part, as well as the documented resolution of recommendations described in this section, for the life of the process.

(6) The employer must provide for employee collaboration in performing PHAs, SPAs, and HCAs, pursuant to WAC 296-67-315 Employee collaboration.

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NEW SECTION

WAC 296-67-327 Operating procedures. (1) The employer must develop, implement, and maintain effective written operating procedures. The operating procedures must provide clear instructions for safely performing activities involved in each process. The operating procedures must be consistent with the PSI and, at a minimum, must address the following:

(a) Steps for each operating phase or mode of operation:

(i) Start up;

(ii) Normal operations;

(iii) Temporary operations;

(iv) Emergency operations;

(v) Emergency shutdown, including the conditions under which emergency shutdown is required, provisions granting the authority of the qualified operator to partially or completely shut down the operation or process, and the assignment of responsibilities to qualified operators in order to ensure that emergency shutdown is executed in a safe and timely manner;

(vi) Normal shutdown;

(vii) Start up following a turnaround, or planned or unplanned shutdown, or after an emergency shutdown; and

(viii) Nonroutine work.

(b) Operating limits:

(i) Consequences of deviations; and

(ii) Steps to correct or avoid deviations.

(c) Safety and health considerations:

(i) Properties of, and hazards presented by, the chemicals and materials used in the process;

(ii) Precautions necessary to prevent exposure, including passive, active and procedural safeguards, personal protective equipment, engineering controls, and administrative controls;

(iii) Protective measures to be taken if physical contact or airborne exposure occurs;

(iv) Safety procedures for opening and decontaminating process equipment;

(v) Verification of the composition and properties of raw materials and control of highly hazardous chemical inventory levels; and

(vi) Any special or unique hazards.

(d) Safety systems and their functions.

(2) Operating procedures must be readily accessible to all affected employees, including the employees of contractors and maintenance employees who are performing work related to the procedure, and whose job tasks expose them to process safety hazards.

(3) Operating procedures must be reviewed and updated as often as necessary to ensure that they reflect current, safe operating practices. The operating procedures must include any changes that result from alterations in process chemicals, technology, personnel, process equipment or other changes to the facility. Changes to operating procedures must be managed pursuant to the requirements of WAC 296-67-355 Management of change.

(4) The employer must annually certify and document that written operating procedures are current and accurate.

(5) The operating procedures must include emergency procedures for each process, including any responses to the overpressurizing or overheating of equipment or piping, and the handling of leaks, spills, releases and discharges of highly hazardous chemicals or materials. These operating procedures must provide that only qualified operators may initiate these operations, and that prior to allowing employees in the vicinity of a leak, release or discharge, the employer must, at a minimum, do one of the following:

(a) Define the conditions for handling leaks, spills, or discharges of highly hazardous chemicals or materials that provide a level of protection that is functionally equivalent to, or safer than, shutting down or isolating the process;

(b) Isolate any vessel, piping, and equipment where a leak, spill, or discharge is occurring; or

(c) Shut down and depressurize all process operations where a leak, release, or discharge is occurring.

(6) The employer must develop, implement, and maintain effective written safe work practices applicable to all affected employees, including maintenance employees and the employees of contractors who are performing work related to the procedure, and whose job tasks expose them to process safety hazards. Safe work practices must be established for specific activities that include, but are not limited to:

(a) Opening and decontaminating process equipment or piping;

(b) Tasks requiring lock-out/tag-out procedures;

(c) Confined space entry;

(d) Handling, controlling and stopping leaks, spills, releases and discharges of highly hazardous chemicals or materials;

(e) Control over entry into hazardous work areas by maintenance, contractor, laboratory or other support personnel.

(7) The employer must provide for employee collaboration, pursuant to WAC 296-67-315 Employee collaboration.

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NEW SECTION

WAC 296-67-331 Training. (1) Initial training.

(a) Each affected employee involved in the operation of a process, and each affected employee prior to working in a newly assigned process, including employees of contractors, must be trained in an overview of the process and in the applicable operating procedures.

(b) Each affected employee involved in the maintenance of a process, and each affected employee prior to performing work within a newly assigned process, including employees of contractors, must be trained in an overview of the process and in the hazards and safe work practices related to the process.

(c) The training must include the following material applicable to the employee's job tasks:

- (i) Safety and health hazards;
 - (ii) Procedures, including emergency operations and shutdown; and
 - (iii) Safe work practices.
- (2) Refresher and supplemental training.

(a) At least every three years, and more often if necessary, the employer must provide effective refresher and supplemental training to each operating employee to ensure that each employee understands and adheres to current operating procedures.

(b) At least every three years, and more often if necessary, the employer must provide effective refresher and supplemental training to each maintenance employee to ensure that each employee understands and adheres to current maintenance procedures.

(c) The employer, in collaboration with the employees involved in operating or maintaining a process, must determine the appropriate frequency and content of refresher training.

(3) Training certification.

(a) The employer must ensure that each affected employee involved in operating or maintaining a process has received, understood and successfully completed training as specified by this section.

(b) The employer, after the initial or refresher training, must prepare a certification record containing the identity of the employee, the date(s) of training, the means used to verify that the employee understood the training, and the signature(s) of the person(s) who administered the training.

(4) The employer must develop, implement, and maintain an effective written program that includes the following:

(a) The requirements that an employee must meet in order to be designated as qualified; and

(b) Employee testing procedures to verify understanding and to ensure competency in job skill levels and work practices that protect employee safety and health.

(5) Within 24 months of the effective date of Part B of this chapter, the employer must develop, implement, and maintain an effective written training program to ensure that all affected employees are aware of and understand all PSM elements described in this part. Employees and employee representatives collaborating as part of a team pursuant to Part B of this chapter must be trained in the PSM elements relevant to that team.

(6) The employer must provide for employee collaboration in developing, implementing, and maintaining the training program pursuant to WAC 296-67-315 Employee collaboration.

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NEW SECTION

WAC 296-67-335 Contractors. (1) Application. This section applies to contractors performing maintenance, repair, supply services,

turnaround, major renovation, or specialty work on or adjacent to a process. It does not apply to contractors providing incidental services that do not affect process safety, such as janitorial work, food and drink services, laundry, delivery or other supply services.

(2) Refinery employer responsibilities.

(a) The refinery employer must require that its contractors and any subcontractors use a skilled and trained workforce pursuant to chapter 49.80 RCW, High hazard facilities—Workforce.

(b) When selecting a contractor, the refinery employer must obtain and evaluate information regarding the contract employer's safety performance, including programs used to prevent employee injuries and illnesses, and must require that its contractors and any subcontractors use a skilled and trained workforce.

(c) The refinery employer must inform the contractor and must ensure that the contractor has informed each of its employees of the following:

(i) Potential process safety hazards associated with the contractor's work;

(ii) Applicable refinery safety rules; and

(iii) Applicable provisions of this chapter, including the requirements of WAC 296-67-367 Emergency planning and response, and WAC 296-24-567 Employee emergency plans and fire prevention plans.

(d) The refinery employer must develop, implement, and maintain effective written procedures and safe work practices to ensure the safe entry, presence and exit of the contractor and employees of the contractor in process areas pursuant to WAC 296-67-327 Operating procedures.

(e) The refinery employer must periodically evaluate the performance of contractors in fulfilling their obligations as specified in this section. The refinery employer must ensure and document that the requirements of this section are performed and completed by the contractor.

(f) The refinery employer must obtain and make available to the division of occupational safety and health (DOSH) upon request, a copy of the contractor's injury and illness log related to the contractor's work in the process area.

(3) Contractor responsibilities.

(a) The contractor must ensure that all of its employees are effectively trained in the work practices necessary to safely perform their jobs, including:

(i) Potential process safety hazards related to their jobs;

(ii) Applicable refinery safety and health rules and procedures;

(iii) The specific actions to take in an emergency; and

(iv) Applicable provisions of this chapter, including the provisions of WAC 296-67-367 Emergency planning and response, and WAC 296-24-567 Employee emergency plans and fire prevention plans.

(b) The contractor must document that each contract employee has received and understood the training required by this section. The contractor must prepare a record that contains the identity of the contract employee, the date(s) and subject(s) of training, and the means used to verify that the employee understood the training.

(c) The contractor must ensure that each of its employees understands and follows the safety and health procedures of the refinery employer and the contractor.

(d) The contractor must advise the refinery employer of any specific hazards presented by the contractor's work, as well as any haz-

ards identified by the contractor while performing work for the refinery employer.

(4) Nothing in this section or others in chapter 296-67 WAC, Safety standards for process safety management of highly hazardous chemicals, Part B, must preclude the employer from requiring a contractor or an employee of a contractor to whom information is made available under this part to enter into a confidentiality agreement prohibiting them from disclosing such information, pursuant to WAC 296-901-14018 Trade secrets.

(5) The refinery employer and contract employer must provide for employee collaboration, pursuant to WAC 296-67-315 Employee collaboration.

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NEW SECTION

WAC 296-67-339 Pre-startup safety review. (1) The employer must perform a pre-startup safety review (PSSR) for new processes and for modified processes if the modification necessitates a change in the PSI, and for partial, planned, or unplanned shutdowns/outages, where activities exceed those covered under an existing procedure. The employer must also perform a PSSR for all turnaround work performed on a process.

(2) The pre-startup safety review must confirm all of the following prior to the introduction of highly hazardous chemicals or materials to a process:

(a) Construction, maintenance, and repair work has been performed in accordance with design specifications;

(b) Process equipment has been maintained, prepared for start up, and is operable in accordance with design specifications;

(c) Effective safety, operating, maintenance, and emergency procedures are in place;

(d) For new processes, a PHA, HCA, DMR, and SPA have each been performed, as applicable, and recommendations have been implemented or resolved before start up. For new or modified processes, all changes have been implemented pursuant to WAC 296-67-355 Management of change; and

(e) Training of each operating employee and maintenance employee affected by the change has been completed.

(3) The employer must involve affected operating and maintenance employees in the PSSR who have expertise and experience in the operations and engineering of the process being started. An operating employee who currently works in the process, and who has expertise and experience in the process being started, must be designated as the employee representative.

(4) The employer must provide for employee collaboration, pursuant to WAC 296-67-315 Employee collaboration.

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NEW SECTION**WAC 296-67-343 Mechanical integrity.** (1) Written procedures.

(a) The employer must develop, implement, and maintain effective written procedures to ensure the ongoing integrity of process equipment.

(b) The procedures must provide clear instructions for safely performing maintenance activities on process equipment, consistent with the PSI for the process.

(c) The procedures and inspection documents developed under this section must be readily accessible to employees and employee representatives, including employees of contractors who are performing work on process equipment, and whose job tasks expose them to process safety hazards.

(2) Inspection and testing.

(a) Inspections and tests must be performed on process equipment using procedures that meet or exceed RAGAGEP.

(b) The frequency of inspections and tests of process equipment must be consistent with:

(i) The applicable manufacturer's recommendations;

(ii) RAGAGEP; or

(iii) Internal practices that are more protective than (b) (i) or (ii) of this subsection.

(c) Inspections and tests must be performed more frequently if determined to be necessary by prior operating or equipment maintenance history.

(d) The employer must retain documentation for each inspection and test that has been performed on process equipment. The documentation must identify the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other such identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test.

(3) Equipment deficiencies.

(a) The employer must correct deficiencies to ensure safe operation of process equipment. Repair methodologies and preventative maintenance must be consistent with RAGAGEP or more protective internal practices.

(b) The employer must take the necessary means to ensure that temporary repairs on process equipment do not fail and allow the safe operation of that equipment until a permanent repair is made.

(4) Quality assurance.

(a) The employer must ensure that all process equipment, at a minimum, complies with the criteria established by the PSI. The employer must ensure that all process equipment is:

(i) Suitable for the process application for which it is or will be used;

(ii) Fabricated from the proper materials of construction; and

(iii) Designed, constructed, installed, maintained, inspected, tested, operated, and replaced in compliance with manufacturer's and other design specifications and all applicable codes and standards.

(b) If the employer installs new process equipment or has existing process equipment for which no RAGAGEP exists, the employer must document and ensure that this equipment is designed, constructed, installed, maintained, inspected, tested and operated in a safe manner.

(c) The employer must perform regularly scheduled checks and inspections as necessary to ensure that the requirements of (a) of this subsection are met.

(d) The employer must ensure that maintenance materials, spare parts and equipment meet design specifications and applicable codes.

(e) The employer must establish a process for evaluating new or updated codes and standards and implementing changes as appropriate to ensure safe operation.

(f) Once an equipment deficiency or failure mechanism is identified, substantially similar equipment in similar service must be evaluated for the same deficiency or failure mechanism.

(g) The employer must provide for employee collaboration pursuant to WAC 296-67-315 Employee collaboration.

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NEW SECTION

WAC 296-67-347 Damage mechanism review. (1) The employer must complete a damage mechanism review (DMR) for each existing and new process for which a damage mechanism exists. Where no DMR is performed, the employer must document the rationale for determining that no damage mechanisms exist. The employer must determine and document the priority order for performing DMRs based on the process operating and maintenance history, the PHA schedule, and inspection records.

(2) The employer must complete no less than 50 percent of initial DMRs within three years and all remaining DMRs within five years of the effective date of Part B of this chapter. If the employer has performed and documented a DMR for a process up to five years prior to the effective date of Part B of this chapter, and that DMR includes the elements identified in subsection (8) of this section, that DMR may be used to satisfy the employer's obligation to complete an initial DMR under this section.

(3) A DMR must be revalidated at least once every five years.

(4) A DMR must be reviewed as part of a major change on a process for which a damage mechanism already exists, prior to approval of the change. If a major change may introduce a damage mechanism, a DMR must be performed prior to approval of the change.

(5) Where a damage mechanism is identified as a contributing factor in an incident investigation, the employer must review the most recent DMRs that are relevant to the investigation. If a DMR has not been performed on the processes that are relevant to the investigation, the incident investigation team must recommend that a DMR be performed and completed within a specified time frame.

(6) The DMR for a process must be available to the team performing a PHA for that process.

(7) The DMR must be performed by a team with expertise in engineering, equipment and pipe inspection, damage and failure mechanisms, and the operation of the process or processes under review. The team must include one member knowledgeable in the specific DMR methodology being used.

(8) The DMR for each process must include:

(a) Assessment of process flow diagrams;

(b) Identification of all potential damage mechanisms;

(c) Determination that the materials of construction are appropriate for their application and are resistant to potential damage mechanisms;

(d) Methods to prevent or mitigate damage; and

(e) Review of operating parameters to identify operating conditions that could accelerate or otherwise worsen damage, or that could minimize or eliminate damage.

(9) For purposes of this section, damage mechanisms include, but are not limited to:

(a) Mechanical loading failures, such as ductile fracture, brittle fracture, mechanical fatigue, and buckling;

(b) Erosion, such as abrasive wear, adhesive wear, and fretting;

(c) Corrosion, such as uniform corrosion, microbiologically induced corrosion, localized corrosion, and pitting;

(d) Thermal-related failures, such as creep, metallurgical transformation, and thermal fatigue;

(e) Cracking, such as stress-corrosion cracking; and

(f) Embrittlement, such as high-temperature hydrogen attack.

(10) DMRs must include an assessment of previous experience with the process, including the inspection history and all damage mechanism data, a review of industry-wide experience with the process, and all applicable standards, codes and practices.

(11) At the conclusion of the analysis, the team must prepare a written DMR report, which must include the following:

(a) The process and damage mechanisms analyzed;

(b) Results of all analyses performed;

(c) Recommendations for temporarily mitigating damage; and

(d) Recommendations for preventing damage.

(12) The report must be provided to and, upon request, reviewed with affected employees, including contractor employees, whose work assignments are within the scope of the process evaluated in the DMR.

(13) The employer must implement all recommendations pursuant to WAC 296-67-383 Corrective action program.

(14) The employer must provide for employee collaboration, pursuant to WAC 296-67-315 Employee collaboration.

(15) DMR reports must be retained for the life of the process.

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NEW SECTION

WAC 296-67-351 Hot work. (1) The employer must develop, implement and maintain effective written procedures for the issuance of hot work permits.

(2) The employer must issue a hot work permit prior to the commencement of hot work operations within or near the process.

(3) The permit must document that fire prevention and protection requirements found in WAC 296-24-695 have been implemented prior to beginning the hot work operations. The permit must:

(a) Indicate the date(s) and time(s) authorized for hot work, including the designated expiration of the permit;

(b) Identify the location and equipment (including the equipment identifier, if applicable) where hot work is to be performed; and

(c) Identify the name and employer of the person performing the hot work.

(4) The employer must provide for employee collaboration, pursuant to WAC 296-67-315 Employee collaboration.

(5) Hot work permits must be kept on file for one year.

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NEW SECTION

WAC 296-67-355 Management of change. (1) The employer must develop, implement, and maintain effective written management of change (MOC) procedures to assess and manage changes (except for replacements-in-kind) in process chemicals, technology, procedures, process equipment and facilities. The MOC procedure must include provisions for temporary repairs, including temporary pipe repairs.

(2) The MOC procedures must ensure that the following are addressed and documented prior to any change:

(a) The technical basis for the proposed change;

(b) Potential process safety impacts of the change including, but not limited to:

(i) New process safety hazards; or

(ii) Worsening an existing process safety hazard;

(c) Modifications to operating and maintenance procedures, or development of new operating and maintenance procedures;

(d) The time period required for the change; and

(e) Authorization requirements for the proposed change.

(3) Prior to implementing a major change, the employer must review or perform a DMR and perform a HCA. The findings of the DMR and recommendations of the HCA must be included in the MOC documentation.

(4) The employer must use qualified personnel and appropriate methods for all MOCs, based upon hazard, complexity and type of change.

(5) Employees involved in the process, as well as maintenance workers whose job tasks will be affected by a change, must be informed of, and effectively trained in the change in a timely manner prior to the implementation of the change. For contractors and employees of contractors who are operating the process and whose job tasks will be affected by a change, the employer must make the MOC documentation available and require effective training in the change in a timely manner, prior to implementation of the change.

(6) If a change covered by this section results in a change to the PSI, such information must be amended and updated in a timely manner.

(7) If a change covered by this section results in a change to the operating procedures, the procedures must be amended and updated in a timely manner prior to implementation of the change.

(8) The employer must provide for employee collaboration pursuant to WAC 296-67-315 Employee collaboration.

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NEW SECTION

WAC 296-67-359 Management of organizational change. (1) The employer must develop, implement and maintain effective written procedures to manage organizational changes.

(2) The employer must designate a team to perform a management of organizational change (MOOC) assessment prior to reducing staffing levels, reducing classification levels of employees, changing shift duration, or increasing employee responsibilities at or above 15 percent. The MOOC assessment is required for changes with a duration exceeding 90 calendar days affecting operations, engineering, maintenance, health and safety, or emergency response. This requirement must also apply to employers using employees of contractors in permanent positions.

(3) The MOOC assessment must be in writing and must include a description of the change being proposed, the composition of the team responsible for assessing the proposed change, the factors evaluated by the team, and the team's findings and recommendations.

(4) Prior to performing the MOOC assessment, the employer must ensure that the job function descriptions are current and accurate for all positions potentially affected by the change.

(5) The refinery manager or designee must certify, based on information and belief formed after reasonable inquiry, that the MOOC assessment is accurate and that the proposed organizational change meets the requirements of this section.

(6) All MOOC assessments must include an analysis of human factors.

(7) Prior to implementing a change, the employer must inform all employees potentially affected by the change.

(8) The employer must provide for employee collaboration pursuant to WAC 296-67-315 Employee collaboration.

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NEW SECTION

WAC 296-67-363 Incident investigation—Root cause analysis. (1) The employer must develop, implement and maintain effective written procedures for promptly investigating and reporting any incident that results in, or could reasonably have resulted in, a process safety incident.

(2) The written procedures must include an effective method for performing a thorough root cause analysis.

(3) The employer must initiate the incident investigation as promptly as possible, but no later than 48 hours following the incident. As part of the incident investigation, the employer must perform a root cause analysis.

(4) The employer must establish an incident investigation team, which at a minimum must consist of a person with expertise and experience in the process involved, a person with expertise in the employer's root cause analysis method, and a person with expertise in overseeing the investigation and analysis. If the incident involved the work of a contractor, a representative of the contractor's employees must be included on the investigation team.

(5) The incident investigation team must implement the employer's root cause analysis method to determine the initiating and underlying causes of the incident. The analysis must include identification of management system failures, including organizational and safety culture deficiencies.

(6) The incident investigation team must develop recommendations to address the findings of the root cause analysis. The recommendations must include interim measures that will prevent a recurrence or similar incident until final corrective actions can be implemented.

(7) The team must prepare a written investigation report within 90 calendar days of the incident. If the team demonstrates in writing that additional time is needed due to the complexity of the investigation, the team must prepare a status report within 90 calendar days of the incident, and every 30 calendar days thereafter until the investigation is complete. The team must prepare a final investigation report within five months of the incident.

(8) Investigation reports must include:

(a) The date and time of the incident;

(b) The date and time the investigation began;

(c) A detailed description of the incident;

(d) The factors that caused or contributed to the incident, including direct causes, indirect causes and root causes, determined through the root cause analysis;

(e) A list of any DMR(s), PHA(s), SPA(s), and HCA(s) that were reviewed as part of the investigation;

(f) Documentation of relevant findings from the review of DMR(s), PHA(s), SPA(s), and HCA(s);

(g) The incident investigation team's recommendations; and

(h) Interim measures implemented by the employer.

(9) The employer must implement all recommendations pursuant to WAC 296-67-383 Corrective action program.

(10) The employer must complete an HCA in a timely manner for all recommendations that result from the investigation of a process safety incident. The employer must append the HCA report to the investigation report.

(11) Investigation reports must be provided to and upon request, reviewed with employees whose job tasks are affected by the incident. Investigation reports must also be made available to all operating, maintenance and other personnel, including employees of contractors where applicable, whose work assignments are within the facility where the incident occurred or whose job tasks are relevant to the incident findings. Investigation reports must be provided on request to employee representatives and, where applicable, contractor employee representatives.

(12) Any draft or finalized investigation report must be provided immediately to the labor and industries' division of occupational safety and health (DOSH) upon written request.

(13) The employer must provide for employee collaboration pursuant to WAC 296-67-315 Employee collaboration.

(14) Incident investigation reports must be retained for the life of the process.

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NEW SECTION

WAC 296-67-367 Emergency planning and response. (1) The employer must develop, implement and maintain an effective emergency response or emergency action plan for the entire plant, pursuant to the provisions of WAC 296-24-567 Employee emergency plans and fire prevention plans, and chapter 296-824 WAC, Emergency response. An emergency response plan must define and include procedures for handling all of the following:

(a) Large and small spills or releases;
(b) Fires;
(c) Explosions; and
(d) Any other emergency with a direct bearing on employee safety and health.

(2) The written plan must specify how an emergency response will be executed if it exceeds the capability of the employer's internal emergency response team.

(3) The employer must document any agreement with external emergency response organizations expected to assist in an emergency. The documentation must include schedules for planned drills.

(4) The employer must provide for employee collaboration pursuant to WAC 296-67-315 Employee collaboration.

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NEW SECTION

WAC 296-67-371 Compliance audits. (1) Every three years, the employer must perform an effective compliance audit. The employer must certify that it has evaluated and verified that the procedures and practices developed under Part B of this chapter are effective and being followed. The employer must prepare a written report documenting the findings of the compliance audit.

(2) The compliance audit must be performed by at least one person with expertise and experience in the requirements of the section under review. As part of the compliance audit, the employer must consult with operators with expertise and experience in each process audited, and must document the findings and recommendations from these consultations in the written report. The report must state the qualifications and identity of the persons performing the compliance audit.

(3) The employer must make the report available to employees and employee representatives. The employer must respond in writing within 60 days to any written comments submitted by an employee or employee representative regarding the report.

(4) The employer must implement all recommendations pursuant to WAC 296-67-383 Corrective action program.

(5) The employer must retain the three most recent compliance audit reports.

(6) The employer must provide for employee collaboration, pursuant to WAC 296-67-315 Employee collaboration.

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NEW SECTION

WAC 296-67-375 Process safety culture assessment. (1) The employer must develop, implement and maintain an effective process safety culture assessment (PSCA) program.

(2) The employer must perform an effective PSCA and produce a written report within 18 months following the effective date of Part B of this chapter, and at least every five years thereafter. If the employer has performed and documented a PSCA up to 18 months prior to the effective date of Part B of this chapter, and that PSCA includes the elements required in this section, that PSCA may be used to satisfy the employer's obligation to complete an initial PSCA.

(3) The PSCA must be developed and implemented by a team that must include at least one member knowledgeable in refinery operations and at least one employee representative. The team must consult with at least one employee or other individual(s) with expertise in assessing process safety culture in the petroleum refining industry.

(4) The PSCA must, at a minimum, include an evaluation of the effectiveness of the following elements of process safety leadership:

(a) The employer's hazard reporting program;

(b) The employer's response to reports of hazards;

(c) The employer's procedures to ensure that incentive programs do not discourage reporting of hazards; and

(d) The employer's procedures to ensure that process safety is prioritized during upset or emergency conditions.

(5) The team must develop a written report within 90 calendar days of completion of the PSCA, which must include:

(a) The method(s) used to perform the PSCA;

(b) The findings and conclusions of the PSCA; and

(c) The team's recommendations to address the findings of the PSCA.

(6) The employer, in consultation with the PSCA team, must prioritize recommendations and implement corrective actions within 24 months of completion of the written report.

(7) The PSCA team must perform a written interim assessment of the implementation and effectiveness of each PSCA corrective action within three years following the completion of a PSCA report. If a corrective action is found to be ineffective, the employer must implement changes necessary to ensure effectiveness within, but not to exceed, six months.

(8) The refinery manager or designee must serve as signatory to all PSCA reports, corrective action plans and interim assessments.

(9) PSCA reports, corrective action plans and interim assessments must be communicated and made available to all affected employees, their representatives, and participating contractors within 60 calendar days of completion.

(10) Participating contractors must provide PSCA reports, corrective action plans, and interim assessments to their employees and employee representatives within 14 calendar days of receipt.

(11) The employer must provide for employee collaboration, pursuant to WAC 296-67-315 Employee collaboration.

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NEW SECTION

WAC 296-67-379 Human factors. (1) The employer must develop, implement and maintain an effective written human factors program within 18 months following the effective date of Part B of this chapter.

(2) The employer must include a written analysis of human factors, where relevant, in that, at a minimum, represents industry RAGA-GEP relevant to, major changes, incident investigations, PHAs, MOOCs, and HCAs. The analysis must include a description of the selected methodologies and criteria for their use.

(3) The employer must assess human factors in existing operating and maintenance procedures and must revise these procedures accordingly. The employer must complete 50 percent of assessments and revisions within three years following the effective date of Part B of this chapter, and 100 percent within five years.

(4) The human factors analysis must apply an effective method in evaluating at least the following:

- (a) Staffing levels;
- (b) Complexity of tasks;
- (c) Length of time needed to complete tasks;
- (d) Level of training, experience and expertise of employees;
- (e) Human-machine and human-system interface;
- (f) Physical challenges of the work environment in which the task is performed;
- (g) Employee fatigue and other effects of shiftwork and overtime;
- (h) Communication systems; and
- (i) The understandability and clarity of operating and maintenance procedures.

(5) The human factors analysis of process controls must include:

- (a) Error-proof mechanisms;
- (b) Automatic alerts; and
- (c) Automatic system shutdowns.

(6) The employer must include an assessment of human factors in new and revised operating and maintenance procedures.

(7) The employer must train affected operating and maintenance employees in the written human factors program.

(8) The employer must make available, and provide upon request, a copy of the written human factors program to affected employees and their representatives, and affected contractors, employees of contractors, and contractor employee representatives as relevant.

(9) The employer must provide for employee collaboration pursuant to WAC 296-67-315 Employee collaboration.

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NEW SECTION

WAC 296-67-383 Corrective action program. (1) The employer must develop, implement and maintain an effective written corrective action program to prioritize and implement recommendations of:

- (a) PHAs;
- (b) SPAs;
- (c) DMRs;
- (d) HCAs;

(e) Incident investigations; and

(f) Compliance audits.

(2) All findings and associated recommendations must be provided to the employer by the team performing the analysis, review, investigation, or audit in a timely manner.

(3) The employer may reject a team recommendation if the employer can demonstrate in writing that the recommendation meets one of the following criteria:

(a) The analysis upon which the recommendation is based contains material factual errors;

(b) The recommendation is not relevant to process safety; or

(c) The recommendation is infeasible; however, a determination of infeasibility must not be based solely on cost.

(4) The employer may change a team recommendation if the employer can demonstrate in writing that an alternative measure would provide an equivalent or higher order of inherent safety. The employer may change a team recommendation for a safeguard if an alternative safeguard provides an equally or more effective level of protection.

(5) The employer must document all instances where any one of the criteria in subsection (3) or (4) of this section is used for the purpose of rejecting or changing a team recommendation.

(6) Each recommendation that is changed or rejected by the employer must be communicated to on-site team members for comment and made available to off-site team members for comment. The employer must document all written comments received from team members for each changed or rejected recommendation. The employer must document a final decision for each recommendation and must communicate it to on-site team members and make it available to off-site team members.

(7) The employer must develop and document corrective actions to implement each accepted recommendation. The employer must assign a completion date for each corrective action and a person responsible for completing the corrective action.

(8) If the employer determines that a corrective action requires revalidation of any applicable PHA, SPA, HCA, or DMR, these revalidations must be subject to the corrective action requirements of this section. The employer must promptly append all revalidated PHAs, SPAs, DMRs, and HCAs to the applicable report.

(9) The employer must promptly complete all corrective actions and must comply with all completion dates required by this section. The employer must perform an MOC for any proposed change to a completion date, pursuant to WAC 296-67-355 Management of change. The employer must make all completion dates available, upon request, to all affected employees and employee representatives.

(10) Except as required by subsections (11) and (13) of this section, each corrective action that does not require a process shutdown must be completed within 30 months after the completion of the analysis or review, unless the employer demonstrates in writing that it is infeasible to do so.

(11) Each corrective action from a compliance audit must be completed within 18 months after completion of the audit, unless the employer demonstrates in writing that it is infeasible to do so. Each corrective action from an incident investigation must be completed within 18 months after completion of the investigation, unless the employer demonstrates in writing that it is infeasible to do so.

(12) Each corrective action requiring a process shutdown must be completed during the first regularly scheduled turnaround of the applicable process, following completion of the PHA, SPA, DMR, HCA, MOC,

compliance audit or incident investigation, unless the employer demonstrates in writing that it is infeasible to do so.

(13) Notwithstanding subsections (10), (11), and (12) of this section, corrective actions addressing process safety hazards must be prioritized and promptly corrected, either through permanent corrections or interim safeguards sufficient to ensure employee safety and health, pending permanent corrections.

(14) Where a corrective action cannot be implemented within the time limits required in subsection (10), (11), or (12) of this section, the employer must ensure that interim safeguards are sufficient to ensure employee safety and health, pending permanent corrections. The employer must document the decision and rationale for any delay and must implement the corrective action as soon as possible. The documentation must include:

(a) The rationale for deferring the corrective action;

(b) All MOC requirements;

(c) A revised timeline describing when the corrective action will be implemented; and

(d) An effective plan to make available the rationale and revised timeline to all affected employees and their representatives.

(15) The employer must track and document the completion of each corrective action and must append the documentation to the applicable PHA, SPA, DMR, HCA, incident investigation or compliance audit.

(16) The employer must provide for employee collaboration, pursuant to WAC 296-67-315 Employee collaboration.

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NEW SECTION

WAC 296-67-387 Trade secrets. (1) Without regard to possible trade secret status of such information, employers must make all information available as necessary to comply with Part B of this chapter, pursuant to WAC 296-901-14018 Trade secrets.

(2) Nothing in this section precludes the employer from requiring the persons to whom the information is made available under this section to enter into confidentiality agreements not to disclose the information as set forth in WAC 296-901-14018 Trade secrets.

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